

## ENGAGEMENT AGREEMENT FOR PROFESSIONAL REAL ESTATE SERVICES

This engagement agreement for Professional Real Estate Services (the "Agreement") is entered into effective as of June 2, 2020 (the "Effective Date"), by and between the County of Hidalgo, Texas (the "County") and Sally Fraustro Guerra, Coldwell Banker Commercial RGV ("Realtor").

WHEREAS, the Hidalgo County Commissioners Court (the "County") has requested that the County contract with a licensed Real Estate Broker to provide services to the County on an as needed basis; and

WHEREAS, on June 2, 2020, the Commissioners Court authorized the Hidalgo County Purchasing Agent to negotiate and engage the services of Realtor as a professional real estate agent to provide services on an as needed basis; and

WHEREAS, County has determined that the Realtor has demonstrated the necessary competence and ability to perform the services for a fair and reasonable fee; and

Now therefore, in consideration of the terms and conditions as outlined in this agreement and supporting documentation, the parties agree as follows:

1. During the term of this Agreement, Realtor agrees to render and provide the services in accordance with specifications and terms contained in the following documents attached hereto and incorporated by reference as follows (as modified) and subject to the additional terms and conditions stated below:
  - Exhibit "A" Representation Agreement
  - Exhibit "B" Information about Brokerage Services
2. County and Realtor hereby agree that this Agreement is entered into in order to provide the Services to **Hidalgo County**. This Contract does not extend to any third parties any duties or benefits conferred in any manner hereunder or otherwise.
3. Realtor will be engaged on an as needed basis and does not retain the sole or exclusive right to act as the County's real estate agent.
4. County will determine when Realtor's services are to be provided and/or are necessary to assist County with acquiring property in the market area and negotiating the acquisition of same.

5. To the extent there is a conflict between this agreement and the additional documents attached hereto, describing the business relationship between Realtor and County, this agreement supersedes and controls, specifically as to any conflicting items.
6. During the term of this Agreement, Realtor shall be obligated and hereby promises and agrees to render and provide the Services in accordance with the terms and conditions contained herein. Services will be performed within **Hidalgo County** following a request for Services by the **County** or its designated agent. Realtor agrees in performing the Services that it will use proper professional standards, comply with any and all appropriate laws and regulations in providing the Services, and devote such time as is necessary to safely and efficiently provide the Services. Further, Hidalgo County reserves the right to request these services from other sources other than Realtor and shall not be in violation of any terms or conditions of this Agreement.
7. **Non-Exclusive Agreement.** County hereby retains Realtor to act as County's real estate agent/broker and to provide the Services (as defined below), on a non-exclusive basis. County represents that it has not entered into an exclusive brokerage agreement with any other agent/broker.
8. **Term.** This Agreement shall be for a period of **one (1) year**, commencing on **June 2, 2020** and expiring on **June 1, 2021**, and may be extended at the sole discretion of the County for an additional two (2) one (1) year terms under the same rates, terms and conditions unless this Agreement is terminated pursuant to the provisions herein, whichever occurs first.
9. **Licenses.** As a condition of this Agreement, Realtor shall hold and maintain throughout the term of this Agreement all licenses and permits required, or which may be required by any authority during the term hereof to provide the Services. If such license or permit is suspended or revoked, this Agreement shall automatically be terminated and Realtor shall immediately notify the County.
10. **Consideration.** As consideration for rendering the Services provided for in this Agreement, the County agrees to pay Realtor the negotiated fee amounts specified in Exhibit "A" attached hereto. To the extent payment of fees is not incorporated into any lease, closing and/or settlement documents, requests for payment shall be submitted by written invoice in accordance with this Agreement and pursuant to the Texas Prompt Payment Act. Tex Govt.CodeCh.2251.

11. **Insurance:** Consistent with its status as an independent contractor and at its sole expense, Realtor agrees that throughout the duration of the work under this Agreement and any extension hereof, it shall provide and maintain any and all insurances and abide by any requirements which are specified herein and/or which may be necessary in providing Services or are otherwise required by law. Insurance policies shall cover, but are not limited to, Realtor's activities and all persons, vehicles, equipment and property connected with providing Services, to include theft or loss. The amount of insurance required shall be in accordance with amounts specified by the County or as prescribed by law, but in no event shall any amount be less than the minimum amounts prescribed by law, including, but not limited to the Texas Tort Claims Act. These requirements do not establish limits of Realtor's liability. Any and all applicable insurance requirements and amounts are incorporated herein by reference for all purposes. Realtor is responsible for ensuring all required insurance policies are valid for the duration of the contract. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas and acceptable to County. Realtor shall cause all subcontractors/agents utilized by Realtor to also comply with these specifications. Realtor shall furnish to County certificate(s) of coverage, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect. For each applicable policy, Realtor shall name the County as an additional insured. Realtor shall notify County a minimum of thirty (30) days in advance of cancellation of all or part of a policy. Realtor shall make any other insurance documentation available to County upon request.
12. **Indemnification.** **Realtor shall indemnify and hold harmless County, its elected officials, employees and agents from any and all claims, damages, losses, and expenses including attorney's fees for the defense of any action against County arising out of, resulting from, or connected with the provision of the Service by Realtor under this Contract. Said indemnity shall cover any act or failure to act by the Realtor, its agents or employees.**
13. **Assignment.** This Contract shall not be assignable in whole or in part by either party without prior written consent of the other party.
14. **Independent Contractor.** It is expressly agreed that this Contract and the performance by the parties hereunder does not create any agency relationship or master-servant relationship that County has no supervision of the performance of the Services provided by Realtor, and that Company is an independent contractor under this Contract.
15. **Notice.** Any notice required or permitted to be given hereunder shall be in writing and shall be delivered personally or sent by certified mail, postage prepaid, as set forth below:

If to County:                    The County of Hidalgo

Attn: County Judge  
100 E. Cano, 2<sup>nd</sup> Floor  
Edinburg, Texas 78539

If to Realtor:

Attn: Sally Frausto Guerra  
508 E. Dove  
MSAllen TX 78504

16. **Provisions.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
17. **Termination.** This Agreement may be terminated by County without cause upon thirty (30) days written notice.
18. **Successors.** This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.
20. **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 ninety (90) days written notice to Realtor. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903:* In the event that, during any term hereof, the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Realtor, County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of

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

21. **Entire Agreement.** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by the parties hereto, and not otherwise.
22. **Immunities:** Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.
23. **Nondiscrimination:** Realtor, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement.
24. **Additional Documents:** The parties hereto covenant and agree that they will execute each 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/agreement.
25. **Required Contract Provision for Contracts Subject to Federal Award (if applicable):** Pursuant to 2 CFR 200.326, a non-federal entity's contracts must contain the applicable provisions described in appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses are incorporated herein and made part of this agreement for all purposes.

**WITNESS THE HANDS OF THE PARTIES** effective as of the day and year first written above.

**COUNTY OF HIDALGO, TEXAS**

BY: \_\_\_\_\_  
Richard F. Cortez, Hidalgo County Judge

**ATTEST:**

By: \_\_\_\_\_  
Arturo Guajardo, Jr.  
Hidalgo County Clerk

**Coldwell Banker Commercial RGV**

BY: Sally FraustroGouerra  
Sally FraustroGouerra

**ATTEST:**

BY: R. David Cantu  
R. DAVID CANTU

Approved by the Hidalgo County Commissioner's Court on \_\_\_\_\_.

APPROVED AS TO FORM:  
Hidalgo County Criminal District Attorney's Office  
Ricardo Rodriguez, Jr.  
By: \_\_\_\_\_  
David R. Cantu, Assistant District Attorney