

THE STATE OF TEXAS     §  
                                          §  
COUNTY OF HIDALGO     §

**AGREEMENT FOR CONSULTING SERVICES**  
**C-19-221-02-11**

THIS AGREEMENT is made on the 11<sup>th</sup> day of February, 2020 by and between **THE COUNTY OF HIDALGO, TEXAS**, a political subdivision of the State of Texas (hereinafter “County”), and **Gallagher Benefit Services, Inc.** (“Consultant”) to serve at the pleasure of the Hidalgo County Commissioner’s Court.

**W I T N E S S E T H:**

**WHEREAS**, County desires to contract with Consultant to perform the services necessary to the County of Hidalgo that are more specifically set forth hereinafter;

**WHEREAS**, Consultant has agreed to provide services enumerated hereinafter to County.

**NOW, THEREFORE**, for the mutual consideration expressed hereinafter, County and Consultant agree as follows:

1. Consultant agrees to provide the County with ongoing, as needed, **Consulting Services For Self-Funded Insured Group Health** (hereinafter “Service”) as offered by Consultant. County has requested proposals from the consultants to assist the County in providing said Services. The Services include, but are not limited to, the items listed on Exhibit A, which is attached and made a part of this Agreement.

2. Consultant will report any problems or recommended changes in the performance of the Services to County.

3. For and in consideration of the Services to be rendered by the Consultant, as identified in Exhibit A, attached hereto, County agrees to pay Consultant the rates set forth in Exhibit B “Fee Schedule” attached hereto provided however. Payments to the Consultant for Services shall be payable against written invoice submitted by Consultant on or before the 30<sup>th</sup> day following receipt of the invoice.

4. Consultant must comply with all applicable County policies. Notwithstanding the foregoing sentence, Consultant represents and maintains that s/he is an independent Consultant and is not an employee of County or any agency thereof, and represents and warrants that s/he does not desire or request any fringe

benefits provided to employees to County. Consultant agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder.

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

6. Consultant may not assign the obligations or rights under this Agreement to any person without the prior written consent of County.

7. Consultant agrees to comply with the Title VI of the Civil Rights Act of 1964, as amended.

8. The term of this Agreement shall commence upon execution of the Agreement by all parties, and will continue in force and effect for an initial term of one (1) year from the date of execution of the last party to execute the Agreement with the County's option to renew three (3) one (1) year terms ("the Expiration Date").

9. Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall be either be (i) personally against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addressed set forth below, or at such other address as may have been theretofore specified by written notice delivered in accordance herewith.

If to County:                   **The County of Hidalgo**  
**Attn: County Judge**  
**100 E. Cano St., 2<sup>nd</sup> Floor**  
**Edinburg, Texas 78539**

If to Consultant:           **Gallgher Benefit Services, Inc.**  
**Attn: Nick Long, Area Vice President**  
**1900 W Loop**  
**Houston, TX 77027**

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the

addressee or, if mailed, at such time as it is deposited in the United States mail.

10. Conflict with Applicable Law. Nothing in this Consultant shall be construed so as to require the commission of any contrary to law, and whenever this is any conflict between any provision of this Contract and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment hereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Contract shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

11. No Waiver. No waiver by County of any breach of any provision of this Contract shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

12. Entire Agreement. This Contract contains the entire Contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Contract not specifically set forth herein. This Contract may be modified or amended only by agreement in writing executed by County and Consultant and not otherwise.

13. Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

14. Additional Documents. The parties hereto covenant and agree that they will execute such other further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Contract.

15. Successors. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrator, legal representatives, successors, and assigns where permitted by this Contract.

16. Assignment. This Agreement shall not be assignable; provided, however, that Consultant may assign its right to receive payments hereunder for the purpose of obtaining financing so long as Consultant is not excused from and/or does not delegate its duties hereunder.

17. Headings. The headings and captions contained in this Contract are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

18. Gender and Number. All pronouns used in this Contract shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

19. Authority to Execute. The execution and performance of this Contract by County and Consultant have been duly authorized by all necessary laws, resolutions or corporate action, and this Contract constitutes and valid and enforceable obligations of County and Consultant in accordance with its terms.

20. Ethical Provision. It is understood that the employee of County or individuals acting as agents for County are not authorized to receive any type of personal payment, reimbursement, compensation, commission, gift or gratuity for services provided under this Contract. Consultant warrants that no employee or agent of the County has been retained to solicit or secure this Contract and that Consultant has not paid or agreed to pay and employee of County any fee, commission, percentage brokerage fee, gift or any other consideration contingent upon the making of this Contract, or as an inducement for entering into this Contract. The unauthorized offering or receipt of such payments may result in the immediate termination of this Contract.

