

THE CITY OF **EDINBURG**

REQUEST FOR QUALIFICATIONS

**RFQ# 2015-001
PROFESSIONAL
ARCHITECTURAL
SERVICES – EDINBURG
TRANSIT TERMINAL
TX-90-Y057**

**SUBMITTAL DEADLINE
MONDAY,
JANUARY 05, 2015
@ 3:00 PM**



**2014-2015
City Officials**

Richard H. Garcia, Mayor
Elias Longoria Jr., Mayor Pro-Tem
Homer Jasso Jr., Councilmember
J.R. Betancourt, Councilmember
Richard Molina, Councilmember
Ramiro Garza Jr., City Manager

In Conjunction with:



**415 W. University Drive • P.O. Box 1079 • Edinburg, Texas 78540
Phone (956) 388-8204 • Fax (956) 383-7111**



**REQUEST FOR QUALIFICATION (RFQ)
FOR**

**RFQ #2015-001
PROFESSIONAL ARCHITECTURAL SERVICES FOR THE EDINBURG TRANSIT TERMINAL
TX-90-Y057**

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REQUEST FOR QUALIFICATIONS

The City of Edinburg is soliciting sealed Request for Qualifications; hereinafter referred to as RFQ, to be received by the City Secretary'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, January 5, 2015**, 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 # 2015-001
PROFESSIONAL ARCHITECTURAL SERVICES – EDINBURG TRANSIT
TERMINAL TX-90-Y057

Respondents receiving a "NOTICE TO RESPONDENTS" and/or "REQUEST FOR 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 or by e-mailing your request to the following e-mail address: lfuentes@cityofedinburg.com

If you have any questions or require additional information regarding this RFQ, please contact Mr. Ponciano N. Longoria P.E. C.F.M., Director of Public Works, at (956) 388-8210.

Hand Delivered RFQ'S:

415 W. University Drive
C/o City Secretary Department
(1st Floor)

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

City of Edinburg
C/o City Secretary
415 W. University Drive

Edinburg, Texas 78541

If Mailing RFQ's:

City of Edinburg
C/o City Secretary
P.O. Box 1079
Edinburg, Texas 78540-1079

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 60 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

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

RFQ #2015-001
PROFESSIONAL ARCHITECTURAL SERVICES – EDINBURG TRANSIT TERMINAL
TX-90-Y057

INTENT

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

RFQs shall be submitted in sealed envelopes as called referenced on the attached solicitation of Six (6) complete sets of the response One (1) original marked "**ORIGINAL**," and five (5) copies marked. 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 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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C/o City Secretary
P.O. Box 1079
Edinburg, Texas 78540-1079

TIME ALLOWED FOR ACTION TAKEN

The City of Edinburg may hold RFQ/s 60 days after deadline without taking action. Respondents are required to hold their RFQ/s firm for same period of time.

RIGHT TO REJECT/AWARD

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

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

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

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

STATUTORY REQUIREMENTS

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

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.

NO RESPONSE TO RFQ

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

LIST OF EXCEPTIONS

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

PAYMENT

The City of Edinburg 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

Where in this solicitation package SERVICES is used, its meaning shall refer to the request for Qualifications **RFQ #2015-001 PROFESSIONAL ARCHITECTURAL SERVICES – EDINBURG TRANSIT TERMINAL TX-90-Y057** as specified.

RESPONDENT'S EMPLOYEES

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

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

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

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

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

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

JURISDICTION

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

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.

CONFLICT OF INTEREST

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.

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.

CONFIDENTIALITY OF INFORMATION AND SECURITY

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

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

Responses to the RFQ must be addressed to Mr. Ponciano N. Longoria P.E. C.F.M., Director of Public Works, City of Edinburg, 415 W. University Drive by **January 5, 2015 until 3:00 p.m.** for consideration. An original and five (5) 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 "RFQ 2015-001 PROFESSIONAL ARCHITECTURAL SERVICES – EDINBURG TRANSIT TERMINAL TX-90-Y057". 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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C/o City Secretary
P.O. Box 1079
Edinburg, Texas 78540-1079

ADDENDA AND MODIFICATIONS

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

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

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

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 RFQ's 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.

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 Department of Public Works is currently seeking to retain a qualified professional Architectural firms to provide Architectural services for the Federally Funded Edinburg Transit Terminal. The term of the contract will be a one (1) year with the option to extend an additional one (1) year or as when the project is completed. The services request is of qualified architect firms with expertise in all phases of the design, construction, repairs, or additions of all city public buildings. It is anticipated that architectural firms will lead full teams of engineers and or related consultants as needed for each project. This document outlines the requirements, selection process and documentation necessary to submit to this Request for Qualifications (RFQ).

SCOPE OF SERVICES

The selected firm(s) will report to, and operate under, the direction of City of Edinburg's Department of Public Works staff. Must have a Texas Licensed Professionals with superior background, training, and qualifications meeting all requirements of this RFQ, Registered or licensed in the State of Texas. The scope of services required by this RFQ may include some or all of the following services:

