



Edinburg THE CITY OF



REQUEST FOR QUALIFICATIONS

REAL ESTATE SERVICES

RFQ # 2021-004

RFQ DUE DATE: 03/22/2021

RFQ DUE TIME: 3:00 pm



**REQUEST FOR QUALIFICATIONS (RFQ)
FOR
RFQ #2021-004-REAL ESTATE SERVICES**

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REQUEST FOR QUALIFICATIONS

The City of Edinburg is soliciting sealed Requests for Statement of Qualifications; hereinafter referred to as RFQ, to be received by the Executive Director's Office located at 415 W. University Drive, Edinburg, Texas 78541. City of Edinburg normal business days are Monday through Friday between the hours of 8:00 a.m. to 5:00 p.m. and shall be closed on recognized holidays.

RFQ'S will be received until **3:00 p.m. Central Time**, on **Monday, March 22, 2021** shortly thereafter all submitted RFQ'S will be gathered and taken to the Edinburg City Hall Community Room, 1st Floor, to be publicly opened and read aloud. Any RFQ received after the closing time will not be accepted and will be returned to the submitter unopened. It is the responsibility of the submitter to see that any RFQ submitted shall have sufficient time to be received by the City Secretary's Office prior to the RFQ opening date and time. The receiving time in the City Secretary's Office will be the governing time for acceptability of the RFQ's. RFQ's will not be accepted by telephone or facsimile machine. All RFQ'S must bear original signatures and figures. The RFQ shall be for:

RFQ # 2021-004 Real Estate Services

Respondents receiving a "NOTICE TO RESPONDENTS" and/or "REQUEST FOR STATEMENT OF QUALIFICATIONS" notice in the mail or reading same in the newspaper are advised that the solicitation documents can be downloaded from the City of Edinburg web page address: www.cityofedinburg.com , or may obtain copies of same by contacting the office of: LORENA FUENTES, PURCHASING AGENT, LOCATED AT 415 W. UNIVERSITY DRIVE, EDINBURG, TX 78541 by calling (956) 388-1895 Ext. 8972 the following e-mail address: lfuentes@cityofedinburg.com

If you have any questions or require additional information regarding this RFQ, please contact Ms. Lorena Fuentes, Purchasing Agent, at (956) 388-1895 or at [the following e-mail address: lfuentes@cityofedinburg.com](mailto:lfuentes@cityofedinburg.com)

Hand Delivered RFQ'S:

415 W. University Drive
C/o Economic Development Department (2nd floor)

If using Land Courier (i.e.FedEx, UPS):

City of Edinburg
C/o Economic Development Department
415 W. University Drive
Edinburg, Texas 78541

If Mailing RFQ's:

City of Edinburg
C/o Economic Development Department
415 W. University Drive
Edinburg, Texas 78541

The City of Edinburg reserves the right to refuse and reject any or all RFQ's and to waive any or all formalities or technicalities and to accept the RFQ deemed most advantageous to the City, and hold the RFQ's for a period of 90 days without taking action.

RFQ's must be submitted in an envelope sealed with tape and prominently marked on the lower left hand corner of the envelope with corresponding RFQ number and title.

Please read your requirements thoroughly and be sure that the RFQ offered complies with all requirements/specifications noted. Any variation from the solicitation requirements/specifications must be clearly indicated by letter, on a point by point basis, attached to and made a part of your RFQ. If no exceptions are noted, and you are the successful respondent, it will be required that the service(s) be provided as specified.

PURPOSE

(1) The purpose of these solicitation documents is to execute a Professional Services Contract for:

RFQ #2021-004
Real Estate Services

INTENT

(2) The services to be provided under this RFQ shall be in accordance with and shall meet all specifications and/or requirements as shown in this solicitation for RFQ. There is no intention to disqualify any respondent who can meet the requirements.

SUBMITTAL OF RFQ

(3) RFQs shall be submitted in sealed envelopes as called referenced on the attached solicitation. Three (3) complete sets of the response One (1) original marked "**ORIGINAL**," one (1) **USB** with PDF File of response, **and** two (2) copies marked "**COPY**". RFQs submitted by facsimile (fax) or electronically shall **NOT** be accepted. Submittal of an RFQ in response to this solicitation constitutes an offer by the respondent. Once submitted, RFQ's become the property of the City of Edinburg and as such the City reserves the right to use any ideas contained in any RFQ regardless of whether that respondent/firm is selected. Submission of a RFQ in response to this solicitation, by any respondent, shall indicate that the respondent(s) has/have accepted the conditions contained in the RFQ, unless clearly and specifically noted in the RFQ submitted and confirmed in the contract between the City and the successful respondent otherwise. RFQs which do not comply with these requirements may be rejected at the option of the City. RFQs must be filed with the City of Edinburg EDC before the deadline day and hour. No late RFQs will be accepted. They will be returned to respondent unopened (if properly identified). Failure to meet RFQ requirements may be grounds for disqualification.

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TIME ALLOWED FOR ACTION TAKEN

(4) The City of Edinburg may hold RFQ/s 90 days after deadline without taking action. Respondents are required to hold their RFQ/s firm for same period of time

RIGHT TO REJECT/AWARD

(5) The City of Edinburg reserves the right to reject any or all RFQs, to waive any or all formalities or technicalities, and to make such awards of contract as may be deemed to be the best and most advantageous to the City of Edinburg.

ASSIGNMENT

(6) Respondents are advised that the City of Edinburg shall not allow the successful respondent to sell, assign, transfer, or convey any part of any contract resulting from this RFQ in whole or in part, to a third party without the written approval of the City of Edinburg.

