

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT (this "Agreement"), effective January 1, 2016 (the "Effective Date"), is made by and between HIDALGO COUNTY ("County"), and the San Antonio office of BROWN & BROWN LONE STAR INSURANCE SERVICES, INC., D/B/A ALAMO INSURANCE GROUP ("Consultant").

Background

County wishes to retain Consultant to perform certain specified advisory services as described in this Agreement. Consultant wishes to perform such services according to the terms and conditions in this Agreement for the compensation set forth in this Agreement. The parties agree as follows:

1. **Term.** The term of this Agreement shall commence on the Effective Date and continue for a period of one (1) year, with the option of the County to renew for three (3) additional one (1) year periods at the same rate and terms, unless sooner terminated as herein provided.

2. **Relationship of Parties.** Consultant is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship or partnership relationship. In consideration of the compensation paid to the Consultant by the County, Consultant will provide services to the County as an insurance consultant. County acknowledges that Consultant, or its parent company, Brown & Brown, Inc. ("Parent"), and related or affiliated companies (collectively with Parent, "B&B Affiliates"), may provide services as an insurance agent on behalf of certain insurance carriers or risk-bearing entities. County expressly consents to such relationship, if applicable, in the rendition of services by Consultant under this Agreement.

3. **Consultant Services.** Consultant, subject to the terms of this Agreement, shall provide certain services set forth in the attached Schedule A (the "Services"). **Nothing in this Agreement shall be construed to impose any obligations on Consultant, or limitations on Consultant's compensation, relative to services other than as specifically delineated above.**

4. **County Responsibilities.** In consideration of the Services provided by Consultant, County agrees as follows:

(a) County shall cooperate fully with Consultant and the insurance companies with whom Consultant solicits in the performance of Consultant's obligations under this Agreement.

(b) County shall timely produce complete and accurate information including, but not limited to, current financial information, statements of

values, loss information and any other information, necessary for the effectuation of insurance coverage at the request of Consultant. County further agrees to provide Consultant with notice of any material changes in County's business operations, risk exposures or in any other material information provided under this Agreement. In addition, County shall carefully read each insurance policy issued to County in order to confirm the accuracy of the facts reflected therein and that the policy(ies) contain(s) the terms and coverages desired. County is responsible for recommending any changes to insurance policies issued to County.

5. **Compensation.** In consideration of the Services, County shall compensate Consultant as set forth in Schedule B (the "Consultant Services Fee"). With regard to the Consultant Services Fee, County and Consultant acknowledge and agree as follows:

(a) Compensation for the Services specified under this Agreement is exclusive of all federal, state and local sales, use, excise, receipts, gross income and other similar taxes and governmental charges and fees. Any such taxes, charges or fees for the Services under this Agreement, now imposed or hereafter imposed during the term of this Agreement, shall be in addition to the compensation and charges set forth in this Agreement and shall be paid by County upon request.

(b) County acknowledges and agrees that the Consultant Services Fee is reasonable in relation to the Services to be provided by Consultant hereunder.

6. **Confidentiality.** To the extent consistent with performances of Consultant's duties under this Agreement, Consultant and County agree to hold in confidence Confidential Information (defined below). County acknowledges, however, that Consultant will disclose Confidential Information as reasonably required in the ordinary course of performing the Services to insurance companies and other insurance

intermediaries. “**Confidential Information**” means all nonpublic information and all documents and other tangible items (whether recorded information, on paper, in computer readable format or otherwise) relating to the disclosing party’s business (including without limitation business plans, manner of doing business, business results or prospects), proposals, recommendations, marketing plans, reports, any of which (i) at the time in question is either protectable as a trade secret or is otherwise of a confidential nature (and is known or should reasonably be known by receiving party as being of a confidential nature) and (ii) has been made known to or is otherwise learned by receiving party as a result of the relationship under this Agreement. Confidential Information should be protected with the same reasonable care as each party protects its own Confidential Information.