1. **Planning research:** Review, synthesize, update and/or supplement as required completed trial court facilities master plans and/or court programs;
2. **Site analysis and consultation:** Perform site analyses, including test fits, parking, traffic, zoning, geotechnical, on- and off-site utility and related utilization studies; participate in and coordinate with AOC staff, legal counsel, consultants and real estate brokers in site selection and acquisition activities (Real Estate brokerage services are not included in scope of services of this RFQ);
3. **Land use entitlement:** Participate in the preparation of environmental studies and reports as required under CEQA and related local and state laws and regulations, and coordinate required mitigations with site and building design (Environmental site surveys and hazard documentation, EIR preparation, and site remediation services are not included in scope of services of this RFQ);
4. **City planning:** Conduct city-wide operations master planning and analysis; conduct functional programming, design definition and space planning for court building functions;
5. **Architectural and engineering design services:** Provide architectural, structural, civil, mechanical, electrical, plumbing, security, acoustical, interior design, lighting, data/telecommunications, graphics, and related services which may be required in connection with planning, design and execution of renovation and or new building projects. Special services may be requested as warranted by specific projects, including but not limited to, campus planning, geotechnical engineering; land surveys; wind engineering; vibration control; life safety/code consulting; audio visual; physical and electronic security design; parking structure design; and parking revenue control;
6. **Code analysis:** Conduct and/or participate in building, planning, access, and historical code analyses and reviews for new and existing facilities;
7. **Entitlements and approvals:** Identify, coordinate, and support the acquisition of any required entitlements or approvals by local, state, and federal agencies;
8. **Sustainable Design:** Develop, analyze, and implement programs for sustainable site and building design, including LEED goals and documentation;
9. **Contracting and sourcing:** Provide consultation on and analysis of methods of project delivery methods, such as design/bid/build, design/build, and CM @ Risk; participate in preparation of associated conventional or unique contract documents required for

procurement; (Legal services, construction management, and construction services are not included in the scope of services in this RFQ);

10. **Cost analysis and schedule planning:** Provide and/or participate in all aspects of project cost estimating and schedule planning, including construction estimating, life cycle costing, value engineering, critical path and special scheduling;
11. **Design services for furniture, fixtures and equipment:** Provide all services required to properly plan, design, specify and coordinate furniture, fixtures, special finishes and equipment;
12. **Site planning and landscape architecture:** Provide all services required to, design, specify and coordinate site design, including grading, utilities, parking lots, roads, driveways, hardscape, landscape, lighting, and irrigation;
13. **Construction contract administration:** Provide construction administration services, including field observations, submittal review, testing and inspection bid document preparation (testing laboratory or construction inspection services are not part of this RFQ), requisition and procurement of specialized pricing and consideration/negotiation of changes, and project contract completion, including punch list, warranty review, preparation of record drawings and closeout;
14. **Building Commissioning:** Participation in development of building commissioning documents and procedures; specification of commissioning procedures, and participation in commissioning program. (Specialized Commissioning agent services are not part of this RFQ);
15. **Move and occupancy planning:** Planning, design and execution of temporary relocations, move planning, and start-up assistance;
16. **Public Art:** For projects that include a public art component provide the services of an artist experienced in creation and installation of artworks in and surrounding public buildings;
17. **Project Reviews:** Participate in peer and constructability reviews of projects.
18. **Knowledge of State Funding:** As previously stated, the new construction projects being planned by the City of Edinburg, LRGVDC, and Edinburg Economic Development Corporation and is funded by the Federal Transit Administration. Use this section of the Proposal to describe the knowledge possessed by members of your firm regarding State-Funded Building Projects and the experience of staff members of your firm in the application process.
19. **Experience with State & Federal Regulatory Agencies:** It is necessary for building programs to be coordinated with and approved by several State of Texas Regulatory Agencies. Use this section of the Proposal to describe the experiences of your firm in working with State agencies and Division of the State Architect.

All qualified firms or persons shall have current licenses as required under the State of Texas for the provisions of services requested for the City of Edinburg.

Minority Business Enterprises: It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR 26, apply to this contract as follows:

The Consultant agrees to insure that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR 26 has the maximum opportunity in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the Consultant shall take all necessary and reasonable steps in accordance with 49 CFR 26, to insure that Disadvantaged Business Enterprises (DBE) have the maximum opportunity to compete for and perform contracts.

The Consultant and any subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts funded in whole or in part with Federal funds.

These requirements shall be physically included in any subcontract. Failure to carry out the requirements set forth above shall constitute a breach of contract and, after the notification of the City of Edinburg, may result in termination of the contract by the City of Edinburg or other such remedy as the City deems appropriate.

Contract Goals/Good Faith Effort: In order to be responsive to the DBE requirements keep in mind that DBE need to be certified by FTA, architect must meet the requirements of either alternative A or B or both:

Alternative A - Meet or exceed the goals of and 3 percent DBE participation for the proposed contract by one of the following:

- a. Firm is a disadvantaged business enterprise and own forces will perform at least 3 percent of contract.
- b. Firm is disadvantaged business enterprise and will use DBE subcontractors and suppliers to bring participation to 3 percent.

NOTE: **Must** include a copy of the certificate for each DBE participating in the contract.

CONTRACT

A sample Professional Services Agreement is attached for review of the firm submitting an RFQ. 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.

PAYMENT

The method of payment to the selected firms shall be on a time-and-material basis. This amount shall include labor, overhead, profit and expenses including transportation, communications, and materials. Progress payments will be based on actual hours and contract hourly rates charged to a particular task on a monthly basis. Each invoice submitted to the City for payment shall contain a brief description of the work billed on that invoice, total billed to date, total paid to date and amount remaining.

SUBMITTAL REQUIREMENTS

RFQ #2015-001 Professional Architectural Services Edinburg Transit Terminal TX-90-Y057 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 JANUARY 5, 2015.**

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 Professional Architectural 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. Presentation – Each firm must submit six (6) bound copies of the RFQ.

