

# PROFESSIONAL SERVICES AGREEMENT

C-10-261-01-18

This Agreement is made and entered into the 18<sup>th</sup> day of January, 2011 by and between HIDALGO COUNTY, herein referred to as "the County" and AMI RISK CONSULTANTS, INC., herein referred to as "the Consultant".

WHEREAS, the County desires to acquire actuarial consulting services of the Consultant to perform actuarial studies of the County's Workers' Compensation Self-Insurance Fund; and

WHEREAS, the Consultant agrees to perform the services for the County under the terms and conditions set forth in this Agreement;

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN, IT IS HEREBY AGREED BETWEEN THE PARTIES:**

1. **Scope of Work.** The Consultant agrees to perform actuarial services for the County's Workers' Compensation Self-Insurance Fund as described in the County's Request for Proposal (RFP No. 2010-261-11-03CGV), attached hereto as Exhibit A and made a part hereof, and the Consultant's proposal, attached hereto as Exhibit B and made a part hereof.
2. **Compensation.** The County agrees to pay the Consultant for work performed and professional services rendered under this Agreement in an amount not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) annually.
3. **Term.** This Agreement shall be for a period of two (2) years upon its signing with the County's option to renew for two (2) additional years at the same rates, terms and conditions. The County reserves the right to continue this Agreement for an additional sixty (60) day Grace Period at the end of the contract under the same rates, terms and conditions.
4. **Severability.** If any provision of this Agreement is held to be unenforceable, invalid or illegal by any court of competent jurisdiction, such unenforceable, invalid, or illegal provision shall not affect the remainder of this Agreement.
5. **Applicable Laws.** In performing the services provided in this Agreement, the Consultant shall comply with all applicable federal and state laws, rules, and regulations.

6. **Jurisdiction.** The laws of the State of Texas shall apply to govern the construction of this Agreement and the Courts of the State of Texas shall have sole and exclusive jurisdiction over any action brought to enforce, modify, declare rights, or otherwise interpret this Agreement.
7. **Sovereign Immunity.** Nothing herein shall be interpreted as a waiver, express or implied, of the sovereign immunity of the County.
8. **Entire Agreement.** This Agreement incorporates all the agreements, covenants and understandings of the parties concerning its subject matter, and all such covenants, contracts, and understandings have merged into this written contract. No prior agreement or understanding of the parties or their agents shall be valid or enforceable. This Agreement may not be altered, changed, or amended except when executed in writing and agreed to by both parties.
9. **Waiver.** Failure of the County to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any other provision hereof.
10. **Covenant Against Contingent Fees.**
  - A. The Consultant warrants that he has not employed any person or firm to solicit or secure this Agreement for a commission, percentage, brokerage or contingent fee.
  - B. Breach of this warranty shall give the County the right to terminate this Agreement, or at its discretion, to deduct from the Consultant's fee the amount of such commission, percentage, brokerage or contingent fee.
11. **The Consultant Agrees to:**
  - A. Allow access by the County or any of its authorized representatives, to any books, documents, papers, and records of the Consultant which are directly pertinent to this Agreement, for the purpose of making audit, examination, excerpts, and transcriptions.
  - B. Retain all required records for three years after final audit has been completed by the County and all other pending matters are closed.
12. **Notices.** Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by personal delivery or by certified mail, return receipt requested, to the party to whom notice shall be given at the address set forth below.
  - A. County:

HIDALGO COUNTY  
2812 S. Business Highway 281  
New Administration Building  
Edinburg, Texas 78539

B. Consultant: Bob Ingco, President  
AMI RISK CONSULTANTS, INC.  
11410 N. Kendall Drive, Suite 208  
Miami, FL 33176-1031

Notice shall be deemed effective upon receipt if made by personal delivery, or by deposit in the United States mail.

13. **Breach of Contract.**

A. If the Consultant fails to execute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this Agreement or any extension thereof, or fails to complete said work within such time, or if the County for any other reason is not satisfied with results or progress of the said work, or if the Consultant violates or fails to properly comply with or perform in any material respect any condition or provision hereof, the County shall have the right, upon prior written notice to the Consultant, to terminate this Agreement (or any separable part thereof).

B. The County may additionally terminate this Agreement at any time if the Consultant fails to submit required reports and other documents as requested by the County within previously defined time schedules; or if the Consultant fails to verify invoices submitted to the County for payment.

C. Upon termination, the County may take over the work and complete it, by contract, or otherwise, and may take possession of and use any materials, information and records for completing the work. The County shall have the benefit of such work as may have been completed up to the time of such termination or cancellation, and with respect to any part which shall be approved and accepted by the County there shall be such equitable adjustment of compensation, if any, as may be determined by the County. The Consultant shall be liable for any damages to the County resulting from the Consultant's failure to complete the work within the specified time, whether or not the Consultant's right to proceed with the work is terminated. The liability includes any increased costs incurred by the County in completing the work.

14. **Termination for Convenience.** Irrespective of any default hereunder, the County may also at any time in its discretion terminate, with or without cause, the Consultant's services hereunder and cancel the Agreement in whole or in part, and in such event the Consultant shall be entitled to receive equitable compensation for all work completed and accepted by the County.

15. **Assignment of Contract.** The obligations and duties of the Consultant under this Agreement, any interest in this Agreement or any claims for money due or to

become due under this Agreement, shall not be assigned or transferred, in whole or in part, without the prior written approval of the County but this shall not prohibit the assignment of the proceeds due hereunder to a bank or financial institution. Any such prohibited assignment or transfer made without the express written consent of the County shall be null and void.

16. **Ownership of Documents.** All work prepared under this Agreement, including all reports (finished and unfinished), shall become the property of the County upon its acceptance of the work in writing or upon the termination of the Consultant's services hereunder, and the Consultant shall have no claim for additional compensation as a result of the County's exercise of its right of ownership and use of the documents.
17. **Status of the Consultant.** The **Consultant**, his agents and employees, are independent contractors performing professional services for the County and are not employees of the County. The Consultant, his agents and employees shall not be entitled to any of the benefits afforded to employees of the County as a result of this Agreement.
18. **Subcontracting.** The Consultant shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of the County.
19. **Confidentiality.** Any information given to or developed by the Consultant in performance of this Agreement shall be kept confidential and shall not be available to any individual or organization by the Consultant without the prior written approval of the County.
20. **Representations and Warranties.** The Consultant warrants and represents that he has the knowledge, experience, and ability to perform the services required pursuant to this Agreement, and all material representations given by the Consultant upon which the County relied in connection with entering into this Agreement are true.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT

AS OF THE DATE FIRST WRITTEN ABOVE.

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Ramon Garcia, County Judge  
HIDALGO COUNTY  
2812 S. Business Highway 281  
New Administration Building  
Edinburg, TX 78539

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Bob Ingco, President  
AMI RISK CONSULTANTS, INC.  
11410 N. Kendall Drive, Suite 208  
Miami, FL 33176-1031

State of Texas            )  
                                  )ss.  
County of Hidalgo     )

Subscribed and Sworn to before me  
This \_\_\_\_ day of \_\_\_\_\_,  
2011.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

APPROVED AS TO FORM:  
Atlas & Hall L.L.P.

By: \_\_\_\_\_

State of Florida         )  
                                  )ss.  
County of Dade         )

Subscribed and Sworn to before me  
This \_\_\_\_ day of \_\_\_\_\_,  
2011.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk