

SERVICE AGREEMENT NO. 1764

ACTUARIAL SERVICES FOR RISK MANAGEMENT

THIS **Actuarial Services Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and AMI Risk Consultants, Inc. ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Actuarial Services in response to Request for Bid/Proposal No. 1764 ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

- 1. Scope.** Contractor will provide Actuarial Services ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.
- 2. Term.** This Agreement is for sixty months, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator or Purchasing Division. The parties may mutually extend the term of this Agreement for up to zero additional zero-month periods ("Option Period(s)"), provided, the parties do so in writing and prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
- 3. Compensation and Payment.** The total value of this Agreement is not to exceed \$60,000.00, subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.
- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Name: Gilbert Sanchez
Department: Risk Management
Phone:361.826.3937
Email: Gilberts2@cctexas.com

5. Insurance; Bonds.

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured for all coverage except for Professional Liability. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

6. Purchase Release Order. For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.

7. Standard of Care. Contractor will perform Services in accordance with the standard of care used by similarly situated contractors performing similar services. Any Services that do not meet this standard of care must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.

8. **Warranty.**

(A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

(B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

9. **Quality/Quantity Adjustments.** Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.

10. **Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

11. **Independent Contractor.** Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.

12. **Subcontractors.** Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid or proposal, as applicable. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the work.

13. **Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.
14. **Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
15. **Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
16. **Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Gilbert Sanchez
Title: Risk and Safety Manager
Address: 1201 Leopard St, 5th Floor, Corpus Christi, Texas 78401
Phone: 361.826.3937
Fax:

IF TO CONTRACTOR:

AMI Risk Consultants, Inc.
Attn: Aguedo M. Ingco
Title: President
Address: 1336 SW 146th Ct., Miami, Florida 33184
Phone: 305.273.1589
Fax: 702.359.0926

17. **CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT**

ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) The City Manager may terminate this Agreement for Contractor's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City Manager may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

(C) In the event of termination, the City shall compensate the Contractor for all services actually rendered up to and including the effective date of the termination.

19. Assignment. No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

20. Severability. Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.

- 21. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. the Contractor's bid response (Exhibit 2).
- 22. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement.
- 23. Verification Regarding Israel.** In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of the Contractor verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.
- 24. Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 25. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.
- 26. Limitation of Liability.** The total liability of any Party to this Agreement is limited and shall not include any liquidated, penalty, incidental or consequential damages of any kind.

(SIGNATURE PAGE FOLLOWS)

CONTRACTOR

Signature: 

Printed Name: Aguedo M. Ingco

Title: President

Date: August 24, 2018

CITY OF CORPUS CHRISTI

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance and Bond Requirements
- Attachment D: Warranty Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB/RFP No. 1764
- Exhibit 2: Contractor's Bid/Proposal Response

Attachment A – Scope of Work

1.1 Scope of Work

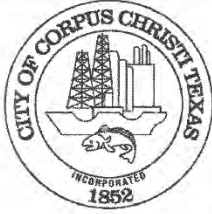
- A. Contractor shall clearly and precisely identify data to be provided by City under the terms of this Agreement. The City shall provide liability data and the third-party administrator shall provide Workers' Compensation data as requested by the actuary. Upon successful receipt of all such required data, Contractor shall perform the following services:
1. Project the financial position as of September 30, 2019, September 30, 2020, September 30, 2021, September 30, 2022, and September 30, 2023. The financial position is a comparison of estimated unpaid losses with funds earmarked to meet the self-insurance activity. The projection of the financial position shall consider: current funding, budgeted revenue to fiscal year-end, anticipated interest income, budgeted expenses paid to fiscal year-end and projected losses paid to fiscal year-end.
 2. Contractor will recommend an overall funding level for fiscal years 2019-2020 through 2023-2024, calculated separately by fiscal year. The recommended funding reflects projected future losses, anticipated investment income, the financial position of the City's self-insurance activity and a reasonable provision for contingencies. If the self-insurance activity within either fund shows a positive fund balance, Contractor will outline a prudent plan to release the equity. If the self-insurance activity within either fund shows a deficit, Contractor will outline a long-term strategy to reduce the shortfall.
 3. Contractor will discuss any observations that Contractor may have, including a review of claim frequency and claim severity patterns for the past five fiscal years. Significant differences from previous actuarial studies that Contractor had conducted, if any, will be identified and explained. Should there be a projected shortfall based on actuarial analysis, actuary will determine trend and provide report which identifies solutions.
 4. Contractor will provide a statement affirming the conclusions in the actuarial study are consistent with the GASB Statement No. 10.
 5. Contractor will provide two studies annually based on data valued as of March 31 and September 30 of each year.
 6. A benchmark comparison of the City's Workers' Compensation experience with that of other Texas public entities.
 7. Conference with the City twice a year to be specified by the City. The first conference shall be to review the draft of the actuarial report and the second conference shall be when the final report is completed. A formal presentation for various financial departments at the City to explain findings associated with the study shall be provided at the discretion of the City.