SELECTION PROCESS

Evaluation will include confirmation by City Staff, LRGVDC Staff, and EEDC 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	10 points
c.	Ability to meet Schedules and Deadlines	30 points
d.	Stability and References	15 points
e.	Presentation	5 points

The City may select one (1) or more firms to provide services based on this evaluation or it may choose to follow up with an interview on Monday, December 22, 2014 if necessary. 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, 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	December 05, 2014
Publish RFQ	Dec. 5, 2014 & Dec. 12, 2014
RFQ Submission Deadline (Post Marked or Delivered)	January 05, 2015
RFQ Review	Jan. 5 – Jan. 16, 2015
Firms Interviews, if required	January 12 – 14, 2015
City Council Selects Firm(s)	February 03, 2015

CITY CONTACT

If you should have any questions regarding the preparation of the RFQ contact Mr. Ponciano N. Longoria P.E. C.F.M. Director of Public Works at (956) 388-8210 or plongoria@cityofedinburg.com.

Responses to the RFQ must be addressed to City Secretary's Office, City of Edinburg, and received at City Hall, at 415 W. University Drive, Edinburg, Texas 78541 by December 15, 2014 and no later than 3:00 pm. Six (6) complete sets of the response no larger than 45 bound pages must be submitted no later than this date and time. The RFQ is to be placed in a sealed envelope indicating that its contents are in response to the Request for Qualifications 2015-001 for the **PROFESSIONAL ARCHITECTURAL SERVICES EDINBURG TRANSIT TERMINAL TX-90-Y057**.

STATE OF TEXAS	§	AGREEMENT BETWEEN THE CITY OF EDINBURG AND <u>NAME OF FIRM</u> FOR PROFESSIONAL ARCHITECTUAL SERVICES FOR THE EDINBURG TRANSIT TERMINAL TX-90-Y057
COUNTY OF HIDALGO	§	
CITY OF EDINBURG	§	

The City of Edinburg, Hidalgo County, Texas, a municipal corporation, (hereinafter called "City") and NAME OF THE FIRM (hereinafter called "Consultant"), are the parties to this Agreement.

RECITALS

WHEREAS, the City of Edinburg has authorized staff to request proposals to provide Professional Architectural services for the Edinburg Transit Terminal. The firm shall provide services for specific projects as may be requested by the City such as services shall be defined, scheduled, and authorized as describe in RFQ #2015-001 Services may include, but not be limited to: Architectural Services, and other as-needed services; and

WHEREAS, the Consultant has the professional knowledge and abilities to perform the professional Architectural services; and

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

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

SECTION I
EMPLOYMENT OF CONSULTANT

City agrees to employ Consultant to furnish and provide the services, as stated in this agreement and **Exhibit "A"**. Upon receipt of such satisfactory services, the City agrees to pay Consultant as stated in this agreement.

SECTION II
BASIC SERVICES OF CONSULTANT

The Consultant shall, in the scope of his work, perform the Scope of Services (herein called "Project") as specifically identified in **Exhibit "A"** of this document. City shall provide Consultant with authorization to proceed, after execution of this agreement.

SECTION III
RESPONSIBILITY OF THE CITY

City will facilitate Consultant's work by the following tasks:

- A. Provide Consultant with full information as to requirements for the project.
- B. Assist Consultant by providing all available information pertinent to the Project, including all other data related to the Project.
- C. Facilitate access to and make provisions for Consultant to enter upon public property as required for Consultant to perform its services.
- D. 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.
- E. Give prompt written notice to Consultant whenever City observes or otherwise becomes aware of any defect in Services.

SECTION IV
RESPONSIBILITIES OF CONSULTANT

- A. The Consultant shall perform the Architectural services.
- B. The Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of, reports, and other services furnished by the Consultant under this Agreement. The Consultant shall keep the City informed of the performance of the Consultant's duties under this Agreement. The Consultant shall promptly and without additional compensation, correct or revise any errors, omissions, or other deficiencies in the reports, or other services.
- C. The Consultant shall perform the surveying services necessary to accomplish the work specified in this Agreement, in accordance with this Agreement.
- D. The City's review or approval of reports, and other services furnished hereunder shall not in any way relieve the Consultant of responsibility for the technical adequacy of the work. Neither the City'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.
- E. The Consultant shall be and shall remain liable, in accordance with applicable law, for all damages to the City caused by the Consultant's negligent performance of any of the services furnished under this Agreement. The Consultant shall not be responsible for any time-delays in the project caused by circumstances beyond the Consultant's control.

- F. The Consultant's obligations under this clause are in addition to the Consultant's other express or implied assurances under this Agreement or state law and in no way diminish any other rights that the City may have against the Consultant for faulty work.
- G. All reports, drawings, plans, and other documentation pertaining to the Project become the property of the City of Edinburg.

SECTION V
PAYMENT AND FEES

City agrees to pay Consultant for recommendations, reports, design, specifications, and services herein contracted for as follows:

- A. City hereby agrees to pay Consultant a sum not to exceed that which is included in a specific Task Order and authorized by a Notice to Proceed, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered on a time-and-material basis pursuant to any specific task proposal and in the manner set forth therein. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person. Consultant and City acknowledge and agree that compensation paid by City 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. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.
- B. Consultant shall provide an invoice in accordance with City regulations.
- C. City shall authorize all payments made for services rendered. Payment terms shall be net thirty (30) days from receipt of invoice.
- D. If changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the governing body of the municipality must approve change orders before making the changes pursuant to the City's Code of Ordinances and any other applicable laws of this State.

- E. 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.

SECTION VI
TIME OF PERFORMANCE

Consultant contracts and agrees to provide services set forth in this contract and as specified by the City in the specific task order. Work will continue until the Project is declared technically complete by the City Staff.

SECTION VII
TERM OF AGREEMENT

The term of this Agreement shall be twenty four (24) months commencing on the date of its execution with the option to extend an additional year.

SECTION VIII
MINIMUM INSURANCE REQUIREMENTS

In accordance with City ordinances, Contractor shall be required to hold the following minimum insurance coverage throughout the duration of this agreement:

- A. Workers Compensation
In accordance with the 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. City'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

Evidence of the above insurance coverage shall be required prior to final execution of the agreement.