AWARD

(7) Respondents are advised that the City of Edinburg is soliciting RFQs and award shall be made to the respondent that in the opinion of the City of Edinburg is the best qualified.

NUMBER OF CONTRACTS

(8) The CITY of Edinburg reserves the right to award one, more than one, or no contract(s) in response to this RFQ.

STATUTORY REQUIREMENTS

(9) It shall be the responsibility of the successful respondent to comply with all applicable State & Federal laws, Executive Orders and Municipal Ordinances, and the Rules and Regulations of all authorities having jurisdiction over the work to be performed hereunder and such shall apply to the contract throughout, and that they will be deemed to be included in the contract as though written out in full in the contract documents.

ALTERATIONS/AMENDMENTS TO RFQ

(10) RFQ **CANNOT** be altered or amended after opening time. Alterations made before opening time must be initialed by respondent guaranteeing authenticity. No RFQ may be withdrawn after opening time without acceptable reason in writing and only after approval by the City of Edinburg Economic Development Corporation.

NO RESPONSE TO RFQ

(11) If unable to submit a RFQ, respondent should return inquiry giving reasons.

LIST OF EXCEPTIONS

(12) The respondent shall attach to his/her RFQ a list of any exceptions to the specifications/ requirements.

PAYMENT

(13) The City of Edinburg Economic Development Corporation will execute payment by mail in accordance with the State of Texas Pay Law after SERVICES have been completed, introduced to the City, and found to meet City of

Edinburg specifications/requirements. No other method of payment will be considered.

SYNONYM

(14) Where in this solicitation package SERVICES is used, its meaning shall refer to the request for qualifications REAL ESTATE SERVICES as specified.

RESPONDENT'S EMPLOYEES

(15) Neither the Respondent nor his/her employees engaged in fulfilling the terms and conditions of this Service Contract shall be considered employees of the City. The method and manner of performance of such undertakings shall be under the exclusive control of the vendor on contract. The City shall have the right of inspection of said undertakings at any time.

INDEMNIFICATION CLAUSE

(16) The Respondent agrees to indemnify and save harmless the City, from all suits and actions of every nature and description brought against them or any of them, for or on account of the use of patented appliances, products or processes, and he shall pay all royalties and charges which are legal and equitable. Evidence of such payment or satisfaction shall be submitted upon request of the Purchasing Agent, as a necessary requirement in connection with the final estimate for payment in which such patented appliance, products or processes are used.

INTERPRETATIONS

(17) Any questions concerning the project and/or specifications/requirements with regards to this solicitation for statement(s) of qualifications shall be directed to the designated individuals as outlined in the RFQ. Such interpretations, which may affect the eventual outcome of this request for statements of qualifications, shall be furnished in writing to all prospective Respondents via Addendum. No interpretation shall be considered binding unless provided in writing by the City of Edinburg in accordance with paragraph entitled "Addenda and Modifications".

VERBAL THREATS

(18) Any threats made to any employee of the City, be it verbal or written, to discontinue the providing of item/material/services for whatever reason and/or reasons shall be considered a breach of contract and the City will immediately sever the contract with the Respondent/Consultant on contract.

CONFIDENTIAL INFORMATION

(19) Any information deemed to be confidential by the respondent should be clearly noted on the pages where confidential information is contained; however, the City cannot guarantee that it will not be compelled to disclose all or part of any public record under Texas Public Information Act, since information deemed to be confidential by the respondent may not be considered confidential under Texas Law, or pursuant to a Court order.

PAST PERFORMANCE

(20) Respondent's past performance shall be taken into consideration in the evaluation of RFQ submittal.

JURISDICTION

(21) Contract(s) executed as part of this solicitation shall be subject to and governed under the laws of the State of Texas. Any and all obligations and payments are due and performable and payable in Hidalgo County, Texas.

RIGHT TO AUDIT

(22) The City of Edinburg reserves the right to audit the vendor's books and records relating to the performance of

this contract. The City of Edinburg, at its own expense, shall have the right at all reasonable times during normal business hours and upon at least twenty-four (24) hours' advance notice, to audit, to examine, and to make copies of or extracts from the books of account and records maintained by the vendor(s) with respect to the Supply/Service and/or Purchase Contract. If such audit shall disclose overpayment by City to vendor, written notice of such overpayment shall be provided to the vendor and the amount of overpayment shall be promptly reimbursed by vendor to the City. In the event any such overpayment is not paid within ten (10) business days after receipt of such notice, the unpaid amount of such overpayment shall bear interest at the rate of one percent (1%) per month from the date of such notice until paid.

VENUE

(23) The parties agree that venue for purposes of any and all lawsuits, cause of action, arbitration, and/or any other dispute(s) shall be in Hidalgo County, Texas.

IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT. AN OFFENSE UNDER CHAPTER 176 IS A CLASS "C" MISDEMEANOR.

CONFLICT OF INTEREST

(24) CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the records administrator of the City of Edinburg not later than the 7th business day after the date the person becomes aware of facts that require the statement be filed. See Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. For more information or to obtain Questionnaire CIQ visit the Texas Ethics Commission web page at www.ethics.state.tx.us/forms/CIQ.pdf.

CERTIFICATE OF INTERESTED PARTIES (Form 1295)

(25) In 2015, the Texas Legislature adopted [House Bill 1295](#), which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016. For more information go to the Texas Ethics Commission web page at www.ethics.state.tx.us/forms/CIQ.pdf.

CONFIDENTIALITY OF INFORMATION AND SECURITY

(26) Should the successful respondent become the holder of and have access to confidential information in the process of fulfilling its responsibilities in connection with an awarded contract the successful respondent agrees that it shall keep such information confidential and will comply fully with the laws and regulations of the State of Texas, ordinances and regulations of the City, and any applicable federal laws and regulations relating to confidentiality.