Confidential Information will not include any information, documents or tangible items which (i) are a matter of general public knowledge or which subsequently becomes publicly available (except to the extent such public availability is the result of a breach of this Agreement), (ii) were previously in possession of receiving party as evidenced by receiving party’s existing written records, or (iii) are hereafter received by receiving party on a non-confidential basis from another source who is not, to receiving party’s knowledge, bound by confidential or fiduciary obligations to disclosing party or otherwise prohibited from transmitting the same to receiving party. In the event that Consultant or County become legally compelled to disclose any of the Confidential Information, they shall provide the other party with prompt notice so that such party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, or that the other party waives compliance with the provisions of the Agreement, such party may disclose such information as is necessary or advisable to comply with the legal process.

7. Termination.

(a) Either party may terminate this Agreement, without cause and for any reason whatsoever, by giving written notice of termination to the other party at least ninety (90) days prior to the effective date of termination, which shall be specified in such written notice.

(b) Notwithstanding the provisions in sub-paragraph (a) above, in the event that, during any

Term hereof, the Commissioners Court does not appropriate sufficient funds to meet the monetary obligations of the County under this Agreement, the County may terminate this Agreement upon thirty (30) days written notice to Consultant. The County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of the Agreement. The Parties intend this provision to be a continuing right to terminate this agreement at the expiration of each budget period of the County pursuant to the provisions of Tex. Loc. Govt. Code Ann. §271.903 (Vernon Supp. 1996).

In addition and notwithstanding the provision in subparagraph (a) above, County may terminate this Agreement upon the happening of any one of the following causes: (i) Suspension or termination of Consultant’s insurance license in the State of Texas if not cured by Consultant within sixty (60) days following such suspension or termination; (ii) Consultant’s participation in any fraud; or (iii) Consultant’s material failure to properly perform its duties and responsibilities hereunder because of Consultant’s gross neglect, proven dishonesty, or commission of a felony.

(c) Notwithstanding the provisions in sub-paragraph (a) above, Consultant may terminate this Agreement upon the happening of any one of the following causes: (i) County’s failure to pay any Consultant Services Fee more than forty-five (45) days after such payment is due; (ii) County’s participation in any fraud; or (iii) County’s material failure to properly perform its duties and responsibilities hereunder because of County’s gross neglect, proven dishonesty, or commission of a felony.

Termination for any cause enumerated in subparagraphs (b) or (c) shall become effective upon the delivery of written notice of termination to the breaching party or at such later time as may be specified in the written notice.

(d) Termination of this Agreement shall not release County from any accrued obligation to pay any sum to Consultant (whether then or thereafter payable) or operate to discharge any liability incurred prior to the termination date.

(e) Notwithstanding anything to the contrary herein, County may terminate the Contract without cause upon (30) days written notice at any

time for any reason or no reason at all. In the event this Contract is terminated without cause by County, but not otherwise, any unpaid fees or compensation owing to Consultant at the time of termination under this Contract will be due and payable to Consultant within thirty (30) days following the time of contract termination.

8. **Notices.** Any notices required or permitted to be given under this Agreement shall be sufficient if in writing by Certified Mail to:

If to County:

Honorable Ramon Garcia
Hidalgo County Judge
100 E. Cano Street, 2nd Floor
Edinburg, Texas 78539
Email: countyjudge@co.hidalgo.tx.us

If to Consultant:

Brown & Brown Lone Star Insurance Services, Inc.
d/b/a Alamo Insurance Group
3201 Cherry Ridge Drive, Bldg. D504
San Antonio, Texas 78203
Attn: Danny Simmerman
Email: dsimmerman@alamoinsgrp.com

With a copy to:

Brown & Brown, Inc.
220 Ridgewood Ave
Daytona Beach, FL 32114
Attn: Carrie R. Brown, Corporate Counsel
Email: carrie.brown@bbins.com

or such other address as either shall give to the other in writing for this purpose.

9. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision.

10. **Texas Law Applies; Venue.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas, without regard to its conflicts of laws principles. Exclusive venue is agreed to be in a state or federal court of competent jurisdiction in or for Hidalgo County, Texas.

11. **Assignment.** Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and permitted assigns.

12. **Entire Agreement.** This Agreement (including the schedules, documents and instruments referred to herein or attached hereto) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. The Agreement shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed on behalf of County and Consultant by their respective duly authorized representatives.