Consultant warrants that it is adequately insured and carries 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 the consultant or its employees.

SECTION IX
TERMINATION

- A. Either party to this agreement shall have the right to terminate this contract at any time after ten (10) days' written notice, upon payment to Consultant for services rendered and obligations incurred to date, according to this contract. In that event, the City's liability to Consultant shall be limited to payment for services rendered through the date of such notice to terminate.
- B. Consultant will deliver or otherwise make available to the City within ten (10) days all data, design drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in process.
- C. Upon termination under paragraph A of Section IX, the City may take over the work and may award another party an Agreement to complete the work under this Agreement.

SECTION X

ALTERNATE DISPUTE RESOLUTION/NEUTRAL PARTY

- A. Any controversy, claim or dispute between the parties arising out of or relating to the provisions of this Agreement or the breach, termination or validity thereof shall, upon written request of either party, immediately be referred jointly for resolution of the controversy by non-binding mediation.
- B. The mediation must be concluded within any period mutually agreed upon by the parties but in no event no later than within forty-five (45) days after written notice is given by either party of its intent to proceed to mediation. Unless the parties expressly agree otherwise, each party shall bear its own costs, 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 the forty-five (45) day period, the parties may proceed in accordance with paragraph (C) below.
- C. 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 matter in controversy. Venue is mandatory in Hidalgo County, Texas.

SECTION XI INDEMNIFICATION

- A. Consultant agrees to and shall indemnify and hold harmless and defend the City of Edinburg, Texas, its officers, agents and employees from any and all claims, losses, causes of action and damages, suits and liability of every kind, including all expenses of litigation, court costs, and attorneys fees for injury to or death to any person or for damage to any property. Arising out of or directly connected with the negligent operation of the Consultant, its agents, officers and employees, carried out in furtherance of this agreement.
- B. Consultant agrees to assist City in defense of claims or litigation brought against the City related to this project, including any claims related to design.

SECTION XII CHANGES

- A. The City may, at any time, by written order, make changes within the general scope of this Agreement in the services or work to be performed. If such changes cause an increase or decrease in the Consultant's cost or time required to perform any services under this Agreement, whether or not changed by any order, the Consultant shall notify the City regarding any claim for adjustment in writing within (30) days from the date it receives the City's notification of change, unless the City grants additional time before the date of final payment. Any adjustments must be approved by the City Council as provided for in the City's Code of Ordinances and any other applicable laws of this State.

- B. No services, for which the Consultant will charge an additional compensation, shall be furnished without the written authorization of the City.

SECTION XIII
SEVERABILITY

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 XIV
NOTICE

All notices or other communications required under this Agreement may be affected either by personal delivery in writing or by Certified Mail, Return Receipt Requested. Notice shall be deemed to have been given when delivered or mailed to the parties at their respective addresses as set forth on the below or when mailed to the last address provided in writing to the other party by the addressee.

SECTION XV
NON-APPROPRIATIONS

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

If the City cannot appropriate sufficient funding, then either party has the right to terminate the contract by providing ten days' written notice to the other party. Furthermore, execution of this contract does not automatically guarantee a renewal of contract upon expiration.

SECTION XVI
SUCCESSORS AND ASSIGNS

City 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 City nor Consultant shall assign, sublet, or transfer interest in this Agreement without written consent of the other.

EXECUTED by the parties in triplicate originals on this _____ day of _____, 2014.

CITY OF EDINBURG:

BY: _____
Ramiro Garza, Jr., City Manager
City 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 Garza, City Secretary

APPROVED AS TO FORM:

PALACIOS & ASSOCIATES, P.C.

BY: _____
City Attorney

NAME OF FIRM

BY: _____
Name
Title
Address
City, State, Zip Cde
Phone: () -
Fax: () -
Email Address

**Attachments: Exhibit "A" Scope of Work
Exhibit "B" Insurance**

EXHIBIT "A" SCOPE OF WORK

Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the City with those services specified in, "Request for Qualifications #2015-006 Professional Architectural Services Edinburg Transit Terminal TX-90-Y057", Dated December 15, 2014.

Consultant shall provide services for specific projects as may be requested by City; such services shall be defined, scheduled, and authorized in subsequent Task Orders. Services may include, but not be limited to:

1. The CONSULTANT's services include those described in this Article, and include structural, civil, mechanical and electrical engineering services and landscape Architectural services and any other services necessary to produce a reasonably complete and accurate set of Construction Documents defined as including but not limited to: The agreement between CITY and Contractor awarded the PROJECT ("Contractor"), general and supplementary conditions of the Contract between CITY and Contractor, drawings, specifications, addenda and other documents listed in the Agreement, and modifications issued after execution of the CITY and Contractor Contract:
 - a. The CONSULTANT shall employ or retain at CONSULTANT's own expense, engineers and other consultants necessary to CONSULTANT's performance of this AGREEMENT and licensed to practice in their profession. CONSULTANT shall confer and cooperate with consultants employed by the CITY.
 - b. Assist the CITY in obtaining required approvals from electrical, gas, water, sanitary or storm sewer, telephone public utilities, documentation required to make points of connection to existing utility services provided by the public utilities.
 - c. The CONSULTANT shall be responsible for determining the capacity of existing utilities, or for any design or documentation required to make points of connection to existing utility services required for the PROJECT.
 - d. The CONSULTANT shall provide PROJECT description which includes the CITY's needs and the requirements of the PROJECT prior to drafting preliminary designs for the PROJECT.
 - e. The CONSULTANT shall provide a written preliminary evaluation of the CITY's PROJECT, schedule and construction budget requirements. Such evaluation

shall include alternative approaches to design and construction of the PROJECT.