TERMINATION OF CONTRACT

(27) The City of Edinburg reserves the right to terminate the contract if, in the opinion of the City of Edinburg, the

successful vendor's performance is not acceptable, no funds are available, or if the City wishes, without cause, to discontinue this contract. Termination will be in written form allowing a 30-day notice.

RESPONSE DEADLINE

(28) Responses to the RFQ must be addressed to City of Edinburg Economic Development, 415 W. University Drive by **Monday, March 22, 2021 until 3:00 p.m.** for consideration. An (1) **original**, one (1) **USB** with PDF File of response, and two (2) complete sets of the response must be submitted no later than this date and time in a **sealed envelope** indicating that its contents are in response to the RFQ for **“Real Estate Services”**. **Respondents are advised that all confidential records must be submitted in a separate sealed envelope and marked accordingly.**

Hand Delivered RFQ'S:

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ADDENDA AND MODIFICATIONS

(29) Any changes, additions, or clarifications to the RFQ are made by amendments (addenda). Any respondent in doubt as to the true meaning of any part of the RFQ or other documents may request an interpretation from the Purchasing Division. At the request of the respondent, or in the event the Purchasing Division deems the interpretation to be substantive, the interpretation will be made by written addendum. Said Addenda shall be mailed, e-mailed, hand delivered and/or faxed, to all prospective respondents. All Addenda issued in respect to this RFQ shall be considered official changes to the original documents. Verbal statements in response to inquiries and/or requests for explanations shall not be authoritative or binding. It shall be the respondent's responsibility to ensure that they have received all Addenda in respect to this project. Furthermore, respondents are advised that they must recognize, comply with, and attach a signed copy of each Addendum which shall be made part of their RFQ Submittal. Respondent(s) signature on Addenda shall be interpreted as the respondent's "recognition and compliance to" official changes as outlined by the City of Edinburg and as such are made part of the original solicitation documents. Failure of any respondent to receive any such addendum or interpretation shall not relieve such respondent from its terms and requirements. Addendums are available online at www.cityofedinburg.com.

RFQ PREPARATION COSTS

(30) The City of Edinburg shall not be held liable for any costs incurred by any respondent for work performed in the preparation of and production of a RFQ or for any work performed prior to execution of contract.

EQUAL EMPLOYMENT OPPORTUNITY

(31) Respondent agrees that they will not discriminate in hiring, promotion, treatment, or other terms and conditions of employment based on race, sex, national origin, age, disability, or in any way violate Title VII of 1964 Civil Rights Act and amendments, except as permitted by said laws.

AUTHORIZATION TO BIND RESPONDENT TO RFQ

(32) RFQs MUST give full firm name and address of respondent, and be manually signed. Failure to do so will disqualify your RFQ. Person signing bid must show title or AUTHORITY TO BIND HIS/HER FIRM IN A CONTRACT. Firm name and authorized signature must appear on each page that calls for this information. The legal status of the Respondent whether corporation, partnership, or individual, shall also be stated in the RFQ. A corporation shall execute the RFQ by its duly authorized officers in accordance with its corporate by-laws and shall also list the state in which it is incorporated. A partnership Respondent shall give full names and addresses of all partners. All partners shall execute the RFQ. Partnership and Individual Respondent shall state in the proposal the names and addresses of all persons with a vested interest therein. The place of residence of each Respondent, or the office address in the case of a firm or company, with county and state and telephone number, shall be given after the signature.

BRAND OR MANUFACTURER REFERENCE

(33) Unless otherwise specified, any catalog or manufacturer's reference or brand name used in describing an item is merely descriptive, and not restrictive, and is used only to indicate type and style of product desired. Proposals on alternate brands will be considered if they meet specification requirements. If a bidder quotes on equipment other than the one(s) specified in the bid, sufficient specifications and descriptive (pictured literature) data must accompany same to permit thorough evaluation. In the absence of these qualifications, he/she will be expected to furnish the product called for.

COOPERATIVE PRICING

(34) Bidders are advised that in addition to responding to our "local" solicitation for bids/Bids with Dealer pricing, vendors/contractors are encouraged to provide pricing on the below referenced items/products/services based on BuyBoard, TX-MAS, H-GAC and/or any other State of Texas recognized and approved cooperative which has complied with the bidding requirements for the State of Texas. If bidding other than or in addition to "dealer" pricing, kindly duplicate the bid forms for each bid being provided from a cooperative contract. Any and all applicable fees must be included. All cooperative pricing must be submitted on or before bid opening date and hour.

HB 89

(35) The 85th Texas Legislature approved new legislation, effective Sept. 1, 2017, which amends Texas Local Government Code Section 1. Subtitle F, Title 10, Government Code by adding Chapter 2270 which states that a governmental entity 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

Confidential Information Respondents are advised that all confidential records must be submitted in a separate sealed envelope and marked accordingly

GENERAL

The City of Edinburg's Economic Development Department is currently seeking statements of qualifications from real estate firms to provide full professional real estate services on behalf of the City and the Edinburg Economic Development Corporation (EDC). The term of the contract will be for one year, 05/01/2021-05/01/2022, with an annual renewal option thereafter.

The request is to provide the following services to the City and the EDC: management of real estate properties for acquisition, lease, or sale; strategic planning and counsel regarding the highest and best use of city or EDC-owned property; responding to inquiries about available properties in the city and appraisal report requests; consulting on legal issues pertaining to land use and real estate; and other related tasks as needed. Individual firms and teams of firms are encouraged to respond. However, if the City awards a contract to a team of professionals or firms, the City prefers to have one primary point of contact who can keep everybody on the vendor side organized and accountable for meeting deadlines.