[Remainder of page intentionally left blank – Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

COUNTY:

Hidalgo County
the County of Hidalgo, Texas

By: _____
Name: Ramon Garcia
Title: County Judge

CONSULTANT:

Brown & Brown Lone Star Insurance Services, Inc.
d/b/a Alamo Insurance Group
a Texas corporation

By: _____
Name: John McMahan
Title: Executive Vice President

Witnesses:

By: _____
Name: _____
Title: _____

Witnesses:

By: _____
Name: _____
Title: _____

Attest:

By: _____
Name: Arturo Guajardo
Title: County Clerk
Date:

Approved by Commission Court

By: _____
Name: _____
Title: _____

Approved as to Form:
Atlas, Hall & Rodriguez, LLP

By: _____
Name: Stephen L. Crain
Title: _____

SCHEDULE A

CONSULTANT SERVICES

Subject to the terms of this Consultant Services Agreement, Consultant shall provide the Services listed below, but only in relation to the following Lines of Insurance: (a) Group Life and Accidental Death Plan; (b) Group Health Benefits Plan; and (c) Third Party Administration Services.

Services are as follows:

- 1 Assist in monitoring the current health benefits provider, from January 1, 2016 through December 31, 2020.
- 2 Review medical plan information and data from health benefits providers.
- 3 Prepare the Request for Group Health Benefits Plan with Life, Accidental Death and Dismemberment Proposal (RFP).
- 4 Assist in monitoring the solicitation of qualified insurers and vendors.
- 5 Analyze the RFP responses and make recommendations for vendor(s) and coverage.
- 6 Make recommendation for the selection and presentations of vendor finalists.
- 7 Assist in monitoring program implementation (effective January 1, 2016 through to December 31, 2020).

SCHEDULE B

COMPENSATION

Consultant Services Fee:

In consideration of the Services, County shall compensate Consultant in the amount of **SIXTY THOUSAND DOLLARS AND 00/100 (\$60,000.00)** each year during the term and duration of this Agreement (the "Consultant Services Fee"). The Consultant Services Fee shall be due and payable in equal monthly installments, the first of every month, in the amount of **FIVE THOUSAND DOLLARS AND 00/100 (\$5,000.00)**. The first installment shall be fully earned and payable upon the County's execution and delivery of this Agreement.



Hidalgo County Purchasing Department
2812 S. Business Highway 281
New Administration Building
Edinburg, Texas 78539
(956) 318-2626/ Fax: (956) 318-2629

November 19, 2015

Gary Looney
Senior Vice President
Brown & Brown Lone Star Service, Inc.
dba Alamo Insurance Group
3201 Cherry Ridge, Ste D405
San Antonio, TX 78230

via email: glooney@alamoinsgrp.com &
lgarcia@alamoinsgrp.com

Re: Hidalgo County - "Consulting Services for Self-Funded Insured Group Health for Hidalgo County Employees"

Dear Mr. Looney:

Pursuant to action taken by the Hidalgo County Commissioners' Court, your firm was ranked #1 and approved to proceed with the negotiations process of for the purposes of: Consulting Services for Self-Funded Insured Group Health for Hidalgo County Employees for Hidalgo County.

We request that you submit a draft copy of the agreement you will be proposing for this service and your best and final offer for the scope of work as stated in the RFP submitted, no later than 5:00 pm, Tuesday, November 24, 2015.

We, Brown & Brown Lone Star Insurance Service, Inc. agree to the Best and Final Offer in the amount of \$60,000⁰⁰. (Annual fee) extending this annual fee for a total period of four (4) years.

We ask that you approve by signing below acknowledgment of receipt with commitment to submit by deadline and return via email to: yvette.salinas@co.hidalgo.tx.us .

Signed: *Gary Looney*

Printed Name: GARY LOONEY

Title: Senior Vice President

Should you have any questions, or require further information, please do not hesitate to contact our office at (956) 292-7000 Ext. 4874.