- f. The CONSULTANT shall attend regular PROJECT coordination meetings during project development between the CONSULTANT, its Consultants, the CITY's representative(s), and other Consultants of the CITY as required. In addition, CONSULTANT shall attend pre-bid meetings, job walks and bid openings.
- g. The CONSULTANT shall consider operating or maintenance costs when selecting systems for the CITY.
- h. The CONSULTANT shall make formal presentations to the Governing Board of CITY.
- i. The duties, responsibilities and limitations of authority of the CONSULTANT shall not be restricted, modified or extended without written agreement between the CITY and CONSULTANT.
- j. The CONSULTANT shall comply with all federal, state and local laws, rules, regulations and ordinances that are applicable to the PROJECT.
- k. The CONSULTANT shall have access to the work at all times.
- l. Schematic Design Phase
 - i. The CONSULTANT shall review the program furnished by the CITY to ascertain the requirements of the PROJECT and shall review the understanding of such requirements with the CITY.
 - ii. The CONSULTANT shall prepare, for approval by the CITY, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of PROJECT components. These documents shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations currently existing and as amended, enacted, issued or adopted in the future which are applicable to these documents.
 - iii. The CONSULTANT shall prepare schematic design studies scheduling estimates and site utilization plans leading to a recommended solution together with a general description of the PROJECT for approval by the CITY.
 - iv. The CONSULTANT shall review with the CITY alternative approaches to the design and construction of the project including all value engineering analysis. If directed by the CITY at the time of approval of

the schematic design, the preliminary and final Construction Documents and specifications shall be prepared so that portions of the work of the PROJECT may be performed under separate construction contracts, or so that the construction of certain buildings, facilities, or other portions of the PROJECT may be deferred. Alternate construction schemes made by the CITY subsequent to the Schematic Design Phase which is the result of no fault of the CONSULTANT and is not the result of the PROJECT exceeding the estimated budget constraint caused by the CONSULTANT will be provided as an additional service in accordance with Article III.

- v. The CONSULTANT shall perform Schematic Design Services to keep the PROJECT within all budget and scope constraints set by the CITY, unless otherwise modified by written authorization by the CITY.
- vi. The CONSULTANT shall submit to the CITY a written estimate of the construction cost in conformance with Article VI and shall advise the CITY, in writing, of any adjustments to the estimate of Construction Cost.
- vii. The CONSULTANT shall investigate existing conditions or facilities and make measured drawings of such conditions or facilities ("As built drawings".)

m. Design Development Phase (Preliminary Plans)

- i. Upon approval by the CITY of the services set forth in Article II, paragraph 12, the CONSULTANT shall prepare Design Development Documents for approval by the CITY. Such documents shall consist of site and floor plans, elevations, cross sections, and other documents necessary to depict the Design of PROJECT, and shall outline specifications to fix and illustrate the size, character and quality of the entire project as to the program requirements, landscapes, Architectural, civil, structural, mechanical, and electrical systems, materials, and such other essentials as may be appropriate.
- ii. The CONSULTANT shall establish an estimated Project Construction Cost and submit design schedules to the CITY.
- iii. The CONSULTANT shall perform Design Development Services to keep the PROJECT within all budget and scope constraints set by the CITY, unless otherwise modified by written authorization by the CITY.
- iv. The CONSULTANT shall reproduce fifteen (15) sets of contract documents at CONSULTANT's expense. The remaining sets are to

be provided as reimbursable expenses in conformance with Article XI.
(BID PHASE)

n. Construction Document Phase (Final Plans)

- i. The CONSULTANT shall prepare, from the Design Development Documents approved by the CITY, Construction Documents and specifications setting forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable governmental and code requirements, the work to be done, and the materials, workmanship, finishes, and equipment required for the PROJECT.
- ii. The CONSULTANT shall print and distribute necessary bidding information, general conditions of the contract, and supplementary general conditions of the contract, and shall assist the CITY's legal advisor in the drafting of proposal and contract forms.
- iii. The CONSULTANT shall prepare and file all documents required for and obtain the required approvals of all governmental agencies having jurisdiction over the PROJECT. The CITY shall reimburse or pay all fees required by such governmental authority.
- iv. The CONSULTANT shall immediately notify the CITY of adjustments in previous estimates of the Project Construction Cost arising from market fluctuations or approved changes in scope or requirements.
- v. If the estimated Project Construction Cost exceeds the budget constraint, the CONSULTANT shall make all necessary design revisions at no cost to the CITY to comply with the budget and scope set by the CITY in conformance with Article VI, unless otherwise modified by written authorization of the CITY.
- vi. CONSULTANT shall submit a list of qualified engineers for the PROJECT for the CITY's approval in conformance with Article XII. CONSULTANT shall ensure that each engineer places his or her name, seal and signature on all drawings and specifications prepared by said engineer.
- vii. The CONSULTANT shall prepare all necessary bidding information and bidding forms required by the CITY and shall assist the CITY in preparing the Contractor's contract and general conditions, including providing, plans or specifications, which include a requirement that the Contractor provide operation manuals and adequate training for the CITY in the operation of

mechanical, electrical, heating, air conditioning and other systems installed by the Contractor, all of which shall be part of the bid documents prepared by the CONSULTANT. The CONSULTANT shall reproduce the Construction Documents in the number requested by the CITY and assist the CITY by distributing the Construction Documents to interested contractors.