SCOPE OF SERVICES

The scope of services includes, but is not necessarily limited to, the following tasks:

1. Assist city staff with structuring, negotiating, and executing economic development projects, which can include conducting property searches (respondent must have access to CoStar or similar listing database) and responding to inquiries, serving as the City's or the EDC's real estate agent or broker for property transactions (including occasionally residential), and providing expert guidance on legal, financial, and real estate matters pertaining thereto;
2. List and market city- or EDC-owned property to potential investors, developers, and end-users;
3. Assist staff with developing content and maintaining property listings on the City and EDC websites;
4. Provide professional opinions on appraised or assessed real estate values
5. Presentations at meetings of the EDC, City Council, or the community as requested;
6. Ensure all State of Texas laws and procedures regarding real estate services are followed.

The selected firm or team of firms must possess all licenses or certifications required to successfully complete the tasks outlined in the scope of services. The team must have at least one licensed attorney qualified to advise the City and the EDC.

CONTRACT

A sample Professional Services Agreement is attached for review of all firms submitting their qualifications in response to this solicitation. Each firm must carefully review all sections and pay special attention to the indemnity and insurance portions of the agreement. Insurance requirements are included in the Agreement and they must be satisfied prior to the execution of the Agreement. Note that the City does not ordinarily allow modifications to the standard agreement.

TERMS

Given the City's need for ongoing advisory or consulting services under this agreement, the City is open to a variety of compensation terms. The City will seek to negotiate an agreement with the selected firm or team of firms that could include traditional commission-based payment on transactions, a monthly retainer for time not reflected in an executed property transaction (e.g., property research, responding to inquiries, etc.), or a combination of a monthly fee and commission. Respondents should include suggested terms as part of their submission to the City.

SUBMITTAL REQUIREMENTS

Real Estate Services Request for Qualifications (RFQ) is requested to be submitted to the **City Secretary's Office at 415 W. University Dr. Edinburg, Texas 78541 no later than 3:00 PM on March 22, 2021.**

The RFQ must be submitted according to the instructions outlined herein. Each response should include, at a minimum, the following items:

1. Transmittal letter – Indicate interest and commitment to perform services for the City of Edinburg, include contact information (physical address, telephone, fax, cell phone, and email address) for the primary person responsible for your RFQ who will be the point of contact for the City on all correspondence and communications pertaining to the RFQ. State whether any addendums to this RFQ have been received by your firm and whether consideration of their content has been included in your RFQ. The letter must be signed by an officer of the firm who is authorized to bind the firm to contract and shall contain a statement to this effect;
2. Firm Qualification and Experience – Discuss the firm's experience and history in performing Real Estate Services and project management services in a timely manner, particularly for other governmental agencies in the past five (5) years. Discuss the firm's uniqueness to best perform these services for the City. Identify the office location that will be providing the services and the approach to handling part-time staffing needs for smaller assignments.
3. Team Member Qualifications and Experience – Submit resumes summarizing qualifications and experience of project manager, key staff and any support staff likely to be assigned to the work.
4. References – Provide at least three references (names and current phone numbers) from recent work and List all past projects with the City of Edinburg for each proposed team member. Include a brief description of the projects associated with the reference, and the role of the individual.
5. Insurance - Provide information on the types and amounts of insurance carried by the PSP, including General Liability, Auto Coverage, Worker's Compensation, and Professional Liability Coverage. A list of any insurance claims against the firm within the past 5 years.
6. Professional Services Agreement – Provide a statement that the Professional Services Agreement has been read, that the firm will meet the prerequisite insurance requirements, and the firm, if selected, agrees to enter in to such agreement.
7. Contact Information – Each firm must submit two (2) different contact information (Name, Title, Address, Phone Number, Mobile Number, and Email Address).
8. Presentation – Each firm must submit three (3), one (1) original and two (2) bound copies of the RFQ. In addition, a USB with a PDF file of response must be provided.
9. Local Presences - A statement addressing the firm's established presence in the City of Edinburg or the surrounding area (within a 25 mile radius); which allows for immediate support of the needs of the Department and its programs.

SELECTION PROCESS

Evaluation will include confirmation by City Staff that respondents have the required registration, license, insurance or expertise to render requested services. The evaluation process is not intended to select one best qualified provider but rather shall include several similarly qualified providers that will be placed on a pre-qualified list.

The selection Committee shall screen and rate all of the respondents that are submitted. Selection ratings will be based on 100-point scale rating and shall be based on the following criteria.

a.	Overall Qualification of Team	40 points
b.	Previous Experience with City	5 points
c.	Ability to meet Schedules and Deadlines	30 points
d.	Stability and References	15 points
e.	Presentation	5 points
f.	Local Presences	5 points

The City may select one (1) or more firms to provide services based on this evaluation. This process will result in the selection of a firm or firms to provide services. The City reserves the right to reject any and all RFQ's for any reason whatsoever. The City may waive informalities or irregularities in the RFQ's received where such is merely a matter of form and not substance, and the correction or waiver thereof is deemed by the City not prejudicial to other RFQ's.

After the selection of the most qualified firm(s), scope of services and billing rates will be negotiated and used as attachments to the City's Professional Services Agreement. This Agreement will then be submitted to the City Council for approval. If the City and the selected firm cannot successfully negotiate an agreement, then the City will enter into negotiations with the next best qualified firm on the evaluation rating list. This procedure may be repeated until one (1) or more firms has been selected and approved by the City Council.

