

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

PROFESSIONAL SERVICES CONTRACT

C-13-192-00-00

THIS AGREEMENT is made effective the _____ of _____, **2013**, by and between the **County of Hidalgo, Texas** ("County") and _____ ("Company").

WITNESSETH:

WHEREAS, the County requires services for: "**Real Estate Brokers Services**" located within **Hidalgo County** and

WHEREAS, the County of Hidalgo solicited Request for Proposals (RFP) for the development and establishment of "**Real Estate Broker Services**", and

WHEREAS, County has determined that the services of "**Real Estate Broker Services**" are sometimes necessary to carry the services to the County of Hidalgo that are more specifically set forth hereinafter; and

WHEREAS, the miscellaneous projects to be included in this Contract include the acquisition, disposition, and management of real property owned or leased by County; and

WHEREAS, the County has selected the provider/firm to provide real estate services within the County of Hidalgo, Texas through its procured **Real Estate Broker Services**.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, County and **Real Estate Broker Services** do mutually agree as follows:

- 1. Scope of Services.** Real Estate Broker provider/firm agrees to provide to County the services shown in Exhibit "A" attached hereto and entitled "**Services to be Provided by the provider/firm**". Provider/Firm selected is to have adequate experience and a workload free from constraints to complete said services within the requested time provided by the user department.

2. Term. Contract will be for a three (3) year period commencing _____, with the County's sole discretion to extend the contract for an additional one (1) year based on prior year's performance evaluation and contingent upon cost remaining unchanged. Hidalgo County reserves the right to continue this proposal for an additional sixty (60) day "grace period" at the end of the contract term for unforeseen delay of award for next term and contingent upon cost remaining unchanged.

3. Compensation. As consideration for rendering the Services provided for in this Contract, the County agrees to pay the Real Estate Broker Provider/Firm the amounts specified in Exhibit "B" attached hereto payable against written invoice submitted by Real Estate Broker Provider/Firm. The Real Estate Broker Provider/Firm is authorized to submit periodic requests for payment within thirty days after completion of each work order. The request for payment shall be made using forms acceptable to the County and shall show the total amount earned to the date of submission and the amount due and payable as of the date of the current billing. Upon receipt of said request for payment, County shall submit a requisition for payment of said services in the customary manner provided for payments utilized by Hidalgo County, Texas. Real Estate Broker Provider/Firm agrees to separately account for the receipt and/or expenditure of funds received pursuant to this Contract and to keep adequate books and records of all such receipts and/or expenditures. All payments to Real Estate Broker Provider/Firm shall be mailed to the address shown in numbered paragraph 21, hereof.

4. Progress. Upon acceptance of a work order, the Real Estate Broker Provider/Firm shall undertake and complete the authorized work. The County or the Real Estate Broker Provider/Firm can request conferences to be provided at the Real Estate Broker Provider/Firm's office, the office of the County or at other agreed upon locations.

5. Inspection of Work. The County has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder. All evaluations shall be performed in such a manner as will not unduly delay the work.

6. Amendments. If it becomes necessary at any time during the contract period to change the scope of work, the contract period, the maximum amount payable, the complexity, or the character of this contract, an amendment must be prepared and executed within the contract period. The County retains the right to reject any such amendment proposed by the Real Estate Broker Provider/Firm unless the County finds the proposed amendment necessary to complete the work authorized herein. Any such amendments be made in writing agreed to by all parties hereto and duly executed before the end of the contract period as specified.

If the County finds it necessary to require changes in completed work because of errors made by the Real Estate Broker Provider/Firm, the County shall require the Real Estate Broker Provider/Firm to correct the work at no cost to the County and without amendment to the contract. If the changes are made at the request of the County and are not due to errors of the Real Estate Broker Provider/Firm, the County will reimburse the Real Estate Broker Provider/Firm for the additional work at the same rate of pay established in Exhibit "B", "Basis for Payment". If payment for the additional work will cause the maximum amount payable to be exceeded, an amendment shall be executed in accordance with the terms of this provision.

7. Reporting. The Real Estate Broker Provider/Firm shall promptly advise the County in writing of events which have a significant impact upon the contract, including:

7.1. Problems, delays, or adverse conditions which will materially affect the ability to meet time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any County or, if Federal funds are involved, Federal assistance needed to resolve the situation.

7.2. Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

8. Ownership of Documents. Upon completion or termination of this contract, all documents furnished to the County by the Real Estate Broker Provider/Firm or furnished to the Title

Provider/Firm by the County shall be delivered to and become the property of the County. The Real Estate Broker Provider/Firm may, at its own expense, have copies made of the documents or any other data furnished the County under this contract.