- viii. The CONSULTANT, following the CITY's approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the CITY in obtaining bids, evaluating bids and substitutions and awarding the Contract for the construction of the PROJECT.
- ix. If the lowest bid exceeds the budget for the PROJECT, the CONSULTANT, in consultation with and at the direction of the CITY, shall provide such modifications in the Construction Documents as necessary to bring the cost of the PROJECT within its budget as set forth in Article VI. Such modifications shall be at no additional cost to the CITY.
- x. The CONSULTANT shall provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

o. Construction Phase

- i. The Construction Phase will commence with the date of the official Notice to Proceed and shall be complete upon CITY's approval of CONSULTANT's final certification of payment to Contractor.
- ii. The CONSULTANT shall provide technical direction to a full time project inspector employed by and responsible to the CITY as required by applicable law. The CONSULTANT shall advise the Contractor in the preparation of a marked set of prints indicating dimensioned location of buried utility lines (record drawings) which shall be forwarded by the Inspector to the CITY upon completion of the PROJECT.
- iii. The CONSULTANT will endeavor to secure compliance by Contractor with the contract requirements, but does not guarantee the performance of their contracts.

- iv. The CONSULTANT shall provide general administration of the Construction Documents, including but not limited to periodic visits at the site as CONSULTANT deems necessary to render Architectural observation which is distinguished from the continuous personal inspection of the project inspector (in no case shall the number of visits be less than once every week); make regular reports as may be required by governing agencies; keep the CITY informed of the progress of construction; review schedules and shop drawings for compliance with design; approve substitution of materials, equipment, and the laboratory reports thereof subject to CITY knowledge and approval; maintain construction accounts; prepare change orders for written approval of the CITY; examine Contractor's applications for payment and issue certificates for payment in amounts approved by the CONSULTANT and CITY; provide a color schedule of all materials in the PROJECT for CITY's review and approval; determine date of completion of the PROJECT; make final punch-list inspection of the PROJECT; assemble and deliver to the CITY written guarantees, instruction books, diagrams, and charts required of the Contractor; and issue the CONSULTANT's certificate of completion and final certificate for payment.
- v. The CONSULTANT, as part of his basic services, shall advise the CITY of any deficiencies in construction following the acceptance of the work and prior to the expiration of the guarantee period of the PROJECT.
- vi. The CONSULTANT shall be the interpreter of the requirements of the Construction Documents and advise the CITY as to the performance by the Contractor there under.
- vii. The CONSULTANT shall make recommendations to the CITY on claims relating to the execution and progress of the work and all matters and questions relating thereto. The Consultant's recommendations in matters relating to artistic effect shall be consistent with the intent of the Construction Documents.
- viii. The CONSULTANT shall advise the CITY to reject work which does not conform to the Construction Documents. The CONSULTANT shall promptly inform the CITY, whenever, in the CONSULTANT's opinion, it may be necessary, to stop the work to avoid the improper performance of the Agreement. The CONSULTANT shall maintain an RFI log with identification number, nature of RFI, date RFI was submitted and record date when RFI was responded to. The CONSULTANT has authority to require additional inspection or testing of the work in accordance with the provisions of the Construction Documents, whether work is fabricated, installed or completed.

- ix. The CONSULTANT shall not issue orders to Contractor that might commit the CITY to extra expenses or otherwise amend the Construction Documents without first obtaining the written approval of the CITY.
- x. The CONSULTANT shall be the CITY's representative during construction and shall advise and consult with the CITY. The CONSULTANT shall have authority to act on behalf of the CITY only to the extent provided in this AGREEMENT unless otherwise modified in writing.
- xi. The CONSULTANT shall at no additional cost provide services made necessary by defect or deficiencies in the work of the Contractor which through reasonable care should have been discovered by the CONSULTANT and promptly reported to the CITY and Contractor but which CONSULTANT failed to do.
- xii. The CONSULTANT shall review and certify the amounts due the Contractor. The CONSULTANT's certification for payment shall constitute a representation to the CITY, based on the CONSULTANT's observations and inspections at the site, that the work has progressed to the level certified, that quality of the work is in accordance with the Construction Documents and that the Contractor is entitled to payment in the amount certified.
- xiii. The CONSULTANT shall review and approve or take other appropriate action upon Contractor's submittals of shop drawings product data, and samples for the purpose of checking for conformance with the Construction Documents. The CONSULTANT's action shall not delay the work, but should allow for sufficient time in the CONSULTANT'S professional judgment to permit adequate review.
- xiv. The CONSULTANT shall prepare change orders with supporting documentation and data for the CITY's review in accordance with the Construction Documents, and may authorize minor changes in the work not involving an adjustment in the contract sum or an extension of time. The CONSULTANT shall evaluate and make written recommendations regarding Contractor's proposals for possible change orders. CONSULTANT shall prepare a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the CONSULTANT.
- xv. The CONSULTANT shall inspect the PROJECT to determine the date or dates of final completion, receive and forward to the CITY for the

CITY's review all written warranties and related documents required by the Construction Documents and issue a final certificate for payment upon Contractor compliance with the requirements of the Construction Documents.

- xvi. The CONSULTANT shall provide written evaluation of the performance of the Contractor under the requirements of the Construction Documents when requested in writing by the CITY.
- xvii. The CONSULTANT shall provide services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to drawings, specifications and other documentation resulting there from.
- xviii. The CONSULTANT shall be responsible for gathering information and processing forms required by applicable governing authorities, such as building departments, in a timely manner and ensure proper project close-out.
- xix. The CONSULTANT shall evaluate and render written recommendations, within a reasonable time on all claims, disputes or other matters at issue between the CITY and Contractor relating to the execution or progress of the work as provided in the construction contract. Under no circumstances should this evaluation take longer than five (5) calendar days from the date the claim is received by CONSULTANT.
- xx. Upon completion of the Project, the CONSULTANT shall compile for and deliver to the CITY a complete set of record documents consisting of all written guarantees, instruction books, record diagrams and specifications required of Contractor and provide the CITY with one set of reproducible drawings showing the Project "as Built" upon issuance of the CONSULTANT's certificate of completion with the location of underground sewer, water and all utility connections and services specially noted. In that record documents are based upon information furnished by others, the CONSULTANT cannot and does not warrant their accuracy.
- xxi. The CONSULTANT shall be responsible to the CITY for the utility, economy, durability and aesthetics of the Work contemplated by its plans and specifications and to this end, the CONSULTANT shall be responsible to the CITY to see that the finished Work provides the level of safety of design required by applicable State Building and Public Works codes and regulations applicable to CITYs and that it conforms in every material respect with the approved plans and specifications. The CONSULTANT shall further be responsible to the CITY to see that

