

ATTACHMENT A



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

A motion was made by Supervisor Chris Lopez, seconded by Supervisor Luis A. Alejo to:

Agreement No. A-14512

Approve and authorize the Contracts/Purchasing Officer to sign a professional services agreement with Marsh USA, Inc. dba Marsh Risk and Insurance Services, for casualty insurance brokerage services for a one-year term with compensation in the amount not to exceed \$120,000, retroactive to July 1, 2019.

PASSED AND ADOPTED on this 17th day of September 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Lopez, Phillips, Parker and Adams

NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 17, 2019.

Dated: September 23, 2019

File ID: 19-0714

Agenda Item No. 31

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy

**COUNTY OF MONTEREY STANDARD AGREEMENT
(MORE THAN \$100,000)**

This Agreement is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and: Marsh USA Inc. dba Marsh Risk and Insurance Services ("Marsh USA").

Marsh USA is entering this Agreement on behalf of itself and as agent for its non-US affiliates with respect to Services (defined below) each provides pursuant to this Agreement ("Non-US Affiliates," and, collectively with Marsh USA, "CONTRACTOR"). For a list of CONTRACTOR's non-US affiliates, please visit: <https://www.marsh.com/us/about-marsh/leading-the-way-in-transparency.html>.

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION.

- 1.01 The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows: Provide casualty insurance brokerage services for the County of Monterey.

2.0 PAYMENT PROVISIONS.

- 2.01 County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$120,000.

3.0 TERM OF AGREEMENT.

- 3.01 The term of this Agreement is from 7/1/2019 to 6/30/2020, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**
- 3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS.

- 4.01 The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement: Exhibit A Scope of Services/Payment Provisions (Attached)

5.0 PERFORMANCE STANDARDS.

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS.

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice; either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-

Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION.

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination by the County prior to expiration, CONTRACTOR's annual compensation for the current Contract Year will be deemed earned in accordance with the following schedule, for Services performed through the termination date: 60% at commencement of the current Contract Year; 75% after four months; and 100% after seven months.
- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION.

- 8.01 CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and

the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

9.0 INSURANCE REQUIREMENTS.

9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 Qualifying Insurers:

All coverage's, except professional liability, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not

applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, endeavor to obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Contractor shall endeavor to provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 RECORDS AND CONFIDENTIALITY.

10.01 **Confidentiality.** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information or which is required to be disclosed by law or pursuant to the terms of a subpoena or other similar document; provided, however, CONTRACTOR shall, to the extent practical, give prior timely notice of such disclosure to County to permit County to seek a protective order, and, absent the entry of such protective order, CONTRACTOR shall disclose only such Confidential Information that CONTRACTOR is advised by its counsel must be disclosed by law.

CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement, which may include in the normal course of business the release to insurers and other financial institutions of confidential information relevant to the underwriting and/or evaluation of County's risks and the processing of its claims, provided that such insurers and financial institutions are informed of the confidential nature of such information. CONTRACTOR may include, on an anonymous basis, information relating to County's insurance program in benchmarking, modeling, analytic and insurance offerings.

- 10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement
- 10.03 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION.

- 11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients.

CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS.

12.01 If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 INDEPENDENT CONTRACTOR.

13.01 In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14.0 NOTICES.

14.01 Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Charles McKee County Counsel/Risk Manager County of Monterey 168 W. Alisal, 3rd floor Salinas, CA 93901 831-755-5312 (phone)	Brian Cooney Senior Vice President Marsh Risk & Insurance Services 345 California Street, Suite 1300 San Francisco, CA 94104 415-743-8172 (phone)

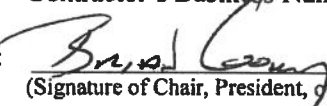
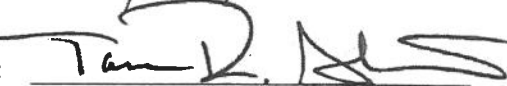
15.0 MISCELLANEOUS PROVISIONS.

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Intentionally Left Blank
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

16.0 SIGNATURE PAGE.

IN WIINESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY	MARSH RISK & INSURANCE SERVICES ON BEHALF OF ITSELF AND THE NON-US AFFILIATES
By: _____ Contracts / Purchasing Officer	MARSH RISK and Insurance SERVICES, INC. Contractor's Business Name*
Date: _____	By:  (Signature of Chair, President, or Vice-President)*
By: _____ Department Head (if applicable)	BRIAN COONEY Senior Vice President Name and Title
Date: _____	Date: <u>7/24/19</u>
By: _____ Board of Supervisors (if applicable)	By:  (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*
Date: _____	TANE R. ABBOTT, MANAGING Name and Title DIRECTOR
Approved as to Form ¹	Date: <u>7/24/19</u>
By: _____ County Counsel	
Date: _____	
Approved as to Fiscal Provisions ²	
By: _____ Auditor / Controller	
Date: _____	
Approved as to Liability Provisions ³	
By: _____ Risk Management	

¹ Approval by County Counsel is required

² Approval by Auditor-Controller is required

³ Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

Date: _____

County Board of Supervisors' Agreement Number: _____, approved on (date): _____

***INSTRUCTIONS:** If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

EXHIBIT-A

**To Professional Service Agreement by and between
County of Monterey, hereinafter referred to as "County" or "you"
AND**

MARSH RISK & INSURANCES SERVICES, hereinafter referred to as "CONTRACTOR"

NOW THEREFORE, the parties agree as follows:

1. Payment.

Payment for services shall be an annual fee of \$120,000 per contract year, paid in equal monthly installments, for the term of this contract, unless otherwise agreed by the parties.