9. Independent Contractor. Real Estate Broker Provider/Firm must comply with all applicable Hidalgo County policies and with any applicable federal, state or local laws, regulations, orders or ordinances applicable to the services provided by Real Estate Broker Provider/Firm under this Contract. Notwithstanding the foregoing sentence, Real Estate Broker Provider/Firm represents and maintains that it is an independent contractor and is not an employee of Hidalgo County, Texas, or any agency thereof, and represents and warrants that it does not desire or request any fringe benefits provided to employees of Hidalgo County, Texas, and/or any agency thereof, including, but not limited to benefits associated with Hidalgo County's civil service program. Real Estate Broker Provider/Firm agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder.

10. Voluntary Termination. Real Estate Broker Provider/Firm and County agree that any contract award to a successful bidder will be in effect until (a) the contract expires, (b) delivery and acceptance of products, and/or performance of services ordered, or (c) this contract is terminated without cause by County with the thirty (30) days written notice to the Real Estate Broker Provider/Firm.

11. Insurance. Real Estate Broker Provider/Firm agrees to provide liability insurance covering its activities in providing the services for County in an amount not less than the minimum amounts prescribed by the Texas Tort Claims Act, ' 100.001, et seq., Texas Civil Practices and Remedies Code, and shall furnish department a Certificate of Insurance (Exhibit "C"), issued by the insurer that such insurance is in full force and effect.

12. No Assignment. Except as otherwise herein provided, Real Estate Broker Provider/Firm, may not assign the obligations or rights under this contract to any person without the prior written consent of County.

13. Termination Date. Unless earlier terminated as herein provided, this Contract shall terminate upon completion of projects'.

14. Conflict. Nothing in this Contract shall be construed so as to require the commission of any act contrary to law, and whenever there 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 thereof, 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.

15. Termination by County. If Real Estate Broker Provider/Firm fails to deliver quality service, fails to achieve the defined goals, outcomes, strategies and outputs set by County, or if Real Estate Broker Provider/Firm fails to comply with any conditions in this Contract, then County shall have the right to terminate this Contract upon the giving of ten (10) days prior written notice to Real Estate Broker Provider/Firm.

16. 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.

17. Entire Agreement. This Contract contains the entire agreement 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 Real Estate Broker Provider/Firm, and not otherwise.

18. Venue. This Contract 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.

19. Hold Harmless. In the event Real Estate Broker Provider/Firm should cause, either

directly or indirectly, damage, loss, destruction, liability, or claims against the other party as a result of intentional conduct, negligence or otherwise, Real Estate Broker Provider/Firm shall hold harmless and indemnify County from any and all obligations, liabilities, causes of action, lawsuits, damages, and assessments, including legal fees, etc., that result from the Real Estate Broker Provider/Firm's intentional actions or negligence. This indemnification clause shall survive this Contract and be enforceable as a separate agreement in the event its survival and enforcement becomes necessary.

20. Attorney's Fees. In the unlikely event that a dispute occurs which is litigated or arbitrated, or a cause of action in law or equity is filed concerning the operation, construction, interpretation, or enforcement of this Contract, the losing party shall bear the cost of the attorney's fees incurred by the prevailing party and any and all costs applicable thereto, including, but not limited to, court costs, deposition fees, expert witness fees, out-of-pocket expenses and travel expenses which are incurred by the prevailing party.

21. Notices. 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 either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County:

County of Hidalgo
Attention: County Judge
302 W. University Drive
Edinburg, Texas 78539

If to Provider/Firm:

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.

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

23. Binding Contract. 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.

24. Gender. 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

25. Authority. The execution and performance of this Contract by County and Real Estate Broker Provider/Firm have been duly authorized by all necessary laws, resolutions or corporate action, and this Contract constitutes the valid and enforceable obligations of County and Real Estate Broker Provider/Firm in accordance with its terms.

26. 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 County under this Agreement, County may terminate this Agreement upon ten (10) days written notice to Contractor. County agrees, however, to use reasonable efforts to secure funds necessary for the continuing right to terminate this Agreement at the expiration of each budget period of County pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903 (Vernon Supp. 1995).

EXECUTED as of the day and year first written above.

COUNTY OF HIDALGO, TEXAS

By: _____
Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, Jr., County Clerk

REAL ESTATE BROKER PROVIDER/FIRM:

NAME:

By: _____

Printed Name: _____

Title: _____

Approved on Commissioners' Court: _____ 2013.

APPROVED AS TO FORM:
ATLAS, HALL & RODRIGUEZ, L.L.P.

BY: _____

EXHIBIT "A"

Services to be provided by
Real Estate Broker Provider/Firm

DRAFT

EXHIBIT "B"

Fee Schedule

DRAFT

EXHIBIT “C”

Insurance Requirements