the finished Work complies with all the accessibility standards imposed by the Americans With Disabilities Act (ADA) pursuant to 49 CFR 38. The CONSULTANT shall not be responsible for acts or omissions of the Contractor, subcontractors, or their agents or employees or of any other persons performing portions of the Work not employed or hired by CONSULTANT, except as required by this AGREEMENT.

2. CONSULTANT shall notify the CITY in writing of the need for additional services required due to circumstances beyond the Consultant's control. CONSULTANT shall obtain written authorization from the CITY before rendering such services. Compensation for such services shall be subject to CITY approval, and shall be negotiated and not to exceed State fee guidelines. Such services shall include:
- a. Making material revisions in drawings, specifications or other documents when such revisions are required by the enactment or revision of laws, rules or regulations subsequent to the preparation of the Construction Documents.
 - b. Preparing drawings, specifications and other documentation and supporting data, and providing other services in connection with Change Orders required by causes beyond the control of the CONSULTANT which are not the result of the direct or indirect negligence, errors or omissions on the part of the CONSULTANT.
 - c. Providing consultation concerning replacement of work damaged by fire and furnishing services required in connection with the replacement of such work.
 - d. Providing services made necessary by the default of the Contractor, which does not arise directly or indirectly from negligence, errors or omissions of CONSULTANT.
 - e. If directed by the CITY, the employment of special consultants, the preparation of special delineations and models.
 - f. If the CITY requests the PROJECT be let on a segregated basis after the completion of schematics where segregation does not arise from CONSULTANT exceeding the estimated budget constraint, then plan preparation and/or contract administration work to prepare the segregated plans is an extra service subject to prior negotiation, CITY approval, and shall not exceed State fee guidelines.
 - g. Providing contract administration services after the construction contract time has been exceeded through no fault of the CONSULTANT, where it is determined that the fault is that of the

Contractor, and liquidated damages are collected therefore. The CONSULTANT's compensation is expressly conditioned on the lack of fault of the CONSULTANT and payment will be made upon collection of liquidated damages from the Contractor. Payment of the CONSULTANT shall be made from collected, liquidated damages.

h. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with generally accepted Architectural practice.

i. If authorized in writing by CITY, CONSULTANT shall provide one or more Project Representatives to assist in carrying out more extensive representation at the site than is described in Article II. The Project Representative(s) shall be selected, employed and directed by the CONSULTANT, and the CONSULTANT shall be compensated therefore as agreed by the CITY and CONSULTANT. Through the observations of such Project Representative(s), the CONSULTANT shall endeavor to provide further protection for the CITY against defects and deficiencies in the work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the CONSULTANT as described elsewhere in this AGREEMENT. Such services shall be compensated as follows: Negotiated fee not to exceed State fee guidelines and subject to prior approval by CITY.

3. Cost of Construction:

- a. During the Schematic Design, Design Development and Construction Document phases, construction cost shall be determined against the CITY budget for the PROJECT.
- b. Project construction cost as used in this AGREEMENT means the total cost to the CITY of all work designed or specified by the CONSULTANT, including work covered by approved change orders and/or alternates approved by the CITY, but excluding the following: Any payments to CONSULTANT or consultants, for costs of inspections, survey, tests, and landscaping not included in project.
- c. When labor or material is furnished by the CITY below its market cost, the Project Construction Cost shall be base upon current market cost of labor and new material.
- d. The Project Construction Cost shall be the acceptable estimate of construction costs to the CITY as submitted by the CONSULTANT until such

time as proposals have been received, whereupon it shall be the proposal amount of the lowest responsible responsive provider.

- e. Any project budget or fixed limit of construction cost shall be adjusted if the process has not commenced within ninety (90) days after the CONSULTANT submits the Construction Documents to the CITY, to reflect changes in the general level of prices in the construction industry between the dates of submission of the Construction Documents to the CITY and the date on which proposals are sought for the PROJECT.
- f. If the lowest proposal received exceeds the fixed limit of construction cost, the CITY may:
 - i. Give written approval of an increase of such fixed limit.
 - ii. Authorize re-submit proposals of the PROJECT within a reasonable time.
 - iii. If the PROJECT is abandoned, terminate this AGREEMENT in accordance with Article VIII, paragraph 2; or
 - iv. Cooperate in revising the PROJECT scope and quality as required to reduce the construction cost.
- g. If the CITY chooses to proceed under Article V, paragraph 6 (d), the CONSULTANT, without additional charge, agrees to redesign until the PROJECT is brought within the construction budget set forth in this AGREEMENT. Redesign does not mean phasing or removal of parts of PROJECT unless agreed in writing by the CITY. Redesign means redesign of the PROJECT with all its component parts to meet the budget as set forth in this AGREEMENT.