The City currently anticipates conducting the selection process proceeding in accordance with the following list of milestones. This schedule is subject to revision and the City reserves the right to modify this schedule as necessary, in its sole discretion.

RFQ Issued	March 5, 2021
Publish RFQ	March 5 & March 12, 2021
RFQ Submission Deadline (Post Marked or Delivered)	March 22, 2021 by 3:00pm.
Review	March 22 – 26, 2021
City Council Selects Firm(s)	April 6, 2021

CITY CONTACT

If you have any questions or require additional information regarding this RFQ, please contact Ms. Lorena Fuentes, Purchasing Agent, at (956) 388-1895 or at the following e-mail address: lfuentes@cityofedinburg.com .

Responses to the RFQ must be addressed to the City Secretary's Office, City of Edinburg, and received at City Hall, at 415 W. University Drive, Edinburg, Texas 78541 by **March 22, 2021 and no later than 3:00 pm**. Three (3) complete sets of the response no larger than 30 bound pages must be submitted no later than this date and time. In addition, a USB with a PDF file of response must be provided. The RFQ is to be placed in a sealed

envelope indicating that its contents is in response to the Request for Qualifications for the **REAL ESTATE SERVICES**.

STATE OF TEXAS § **AGREEMENT BETWEEN THE CITY
OF EDINBURG, THE ECONOMIC
COUNTY OF HIDALGO § DEVELOPMENT CORPORATION,
AND [VENDOR] FOR REAL ESTATE
EDC OF EDINBURG § TRANSACTION SERVICES
PURSUANT TO RFQ NO. 2021-004**

The Edinburg Economic Development Corporation, Hidalgo County, Texas; the City of Edinburg, Hidalgo County, Texas, a municipal corporation, (collectively referred to as “EDC”); and [NAME OF COMPANY] (hereinafter called “Consultant”), are the parties to this Agreement.

RECITALS

WHEREAS, EDC seeks proposals for on-call professional services related to real estate transactions as may be requested by the EDC. Services may include, but not be limited to those identified in **Exhibit “A”**; and

WHEREAS, the Consultant has the professional knowledge and abilities to perform professional real estate firm services; and

WHEREAS, EDC desires to engage the Consultant to render services in connection therewith:

NOW, THEREFORE, EDC and Consultant do mutually agree as follows:

SECTION I EMPLOYMENT OF CONSULTANT

A. EDC agrees to employ Consultant to furnish and provide the Services, as stated in this agreement and **Exhibit “A”**. Upon receipt of Services to the EDC’s satisfaction, the EDC agrees to pay Consultant as stated in this Agreement.

SECTION II SERVICES OF CONSULTANT

A. The Consultant shall, in the scope of his work, perform the Services identified in **Exhibit “A”** of this document. EDC shall provide Consultant with authorization to proceed, after execution of this Agreement.

B. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either party as an agent of the other for any purpose whatsoever. Except as otherwise specifically provided herein, neither party shall

in any way assume any of the liability of the other for acts of the other or obligations of the other.

SECTION III **RESPONSIBILITY OF THE EDC**

- A. EDC will facilitate Consultant's work with the following tasks:
1. Provide Consultant with its requirements for the Services.
 2. Assist Consultant by providing information reasonably available to the EDC and pertinent to the Services.
 3. Facilitate access to and make provisions for Consultant to enter upon public property as reasonably required for Consultant to perform its Services.
 4. Examine all reports, sketches, estimates, drawings, proposals, and other documents presented by Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the Services of the Consultant.
 5. Give prompt written notice to Consultant whenever EDC observes or otherwise becomes aware of any defect in Services.

SECTION IV **RESPONSIBILITIES OF CONSULTANT**

- A. Consultant shall perform the Services described in **Exhibits "A"**.
- B. Consultant shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by its profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, plans, information, and other items and Services furnished under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, ordinances, codes, and regulations in performing the Services. If Consultant fails to meet applicable professional standards, Consultant shall without additional compensation correct or revise any errors or deficiencies, with or without request to do so by the EDC.
- C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of Services furnished by Consultant under this Agreement. Consultant shall keep the EDC informed of the Services performed under this Agreement. In connection with the performance of the Services by Consultant, Consultant agrees to promptly and fully disclose to EDC any information regarding the Services as EDC may request.

D. Consultant shall perform Services necessary to accomplish the work specified in this Agreement, in accordance with this Agreement.

E. EDC's review or approval of reports, and other services furnished hereunder shall not in any way relieve Consultant of responsibility for the technical adequacy of the work. Neither EDC's review, approval, or acceptance of, nor payment for any of the Services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

F. Consultant shall be and shall remain liable, in accordance with applicable law, for all damages to EDC caused by Consultant's negligent performance of any of the Services furnished under this Agreement. Consultant shall not be responsible for any time-delays in the project caused by circumstances beyond Consultant's control.

G. Consultant's obligations under this clause are in addition to the Consultant's other expressed or implied obligations under this Agreement or state law and in no way diminish any other rights that EDC may have against Consultant for consultant's errors or omissions.

H. All reports, drawings, plans, and other documentation pertaining to the Services become the property of EDC.

SECTION V **PAYMENT AND FEES**

A. [FEES TO BE PROPOSED BY BIDDER AND AGREED TO WITH EDC]

B. Consultant shall submit all invoices to EDC in the manner specified herein. Except as specifically authorized by EDC in writing, Consultant shall not bill EDC for duplicate services performed by more than one person. Consultant and EDC acknowledge and agree that compensation paid by EDC to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. EDC therefore has no responsibility for such contributions beyond compensation required under this Agreement.