8. In performing services for the City under this Agreement, the Contractor is not acting as a fiduciary for the City and does not have a fiduciary or other enhanced duty to the City.

B. Reporting.

The Contractor shall perform services required herein and conduct a comprehensive annual actuarial analysis of the City's self-insured Workers' Compensation and Liability programs. The actuarial analysis shall commence during the month of November, with final completion by mid-February. Its conclusions and recommendations in a draft report within 30 calendar days after (1) authorization of the City to commence, unless an extension is granted in writing by the City, and (2) upon acknowledged receipt by the Contractor of complete and satisfactory statistical data. The draft report shall be consistent with GASB statement No. 10. The conclusions and recommendations shall be clear, concise, and easily understood by non-actuaries. The report shall include charts, graphs and other documentation sufficient to support all conclusions and recommendations. The Contractor shall be available for discussion or presentations regarding the draft report's conclusions and recommendations after submission of the draft report at the City's convenience. Based on any new facts ascertained, the Contractor shall revise the draft report and issue a final written report no later than 21 days after authorization by the City to commence, unless an extension is granted in writing by the City.

Attachment B – Schedule of Pricing



CITY OF CORPUS CHRISTI Pricing Form PURCHASING DIVISION

**RFP No. 1764
Actuarial Services for Risk Management**

PAGE 1 OF 1

DATE: July 31, 2018

AMI Risk Consultants, Inc.

PROPOSER

AUTHORIZED SIGNATURE

1. Refer to "Instructions to Proposers" and Contract Terms and Conditions before completing proposal.
2. Provide your best price for each item.
3. In submitting this proposal, Proposer certifies that:
 - a. the prices in this proposal have been arrived at independently, without consultation, communication, or agreement with any other Proposer or competitor, for the purpose of restricting competition with regard to prices;
 - b. Proposer is an Equal Opportunity Employer; and the Disclosure of Interest information on file with City's purchasing office, pursuant to the Code of Ordinances, is current and true.
 - c. Proposer has incorporated any changes issue through Addenda to the RFP in this pricing.

ITEM	DESCRIPTION	QTY	UNIT	TOTAL PRICE
1.0	Actuarial Services Year 1	1	Lump sum	\$12,000
2.0	Actuarial Services Year 2	1	Lump sum	\$12,000
3.0	Actuarial Services Year 3	1	Lump sum	\$12,000
4.0	Actuarial Services Year 4	1	Lump sum	\$12,000
5.0	Actuarial Services Year 5	1	Lump sum	\$12,000

Attachment C – Insurance Requirements

Insurance Requirements

I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Purchasing Director one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	
PROFESSIONAL LIABILITY	\$1,000,000.00 each claim \$1,000,000.00 Each Policy Year Aggregate

- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- B. Contractor shall be required to submit renewal certificate of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

- C. Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Professional liability policy will provide a waiver of subrogation in favor of the City; and
 - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor

hereunder until Contractor demonstrates compliance with the requirements hereof.

- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2018 Insurance Requirements
Purchasing
Actuarial Services for Risk Management
06/20/2018 sw Risk Management

Attachment D – Warranty

No warranty is required under this agreement therefore Service Agreement Section 8 is hereby null and void.