Respectively,

Yvette Salinas

Yvette Salinas, Buyer III
Hidalgo County Purchasing Department

xc: file

Zimbra**yvette.salinas@co.hidalgo.tx.us**

RE: FW: draft agrmnt (15.283 cons)

From : Steve Crain
<scrain@atlashall.com>

Thu, Dec 03, 2015 02:05 PM

 1 attachment

Subject : RE: FW: draft agrmnt (15.283
cons)

To : 'Yvette Salinas'
<yvette.salinas@co.hidalgo.tx.us>

The document is OK.

From: Yvette Salinas [mailto:yvette.salinas@co.hidalgo.tx.us]

Sent: Thursday, December 03, 2015 1:39 PM

To: Stephen L. Crain <scrain@atlashall.com>

Subject: Re: FW: draft agrmnt (15.283 cons)

Please see revision as requested.

Yvette Salinas
Buyer III
Hidalgo County Purchasing Department
2812 S. Business Highway 281
Edinburg, Texas 78539
956-318-2626
yvette.salinas@co.hidalgo.tx.us

----- Original Message -----

From: Stephen L. Crain <scrain@atlashall.com>

To: 'Yvette Salinas' <yvette.salinas@co.hidalgo.tx.us>

Sent: Thu, 03 Dec 2015 13:23:06 -0600 (CST)

Subject: FW: draft agrmnt (15.283 cons)

Hi Yvette:

Attached is page 2 of 6 with Mr. Crain's revisions if you have any questions, please call our office.

Thank you,

Marynel Trevino, Secretary for

Stephen L. Crain & J. Joseph Vale

ATLAS, HALL & RODRIGUEZ, LLP

818 Pecan Blvd. (78501)

P. O. Box 3725

McAllen, Texas 78502

Direct Dial Number (956) 632-8221

Main Number (956) 682-5501

Fax Number (956) 686-6109

E-mail Address scrain@atlashall.com

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From: Yvette Salinas [mailto:yvette.salinas@co.hidalgo.tx.us]

Sent: Thursday, December 03, 2015 11:59 AM

To: Steve Crain

Subject: RE: draft agrmnt (15.283 cons)

As per our conversation, please see paragraph 7(e) on pages 2 and 3.
Is this the correct wording?

Yvette Salinas

Buyer III

Hidalgo County Purchasing Department

2812 S. Business Highway 281

Edinburg, Texas 78539

956-318-2626

yvette.salinas@co.hidalgo.tx.us

----- Original Message -----

From: Yvette Salinas <yvette.salinas@co.hidalgo.tx.us>
To: Steve Crain <scrain@atlashall.com>
Sent: Thu, 03 Dec 2015 11:11:57 -0600 (CST)
Subject: RE: draft agrmnt (15.283 cons)

Good Morning Mr Crain,

Historically we have not used the County's consultant agreement on this project; the Consultant's agreement has been used with legal's approval. For this reason a draft contract was not included in the RFP packet.

I have incorporated your concerns in to this agreement.

(I have issues with respect to the second sentence in numbered paragraph 5, 5b, and 10. The agreement must have a 30 day without cause termination clause for County.)

Respectfully,
Yvette Salinas
Buyer III
Hidalgo County Purchasing Department
2812 S. Business Highway 281
Edinburg, Texas 78539
956-318-2626
yvette.salinas@co.hidalgo.tx.us

----- Original Message -----

From: Steve Crain <scrain@atlashall.com>
To: 'Yvette Salinas' <yvette.salinas@co.hidalgo.tx.us>
Sent: Tue, 24 Nov 2015 10:38:52 -0600 (CST)
Subject: RE: draft agrmnt (15.283 cons)

I have issues with respect to the second sentence in numbered paragraph 5, 5b, and 10. The agreement must have a 30 day without cause termination clause for County. I suggest the County use its consultant agreement rather than this agreement.

From: Yvette Salinas [<mailto:yvette.salinas@co.hidalgo.tx.us>]

Sent: Tuesday, November 24, 2015 9:55 AM

To: Steve Crain

Subject: draft agrmnt (15.283 cons)

Good Morning Mr. Crain,

Please review attached.

Thank you,

Yvette Salinas

Buyer III

Hidalgo County Purchasing Department

2812 S. Business Highway 281

Edinburg, Texas 78539

956-318-2626

yvette.salinas@co.hidalgo.tx.us

image001.jpg

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