

THE STATE OF TEXAS §  
  §  
COUNTY OF HIDALGO §

**CONTRACT FOR CONSULTING SERVICES  
C-16-269-06-20**

THIS AGREEMENT is made on the 20th day of June, 2016 by and between **THE COUNTY OF HIDALGO, TEXAS**, a political subdivision of the State of Texas (hereinafter "County") and RiskTech, Inc. ("Consultant") to serve at the pleasure of the Hidalgo County Commissioner's Court.

**WITNESSETH:**

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

**WHEREAS**, Consultant has agreed to provide the services enumerated hereinafter to Hidalgo County Commissioner's Court.

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

1. Consultant agrees to provide to County insurance consulting services required by Hidalgo County in connection with providing insurance consulting services including but not limited to **researching, developing, drafting, and review of insurance requirement provisions contained or to be contained in request for proposal ("RFP"), request for qualifications ("RFQ"), and request for bids ("RFB")** in connection with various construction and other projects (the "Service or Services"). Pursuant to Article 262.024 Texas Local Government Code, the County has requested an exemption for professional services for the term herein stated. These services include, but are not limited to, to, the items listed on Exhibit "A", which are attached hereto and made a part of this Contract.

2. Consultant will report any problems or recommended changes providing the Service. **The Consultant or his/her firm shall not participate in the RFP, RFQ, OR RFB process for which Consultant is performing Service.**

3. As consideration for Services of Consultant described herein, County agrees to pay Consultant the fees as outlined in Exhibit "B-Proposal Page", which is attached to and made a part of this Contract.

4. **The term of this Contract will be effective upon approval of award and issuance of Purchase Orders (PO) with the written deliverable(s) to be submitted on or before fourteen (14) calendars days from date of each PO.**

**5. As a condition of this Contract, Consultant shall hold and maintain throughout the term of this Contract all certifications, licenses and permits required, or which may be required by any authority during the term hereof to provide the Services.**

6. As consideration for rendering the Service provided for in this Contract, the County agrees to pay Consultant the amounts specified in Exhibit "B" attached hereto payable against written invoice submitted by Consultant.

**7. County and Consultant agree that County may terminate this Contract at any time for any reason or no reason at all upon the giving of thirty (30) days prior written notice to the other party.**

**8. Consultant agrees to provide professional liability insurance covering its activities in providing the Service for County and Services shall not be performed on premises of any County facility.**

**9. Except as otherwise herein provided, Consultant may not assign the obligations or rights under this contract to any person without the prior written consent of County.**

10. Notice. Except as may be otherwise specifically provided in this Contract, 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 addressed 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., 2nd Floor  
                                  Edinburg, Texas 78539

If to Consultant:       RiskTech, Inc.  
                                  Attn: Charles E. Comiskey, President  
                                  10055 W. Gulf Bank  
                                  Houston, Texas 77040

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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

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

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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 pursuant to the provision of Tex. Loc. Govt. Code Ann §271.903 (Vernon Supp. 1995).

23. 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 solely 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. This provision is limited to the scope and limit of the coverage provided by the professional liability insurance required of Consultant herein.

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

24. LIMITATION OF REMEDY. WITHOUT WAIVING THE FOREGOING, AND IN FURTHER CONSIDERATION OF RISKTECH, INC.'S AGREEMENT TO RENDER THE SERVICES TO COUNTY, COUNTY AGREES THAT ANY LIABILITY OF RISKTECH, INC. AND/OR ITS OFFICERS, EMPLOYEES, AND AGENTS FOR ANY DAMAGES FOR ANY ACTIONS, ERRORS, OR OMISSIONS IN CONNECTION WITH OR AS A RESULT OF RISKTECH, INC.'S RENDITION OF SERVICES TO COUNTY UNDER THIS AGREEMENT SHALL BE LIMITED, EXCEPT WITH REGARD TO PROFESSIONAL LIABILITIES, TO THE DOLLAR AMOUNT OF ALL FEES CHARGED BY RISKTECH, INC. FOR ITS RENDITION OF SERVICES TO COUNTY UNDER THIS AGREEMENT. WITH REGARD TO PROFESSIONAL LIABILITIES ONLY, COUNTY

AGREES THAT ANY LIABILITY OF RISKTECH, INC. AND/OR ITS OFFICERS, EMPLOYEES, AND AGENTS FOR ANY DAMAGES FOR ANY ACTIONS, ERRORS, OR OMISSIONS IN CONNECTION WITH OR AS A RESULT OF RISKTECH, INC.'S RENDITION OF SERVICES TO COUNTY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE SCOPE AND AMOUNT OF COVERAGE PROVIDED BY CONSULTANT'S PROFESSIONAL LIABILITY COVERAGE. THIS LIMITATION OF REMEDIES SHALL APPLY TO ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, AND LITIGATION SEEKING DAMAGES WHICH WERE CAUSED OR ARE ALLEGED TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT, OR CONCURRENT NEGLIGENCE, OR FAULT OF RISKTECH, INC. OR RISKTECH, INC.'S OFFICERS, EMPLOYEES, OR AGENTS. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

25. Immunities. Nothing in this Contract is intended to and County does not herebywaive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the stated or federal constitution, laws, rules or regulations, and any sovereign, official or qualifiedimmunity available to County as to any claim or action of any person, entity, or individualagainst County.

EXECUTED and effective as of the 20<sup>th</sup> day of June, 2016 first written above.

COUNTY OF HIDALGO, TEXAS

By: Ramon Garcia  
Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, Jr.  
Arturo Guajardo, Jr. County Clerk

APPROVED BY  
COMMISSIONERS' COURT  
ON: 6/20/16



RISKTECH, INC.