C. EDC is entitled to impose a set-off against payment based on any of the following:

a. Claims have been made against EDC based on Consultant's conduct in the performance or furnishing of Services, or EDC has incurred costs, losses, or damages resulting from Consultant's conduct in the performance or furnishing of

Services, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, and non-compliance with Laws and Regulations;

- b. Consultant has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with Services and related work;
- c. Consultant has failed to provide and maintain required insurance;
- d. Any Services are defective, requiring correction or replacement;
- e. EDC has been required to correct defective Services or has accepted defective Services;
- f. Liens have been filed in connection with the Services; or
- g. Other items entitle EDC to a set-off against the payment amount.

D. If EDC imposes any set-off against payment, EDC will give Consultant immediate written notice stating the reasons for such action and the specific amount of the reduction, and promptly pay Consultant any amount remaining after deduction of the amount so withheld. EDC shall promptly pay Consultant the amount so withheld, or any adjustment thereto agreed to by EDC and Consultant, if Consultant remedies the reasons for such action. The reduction imposed will be binding on Consultant unless it duly submits written notice contesting the reduction within 30 days of receiving EDC's written notice.

E. All fees payable to Consultant under this Agreement shall be made in full, and without any withholding, deduction, or offset of any state or federal withholding taxes, FICA, SDI, or income taxes, nor shall the EDC be obligated to pay any of Consultant's employees' taxes. Consultant hereby covenants and agrees that it shall be solely responsible for all taxes, withholding, FICA, SDI, and other similar items (both employee and employer portions) with respect to all fees paid by the EDC under this Agreement, and agrees to indemnify and hold the EDC harmless with respect to such taxes and withholding.

F. Consultant and its employees shall not be eligible for, participate in, or be entitled to compensation in lieu of any insurance, benefit, retirement, or other plan or program provided by the EDC to its employees.

G. Consultant shall provide an invoice in accordance with EDC regulations. Payment terms shall be net thirty (30) days from receipt of invoice.

H. The EDC may, at any time, request Consultant to make changes within the scope of the Services or to perform extra work. If any request by the EDC for a change or extra work causes an increase or decrease in the cost or the time required for performance of the work, or any change to this Agreement, Consultant shall, within

fourteen (14) days from the date it receives the EDC's request submit in writing a proposal for accomplishing such changed or extra work. This proposal shall define, if applicable, any increase or decrease in cost or time of completion or other change to this Agreement. The EDC must approve any change orders, pursuant to applicable ordinances and policies and procedures and any other applicable laws of this State, before making the changes. The EDC will not be liable for any costs incurred by Consultant from performance of a change or extra work prior to issuance of a change order to this Agreement.

I. The total contract price may not be increased because of the changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants.

J. Prior to and as a condition of final payment to the Consultant following termination or expiration of this Agreement as defined below, the Consultant shall deliver to the EDC a release in form and substance satisfactory to the EDC, discharging it and its officers, agents, and employees of all liabilities, obligations, and claims arising out of this Agreement and the performance thereof.

SECTION VI **TERM OF AGREEMENT**

A. Except as provided below, this Agreement, and the Services to be performed under it, shall commence on the date this Agreement is executed by both parties, and shall continue thereafter for one year. The EDC shall have the right, in its sole discretion, to extend the term of this Agreement for two additional one-year terms. EDC shall provide Consultant with a written notice of the approval of the extension.

B. EDC may terminate this Agreement upon giving 30 days' prior written notice thereof to Consultant. In addition, EDC shall have the right, upon written notice, to cancel this Agreement immediately if, in the EDC's sole judgment, the Services rendered by Consultant breach or violate any of the provisions of this Agreement.

C. Upon termination or completion of this Agreement, EDC shall have no liability to Consultant except for charges for Services performed by Consultant and accepted by the EDC prior to receipt of notice of termination or cancellation. The terms and conditions in this Agreement that by their sense and context are intended to survive the performance hereof by either or both parties hereunder shall so survive the termination, cancellation, or completion of performance of this Agreement.

D. Upon termination or completion of Consultant's Services hereunder or at such other time as may be requested by EDC, Consultant shall return to EDC within ten (10) days of termination, completion, or request all documents, records, notebooks, including copies thereof, whether prepared by Consultant or others, in Consultant's possession and related to the Services.

E. The EDC reserves the right to suspend work on the Services, with or without cause, in whole or in part, upon giving notice to Consultant. Consultant shall resume the Services so suspended when directed to do so by the EDC. The EDC shall have no liability to Consultant except for charges for Services performed by Consultant and accepted by the EDC prior to receipt of notice of suspension of Services. If only a portion of the Services are suspended, Consultant shall be compensated only for Services of which are not suspended and are actually performed during such suspension.

F. Upon termination of this Agreement or suspension of Services under this Section, the EDC may take over the work and may obtain the services of another entity to complete the work under this Agreement.

SECTION VII

MINIMUM INSURANCE REQUIREMENTS

Consultant shall be adequately insured and carry liability, workers compensation, automobile insurance and professional liability for injury to its employees and others incurring loss or injury as a result of the acts of Consultant or its employees. In accordance with EDC ordinances, Consultant shall be required to hold the following minimum insurance coverage throughout the duration of this agreement:

- A. Workers Compensation
In accordance with State statute.