4. Estimate or Project Construction Cost

- a. Estimates referred to in Article II shall be prepared on a square foot/unit cost basis, or more detailed computation if deemed necessary by the CONSULTANT, considering prevailing construction costs and including all work for which bids will be received. It is understood that the Project Construction Cost is affected by the labor and/or material market as well as other conditions beyond the control of the CONSULTANT or CITY.
- b. The CONSULTANT shall review the estimate at each phase of his services. If such estimates are in excess of the project budget, the CONSULTANT shall revise the type or quality of construction to come within the budgeted limit at no additional cost to the CITY. Consultant's initial budget and scope

limitations shall be realistic and be reviewed with the CITY prior to formalization.

5. Compensation to the Architect

- a. CONSULTANT change orders fees are paid as approved by FTA. If a change order is approved without CONSULTANT fee, no fee will be paid to the CONSULTANT unless negotiated prior to commencing change order work. The CONSULTANT will be paid at 100% of the FTA approved CONSULTANT fee for change orders when FTA approval is received by the CITY.

6. Reimbursable Expenses

- a. Reimbursable expenses are in addition to compensation for basic and extra services, and shall be paid to the CONSULTANT at one and one-tenth (1.1) times the expenses incurred by the CONSULTANT, the Consultant's employees and consultants for:
 - i. Approved reproduction of drawings and specifications in excess of the copies provided by this AGREEMENT.
- b. Reimbursable expenses are estimated to be _____ (\$_____), and this amount shall not be exceeded without the prior written approval of the CITY.
- c. Reimbursement for fees and other expenses, except for construction administration services associated with delay caused solely by the Contractor, shall be made to the CONSULTANT as incurred. CONSULTANT must submit copies of invoices to claim reimbursement.

7. Employees and Consultants

- a. The CONSULTANT, as part of the basic professional services, shall furnish at his expense the services of landscape Consultants, structural, mechanical, electrical, traffic, and civil engineers.
- b. The CONSULTANT shall submit, for written approval by the CITY, the names of the consultant firms proposed for the PROJECT. Nothing in this AGREEMENT shall create any contractual relation between the CITY and any consultants employed by the CONSULTANTS under the terms of this AGREEMENT.
- c. CONSULTANT consultants shall be licensed to practice in Texas and have relevant experience with building design and construction during the last five years. If any employee or consultant of the CONSULTANT is not acceptable

to the CITY, then that individual shall be replaced with an acceptable, competent person at the CITY request.

- d. The construction administrator or field representative assigned to this project by CONSULTANT shall be licensed as a Texas Consultant and able to make critical project decisions in a timely manner and shall be readily available and provide by phone, facsimile and through correspondence, design direction and decisions when the construction administrator is not at the site.

8. Miscellaneous

- a. The CONSULTANT shall make a written record of all meetings, conferences, discussions and decisions made between or among the CITY, CONSULTANT and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The CONSULTANT shall provide a copy of such record to the CITY.
- b. Standardized Manufactured Items - The CONSULTANT shall consult and cooperate with the CITY in the use and selection of manufactured items to be used in the Project. Manufactured items, including but not limited to, paint, finish, hardware, plumbing fixtures and fittings, mechanical equipment, electrical fixtures and equipment, roofing materials, and floor coverings, shall be standardized to the CITY criteria so long as the same does not interfere seriously with the building design.
- c. Ownership of Documents - All plans, specifications, studies, drawings, estimates and other documents prepared by the CONSULTANT pursuant to this AGREEMENT shall be and shall remain the property of the CITY. The CONSULTANT will retain, on the CITY behalf, all such original documents in the Consultant's files. The CONSULTANT shall provide, to the owner, one set of "as-built" reproducible documents for the owner's use.
- d. Reuse of Documents Prepared for This Project - The CITY, as the sole owner of all documents prepared for this Project, reserves the right to reuse all or part of those documents as its sole discretion for the construction of all or part of another project constructed for the CITY. The CITY is not bound by this AGREEMENT to employ the services of the Consultant who prepared these documents in the event they are reused.
- e. Compliance with Laws - The CONSULTANT shall comply with all laws and regulations applicable to the PROJECT or lawfully imposed upon the PROJECT by agencies having jurisdiction over the PROJECT.

- f. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either the CITY or CONSULTANT.
- g. The CITY and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other party to this AGREEMENT with respect to the terms of this AGREEMENT. CONSULTANT shall not assign this AGREEMENT.
- h. This AGREEMENT shall be governed by the laws of the State of Texas. If any action is instituted to enforce or interpret this AGREEMENT, venue shall only be in the appropriate state or federal court in Texas.
- i. This AGREEMENT represents the entire AGREEMENT between the CITY and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the CITY and the CONSULTANT.
- j. The CONSULTANT shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations under this AGREEMENT without the prior written consent of the CITY.
- k. This AGREEMENT constitutes the entire AGREEMENT between the parties. There are no understanding agreement representations or warranties, expressed or implied, not specified in this AGREEMENT. The CONSULTANT, by execution of this AGREEMENT, acknowledged that the CONSULTANT has read this AGREEMENT, understands it and agrees to be bound by its terms and conditions.

DEBARMENT CERTIFICATION

- (1) The CONSULTANT certifies to the best of its knowledge and belief, that it and its principals:
- (a) ARE NOT presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) HAVE NOT within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, or destruction of records, making false statements, or receiving stolen property;
 - (c) ARE NOT presently indicated for or otherwise criminally or civilly charged by a governmental entity* with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) HAVE NOT within a three-year period preceding this application/proposal had one or more public transactions* terminated for cause or default.
- (2) WHERE the CONSULTANT is unable to certify to any of the statements in this certification, such CONSULTANT shall attach an explanation to this certification.

* Federal, state or local

Signature of Certifying Official

Title

Date

Form 1734 A 4-89

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned, _____ certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

SAMPLE AGREEMENT

Exhibit "B" Certificate of Insurance

SAMPLE AGREEMENT