By: \_\_\_\_\_  
Printed Name: Charles E. Comiskey  
Title: President  
Date: June 20, 2016

APPROVED AS TO FORM:

ATLAS, HALL & RODRIGUEZ, L.L.P.

By: SLC  
Stephen L. Crain

APPROVED BY COMMISSIONERS COURT: 6-20-16

**EXHIBIT "A"**  
**"SCOPE OF SERVICES"**

Services shall be as described in numbered paragraph 1 of the agreement.

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

Compensation for services rendered by Consultant shall be at the rate of \$400.00 per hour for review of documents, research, consultation, report writing, travel, and for attendance at depositions or court proceedings. Records of the amount of time expended in rendering services (to the nearest quarter of an hour) shall be maintained, and written invoices of incurred fees and expenses shall be submitted on a monthly basis.

County shall provide an initial non-refundable retainer of \$4,000.00 which shall be applied towards incurred hourly fees and expenses. Should this prove to be insufficient to cover the services to be performed, a like amount, which shall be refundable, shall be paid upon depletion of the initial retainer. County shall be responsible for any billings in excess of the retainer.

In addition to hourly fees, RiskTech shall be reimbursed for reasonable and documented out-of-pocket expenses necessarily incurred in rendering services, such as airfare, automobile mileage, taxi charges, hotel charges, and similar expenses. Routine business expenses such as photocopies, telephone charges, facsimiles, computer or database charges, postage, and similar expenses are considered to be part of normal operating overhead and will not be reimbursed (unless expressly agreed in writing in advance).

**EXHIBIT "C"**  
**INSURANCE DOCUMENTATION**

To be provided separately by Consultant's insurance broker.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/20/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

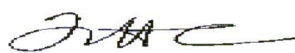
<b>PRODUCER</b> FRANK COMISKEY AGENCY INC PO Box 570187  Houston TX 77257-0187	<b>CONTACT NAME:</b> Michele Merten <b>PHONE (A/C, No, Ext):</b> (713) 785-4070 <b>FAX (A/C, No):</b> (713) 785-1001 <b>E-MAIL ADDRESS:</b> mmerten@frankcomiskeyagency.com
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Scottsdale Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
<b>INSURED</b> RiskTech Inc, DBA: c/o Charles Comiksey 2626 Sutton Court  Houston TX 77027	<b>NAIC #</b>

**COVERAGES**                      **CERTIFICATE NUMBER:** 16/17 Liab                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE	\$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
							GENERAL AGGREGATE	\$
							PRODUCTS - COMP/OP AGG	\$
								\$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE	OTH-ER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
<b>A</b>	<b>Professional Liability</b>			EKI3181378	3/1/2016	3/1/2017	Each Claim	\$2,000,000
							Aggregate	\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  Rocio Villarreal Hidalgo County Purchasing Dept Contracts Manager 2812 S Business Highway 281 Edinburgh, TX 78539	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	<b>AUTHORIZED REPRESENTATIVE</b>  F Comiskey, CIC, CPCU 

CC REG AGENDA 06/20/16

*Exec Office*

B. Acceptance of the credentials/proposed scope of services and fee schedule from Charles E. Comiskey, dba, Risk Tech, Inc. as qualified [possessing the required license] to engage [approve the contract] to render services to Hidalgo County in connection with options on the insurances for the design and construction of a new Courthouse Project including, but not limited to:

*subject to legal & funding approval. \$4k min.*

- 1. deciding on the different options for coverage of professionals, general contractors, and others with explanations as to what coverage, exclusions, if any;
- 2. types of insurance programs available: i.e. Standard/Conventional Coverage, OCIP [Owner Controlled Insurance Program, Professional Liability Insurance, etc. including coverage for the course of the construction project and the statute course of repose;
- 3. review the bond requirements and recommend any improvements;
- 4. once decided, the drafting and development of core "specs./requirements/limits" for the solicitation of an RFP/RFB for the purchase of the selected insurance program to be required: when final decision on same is made by HCCC;
- 5. assist in the review, analysis and recommendation on the responses and/or bids received for the insurance policies;
- 6. other services requested or required by HCCC.

*OK*  
4. AI-54911 Presentation of the responsible vendor submitting the lowest and best bid [as detailed in tabulation sheet contained herein meeting all specifications/requirements] for the purpose of award and approval of contract for the Request for Bid titled: Hidalgo County- "SS-1 Emulsified Asphalt and Delivery Services" to Ergon Asphalt & Emulsions, Inc., through project no.: 2016-169-06-01-SGS.

*→ OK*  
5. AI-55058 Presentation of Bids received [as detailed in tabulation sheet contained herein] for the purpose of award to the responsible vendor submitting the lowest and best bid [including meeting specifications and/or requirements] with approval of contract document for project titled: Hidalgo County-"Flexible Base Material [crushed caliche]" to Frontera Material through RFB No.: 2016-077-03-30-SMA

B. Pct. 1

*OK*  
1. AI-55085 Approval of a claim from Republic Services for the Invoice detailed herein with authority for County Treasurer to issue payment after review, audit, and processing procedures are completed by County Auditor

Vendor	Invoice No.	Amount	PO Number
Republic Services	4865-000001077	\$6,955.00	738271

C. Pct. 3

*OK*  A. AI-55134 A. Approve an order exempting from competitive bidding requirements under the Texas Local Government Code, Section 262.024 (A) (4) a professional service;

B. Presentation of scoring grid (for the purposes of ranking by CC) of the firms graded and evaluated through the County's approved "pool" of professional surveying services for Precinct No. 3 Projects.