2. Services.

Contractor will act as your insurance broker and/or risk management consultant with respect to the following related services:

Excess Liability, Fiduciary Liability, Volunteer (AD&D) Insurance and any and all general liability related services.

Any additional placements of insurances not listed above, broker services & risk management consulting will be compensated by commissions, not to exceed the range of 10 -14%, paid by the insurance carriers.

Contractor shall provide to you the following services:

Pre-Marketing Services

- (a) Conduct an initial strategy discussion in advance of each placement
- (b) Assist you in assessing your risks and in developing insurance specifications which Contractor will submit to insurers
- (c) Recommend potential insurers

Marketing and Placement Services

- (d) Solicit quotes from insurers that you select
- (e) Negotiate on your behalf with insurers
- (f) Assist you in evaluating the options received from insurers
- (g) Use best efforts to place insurance for you, but only after you have authorized Contractor to bind coverage for you

Services related to Contractor placements

- (h) Deliver confirmation of coverage once it is placed
- (i) Follow up with insurance carriers to obtain policies and/ or endorsements. Contractor may deliver your insurance policies and endorsements to you electronically
- (j) Review policies and endorsements for conformity with agreed terms and coverages
- (k) Provide coverage summaries
- (l) At your request, issue certificates or memoranda of insurance and/or auto identification cards
- (m) Review premium and exposure audits, rating adjustments, dividend calculations and loss data
- (n) Provide you with invoices, except in the case of direct billing by insurers. Remit premiums to insurers and, where applicable, remit taxes and fees to the relevant authorities, following receipt thereof from you. Marsh USA will bill and collect on behalf of the Non-US Affiliates amounts payable to them pursuant to this Agreement, as applicable, and remit to them any such amounts collected on their behalf
- (o) Monitor published financial information of your current insurers and alert you when one of those insurers falls below Contractor's minimum financial guidelines

Claims-Related Services

- (p) Provide the following claims-related services:
 - Evaluate coverage applicability on all Contractor placed business
 - Assist you in the development of settlement strategies
 - Assist you with insurer negotiations
 - Assist you with litigation management issues that impact claim settlements

- Excluding Workers Compensation, Primary Auto Liability / Physical Damage and non-complex Primary General Liability claims, prepare loss notices to insurers and notify insurers of claims; provided that your Contractor claims advocate is informed in writing by you of the claim, with details of the claim, and Contractor has placed the applicable policies or the Contractor claims advocate has been provided written notice by you of the applicable carrier and policies.

The total number of hours of property and casualty claims services described in this paragraph provided by Contractor to you in a calendar year shall not exceed 62.5. In the event, such claims services exceed such hourly allotment, Contractor reserves the right to seek additional compensation. Contractor shall not exceed 62.5 hours of services for which it will seek compensation without prior written authorization from the County.

Contractor may utilize the services of intermediaries to place your insurance, subject to your approval.

Marsh USA will not serve as your insurance broker, but only as your risk consultant, with respect to placements with ineligible insurers. In those circumstances, the Non-US Affiliates shall provide the brokerage Services.

3. With respect to insurance placed by Contractor on the County's behalf, prior to placing insurance for which a commission may be received, Contractor will disclose to the County any proposed commissions. When a commission is received, Contractor shall credit them against remaining installments of the annual fee and, to the extent in excess of the remaining installments, refund previously paid installments of the fee. In the event, such commissions for a contract year exceed Contractor's annual fee for that year, then excess commissions will be returned to the County, if permitted by law. Otherwise, excess commissions will be carried forward and applied against Contractor's annual compensation for subsequent years, if permitted by law. Such commissions do not include, and Contractor shall be entitled to receive and retain: wholesale brokerage fees or commissions. Contractor shall disclose to the County any wholesale commissions collected by Contractor with respect to placements for the County. In addition, any percentage of premium based insurer consulting compensation collected by Marsh or its affiliates will not be credited against the annual fee. Percentage of premium based insurer consulting compensation was formerly known as enhanced commissions.
4. Contractor shall assist with documentation and other steps to obtain commitments for and implement the County's insurance program upon the County's instructions, it being understood that Contractor will not independently verify or authenticate County-provided information necessary to prepare underwriting submissions and other documents relied upon by insurers, and the County shall be solely responsible for the accuracy and completeness of such information and other documents furnished to Contractor and/or insurers and shall sign any application for insurance. The County understands that the failure to provide all necessary information to an insurer, whether intentional or by error, could result in the impairment or voiding of coverage.
5. Contractor does not speak for any insurer, is not bound to utilize any particular insurer and does not have the authority to make binding commitments on behalf of any insurer, except under special circumstance which Contractor shall always endeavor to make known to the County. Contractor shall not be responsible for the solvency of any insurer or its ability or willingness to pay claims, return premiums or other financial obligations. Contractor does not guarantee the performance of insurers or make any representation or warranty that insurance can be placed on terms acceptable to the County.
6. Contractor may place insurance for County that may require the payment of insurance premium taxes (including U.S. federal excise taxes), sales taxes, use taxes, surplus or excess lines and similar taxes and/or fees to federal, state or foreign regulators, boards or associations. County agrees to pay such taxes and fees. Contractor will remit any taxes and fees that it collects from County to the appropriate authorities.
7. In no event shall either party to this Agreement be liable for any indirect, special, incidental, consequential or punitive damages or for any lost profits arising out of or relating to any services provided by the Contractor or its affiliates. The aggregate liability of the Contractor, its affiliates and its and their employees to the County or its affiliates arising out of or relating to the provision of services by the Contractor or its affiliates shall not exceed \$10 million. This provision applies to the fullest extent permitted by applicable law.
8. If requested by County, Contractor agrees to terminate its broker of record status with a carrier.