21. Commitment of Current Revenues Only. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of the County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Consultant. County agrees however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903:* In the event that, during any term hereof, the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Consultant. County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the

Agreement. The parties intend this provision, if applicable, to be a continuing right to terminate this Agreement at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1996).

**22. Indemnity and Hold Harmless. Consultant agrees to indemnify and hold County harmless from any loss, costs, liabilities or damages which are incurred by County which are primarily attributable to the acts or omissions of Consultant or the acts or omissions of Consultant employees, agents or other representatives, including the violation of any law or regulation related to Consultant's duties under this Agreement.**

23. Representation and Warranties. Consultant represents and warrants to County all representations and warranties made by Consultant are true and correct as of the date hereof. In the event any representation or warranty of Consultant hereunder is or becomes incorrect or untrue, Consultant agrees to promptly notify County thereof, in which event County may, in its sole discretion elect to terminate this Agreement, for cause, in the manner herein provided. Consultant acknowledges and agrees that County has relied and continues to rely upon the representations and warranties of Consultant as herein contained as a material inducement to County to enter into the Agreement.

24. Insurance. Consultant shall obtain and maintain insurance in the limits of liability for each of the types of insurance coverage identified as follows:

- (1) **Workers Compensation**, endorsed with a waiver or subrogation in favor of the County in accordance with the statutory obligations imposed by Worker's Compensation or Occupational Disease laws under the Texas Workers Compensation Law ("Statutory Texas")
- (2) **Commercial General Liability**, endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of the County with limits of liability not less than one million dollars (\$1,000,000.00) combined single limit, each occurrence and in the aggregate for bodily injury and property damage.

- (3) **Texas Business Automobile Policy**, endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of the County in limits of liability not less than two hundred fifty thousand dollars (\$250,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury, and one hundred thousand dollars (\$100,000.00) each occurrence for property damage.
- (4) **Professional Liability** in limits of \$1,000,000.00 each claim and aggregate.

The Consultant covenants and agrees to maintain an insurance policy in the minimum limits of liability for each of the types of insurance coverage identified above. The Consultant shall furnish the County a certificate of insurance acceptable to County showing the said policies to be in full force and effect during the period of service, identified in numbered paragraph 8 hereto, for this Agreement. The completed County Certificate of Insurance shall be attached hereto and identified as APPENDIX "B"- County Certificate of Insurance. The Consultant will be considered in breach of agreement should the Consultant fail to maintain an insurance policy in the minimum limits of liability and requirements identified above while performing services for and under this Agreement, and will be subject to default and termination of this Agreement hereto.

25. **Immunities.** Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.

26. **Nondiscrimination.** Consultant, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement. Contractor agrees to comply with the provisions and requirements of Title VI of the Civil Rights Act of 1964, and assurances therein, which are incorporated herein and made a part of this agreement for all purposes.

27. Required Contract Provision for Contracts Subject to Federal Award (if applicable). If applicable, Consultant agrees to abide by provisions of Appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards and required Federal Emergency Management Agency (FEMA) contract clauses which are incorporated herein and made part of this agreement for all purposes.

28. Confidentiality. Contractor, including, without limitation, its employees and agents, shall not disclose privileged or confidential communications or information acquired in the course of the performance of services under this Contract, unless authorized by law. Contractor agrees to safeguard and adhere to all confidentiality, privacy and security requirements according to this Contract and the applicable federal, State and local rules and regulations for all information deemed confidential. Release of information is subject to the provisions of the Texas Public Information Act (PIA).

29. Amendments. Any amendments to this Agreement will be effective only if in writing and signed by the County and Contractor.

[Signature Page to Follow]

EXECUTED and effective as of the date first written above.

**COUNTY OF HIDALGO, TEXAS**

By: \_\_\_\_\_  
Richard F. Cortez, County Judge

**ATTEST:**

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

**Arthur J. Gallagher & Co.**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Hidalgo County Criminal District Attorney's Office  
Ricardo Rodriguez Jr.,

By: \_\_\_\_\_  
\_\_\_\_\_, Assistant Criminal District Attorney

*APPROVED BY COMMISSIONERS COURT: \_\_\_\_\_, 2020*

**EXHIBIT A**  
**“SCOPE OF SERVICES”**

**EXHIBIT "B"**  
**FEE SCHEDULE**

**EXHIBIT “C”**  
**INSURANCE DOCUMENTATION**