- B. Comprehensive General Liability
 - 1. Bodily Injury
\$250,000 each person
\$500,000 each occurrence
 - 2. Property Damage
\$100,000 each occurrence
\$100,000 each aggregate

or \$500,000 combined single limits

- C. Comprehensive Auto Liability
 - 1. Bodily Injury
\$100,000 each person
\$500,000 each occurrence
 - 2. Property Damage
\$100,000 each occurrence
\$100,000 aggregate

or \$500,000 combined single limits

- D. EDC's Protective Liability

1. Bodily Injury
\$250,000 each person
\$500,000 each occurrence
2. Property Damage
\$100,000 each occurrence
\$100,000 each aggregate

or \$500,000 combined single limits

E. Professional Liability

1. Professional
\$1,000,000 per claim and in the aggregate

F. Evidence of the above insurance coverage is attached as Exhibit "B" and the EDC shall be listed as additional insureds.

G. If at any time and for any reason Consultant fails to provide, maintain, keep in force and effect, or deliver to the EDC proof of, any of the insurance required and such failure continues for ten (10) days after Notice thereof from EDC to Consultant, EDC may, but shall have no obligation to, procure single interest insurance for such risks covering EDC (or, if no more expensive, the insurance required by this Agreement), and Consultant shall, within ten (10) days following EDC's demand and Notice, pay and reimburse EDC therefor with interest at Prime Rate plus 2%, the Prime Rate being that in place on the date of Notice, from the date of payment by the EDC until repayment of EDC in full by Consultant.

H. With respect to each and every one of the insurance policies required to be obtained, kept, or maintained under the terms of this Agreement, on or before the date on which each such policy is required to be first obtained and at least fifteen (15) days before the expiration of any policy required hereunder previously obtained, Consultant shall deliver evidence reasonably acceptable to EDC showing that such insurance is in full force and effect.

I. Consultant hereby agrees as follows:

1. To punctually pay or cause to be paid all premiums and other sums payable under each insurance policy required to be obtained, kept, and maintained pursuant to this Lease;

2. To maintain in full force and effect the policies required to be carried to the extent so required to be carried pursuant to the terms hereof;

3. To ensure that all Casualty Proceeds are paid to the Party entitled to receive same;

4. Not, at any time, to take any action (or omit to take action) which action (or omission) would cause any insurance policies required to be obtained, kept, and maintained under this Lease to become void, voidable, unenforceable, suspended, or impaired in whole or in part or which would otherwise cause any sum paid out under any such insurance policy to become repayable in whole or in part; and

5. Promptly deliver Notice to EDC of any facts or circumstances of which it is aware which, if not disclosed to its insurers or re-insurers, is likely to affect adversely the nature or extent of the coverage to be provided under any insurance policy required hereunder.

SECTION VIII **ALTERNATE DISPUTE RESOLUTION/NEUTRAL PARTY**

A. If any dispute, controversy, or claim between or among the Parties arises under this Agreement or is related in any way to this Agreement or the relationship of the Parties hereunder (a "Dispute"), the Parties shall first attempt in good faith to settle and resolve such Dispute by meeting at a mutually agreeable time and place to discuss the Dispute within seven (7) days following the original written notice of any Dispute by the party making such a claim. The Parties shall seek to resolve the Dispute in writing within fourteen (14) days following the original written notice of any Dispute by the party making such a claim.

B. If a mutual resolution and settlement are not obtained at the meeting, the Parties shall participate in good faith in formal mediation, within thirty (30) days following the original written notice of any Dispute, with a mutually agreeable mediator at a mutually agreeable time and place. No settlement reached under this provision shall be binding on the Parties until reduced to a writing signed by a representative of Contractor and the EDC Manager. Unless the parties expressly agree otherwise, each party shall bear its own costs and legal and expert fees incurred in the mediation, and evenly share the costs of the mediator. If after proceeding in good faith the parties, with the assistance of a neutral mediator, do not resolve the dispute within forty-five (45) days following the original written notice of any Dispute, the parties may proceed in accordance with the section below.

SECTION IX **CONTROLLING LAW, MANDATORY VENUE, AND FEES AND EXPENSES**

A. After exhausting the procedures set forth above, either party may initiate litigation to resolve the dispute. The Law of the State of Texas shall control the Dispute. Venue is mandatory in in State courts located in Hidalgo County, Texas.

B. In the event of any litigation between the parties, the parties shall bear their own costs, including attorneys' fees and expenses.

SECTION X
INDEMNIFICATION

A. To the maximum extent allowed by law, Consultant agrees to and shall indemnify, hold harmless, and defend EDC, its officers, agents, and employees from any all claims, losses, causes of action and damages, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees for injury to or death to any person or for damage to any property, arising out of or directly connected with the negligent or willful conduct of Consultant, its agents, officers and employees, carried out in furtherance of this Agreement.

B. Consultant agrees to assist EDC in defense of claims or litigation brought against the EDC related to this Agreement.

SECTION XI
LIMITATION OF LIABILITY

A. Consultant agrees to limit the EDC's liability arising from EDC's acts, errors, or omissions such that the total liability of EDC shall not exceed Consultant's total fees paid by the EDC to Consultant for the Services rendered pursuant to the Task Order which is the subject matter of the claim. Consultant agrees that EDC will not be liable for any indirect, incidental, special, or consequential punitive or multiple damages, including without limitation any damages resulting from loss of use, loss of business, loss of revenue, loss of profits, or loss of data, arising in connection with this Agreement, Consultant's performance of Services, or of any other obligations relating to this Agreement, even if EDC has been advised of the possibility of such damages. The foregoing limitation of liability shall apply to the maximum extent allowed by law for limitation of EDC's liability, regardless of the cause of action under which such damages are sought.

SECTION XII
AGREEMENT CONSTRUCTION

A. The headings of the Sections contained in this Agreement are for reference purposes only, and shall not affect the meaning or interpretation of this Agreement. The parties have been advised by counsel in connection with this Agreement. This Agreement shall be construed and interpreted in accordance with the plain meaning of its language, and not for or against either party, and as a whole, giving effect to all of the terms, conditions, and provisions of this Agreement. Nothing contained in this Agreement shall be deemed to confer any right or benefit on any person who is not a party to this Agreement.

SECTION XIII
NO PENDING LITIGATION

A. Consultant represents that there is no action, proceeding, inquiry, or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending to the best knowledge of Consultant threatened against or affecting the Consultant or any subsidiaries of the Consultant, questioning the validity or any action taken or to be taken by the Consultant in connection with the execution, delivery, and performance by the Consultant of this Agreement to which the Consultant may be a party or seeking to prohibit, restrain, or enjoin the execution, delivery, or performance by the Consultant hereof or thereof, where in an unfavorable decision, ruling, or finding (i) would adversely effect the validity or enforceability of, or the authority or ability of the Consultant to perform, its obligations under this Agreement to which the Consultant may be party or (ii) would have an adverse effect on the consolidated financial condition or results of operations of the Consultant or on the ability of the Consultant to conduct its business as presently conducted or as proposed or contemplated to be conducted.

SECTION XIV
SEVERABILITY

A. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION XV
NOTICE

A. Any notices to be given under this Agreement shall be in writing, (i) sent by registered or certified mail, postage prepaid, return receipt requested or (ii) sent by nationally recognized overnight courier (e.g. Federal Express) with electronic tracking, and addressed to such party as follows:

(a) Notices to the EDC:

EDC of Edinburg
415 W. University Drive
Edinburg, Texas 78539
Attn.: EDC Manager

With a copy to:

EDC of Edinburg
415 W. University Drive
Edinburg, Texas 78539
Attn.: EDC Attorney

(b) Notices to Consultant:

1201 E. Interstate Hwy 2

Mission, Texas 78572
Attn.: Jesse Salinas

B. Such Notices shall be deemed delivered (i) in the case of U.S. mail in the manner provided above, three (3) business days after posting or (ii) if sent by nationally recognized overnight courier with electronic tracking service, the next business day after depositing same with such overnight courier before the overnight deadline and if deposited with such courier after such deadline, then the next succeeding business day.

SECTION XVI
NON-APPROPRIATIONS

A. Notwithstanding anything in the Agreement to the contrary, any and all payments which the EDC is required to make under this Agreement shall be subject to annual appropriation or other availability of funds, as certified by the Director of Finance.

B. If the EDC cannot appropriate sufficient funding, then either party has the right to terminate the Agreement by providing ten (10) days' written notice to the other party.

SECTION XVII
SUCCESSORS AND ASSIGNS

EDC and Consultant each bind themselves, their partners, successors, executors, administrators, and assigns to the other party of the Agreement in respect to all covenants of this Agreement. Neither EDC nor Consultant shall assign, sublet, or transfer interest in this Agreement without written consent of the other.

SECTION XIX
CONFLICT OF TERMS

If any of the terms of this Agreement conflict in any respect with any of the terms of the attached Exhibits, the terms of this Agreement shall be controlling.

SECTION XX
NO WAIVERS OR ACCORD AND SATISFACTION

A. This Agreement may be amended only by written instrument signed by all parties.

B. No failure or delay of any Party, in any one or more instances (i) in exercising any power, right, or remedy under this Agreement or (ii) in insisting upon the strict performance by the other Party of such other Party's covenants, obligations, or agreements under this Lease, shall operate as a waiver, discharge, or invalidation thereof, nor shall any single or partial exercise of any such right, power, or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to

enforce such a right, power, or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power, or remedy. The covenants, obligations, and agreements of a defaulting Party and the rights and remedies of the other Party upon a default shall continue and remain in full force and effect with respect to any subsequent breach, act, or omission.

C. Without limiting the generality of the above, the receipt by EDC of any Services with knowledge of a breach by Consultant of any covenant, obligation, or agreement under this Agreement shall not be deemed or construed to be a waiver of such breach. No acceptance of Services or payment to Consultant shall be deemed to be other than on account of the earliest installment of the amounts due under this Agreement, nor shall any endorsement or statement on any check, or any letter accompanying any check, wire transfer or other payment, be deemed an accord and satisfaction. EDC may accept services or make payment without prejudice to its rights under this Agreement or pursue any remedy provided in this Agreement or provided otherwise by law or equity.

EXECUTED by the parties in triplicate originals on this _____ day of _____, 2021.

EDC OF EDINBURG:

BY: _____

Ron Garza, EDC Manager
EDC of Edinburg
415 W. University Dr.
P.O. Box 1079
Edinburg, Texas 78540
Phone: (956) 388-8207
Fax: (956) 383-7111

ATTEST:

BY: _____

Myra L. Ayala, EDC Secretary

APPROVED AS TO FORM:

Omar Ochoa Law Firm, P.C.

BY: _____

Omar Ochoa, EDC Attorney

[COMPANY NAME]

BY: _____

**Attachments: Exhibit "A" RFQ 2021-004, Scope of Services and Proposal
Exhibit "B" Insurance**

EXHIBIT "A" TO AGREEMENT BETWEEN THE CITY OF EDINBURG, THE ECONOMIC DEVELOPMENT CORPORATION, AND [VENDOR] FOR REAL ESTATE TRANSACTION SERVICES PURSUANT TO RFQ NO. 2021-004

**EXHIBIT "B" TO BETWEEN THE CITY OF EDINBURG, THE ECONOMIC
DEVELOPMENT CORPORATION, AND [VENDOR] FOR REAL ESTATE
TRANSACTION SERVICES PURSUANT TO RFQ NO. 2021-004**