

# THE CITY OF Edinburg

## ***REQUEST FOR PROPOSALS***

**RFP# 2021-007  
DESIGN & INSTALLATION  
OF INCLUSIVE  
PLAYGROUND FOR THE  
NEW VANGUARD  
ACADEMY BEETHOVEN  
CITY PARK**

**SUBMITTAL DEADLINE  
MONDAY,  
MARCH 22, 2021  
@ 3:00 PM**



**2020-2021  
City Officials**

Richard Molina, Mayor  
Gilbert Enriquez, Mayor Pro-Tem  
Jorge Salinas, Councilmember  
David White, Councilmember  
Johnny Garcia, Councilmember  
Ron Garza, City Manager



## **Request for Proposals**

The City of Edinburg is soliciting competitive sealed Request for Proposals; hereinafter referred to as RFP, 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.

RFPS will be received until **3:00 p.m. Central Time**, on **Monday, March 22, 2021**, shortly thereafter all submitted RFPS will be gathered and taken to the Edinburg City Hall Community Room, 1<sup>st</sup> Floor, to be publicly opened and read aloud. Any RFP 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 RFP submitted shall have sufficient time to be received by the City Secretary's Office prior to the RFP opening date and time. The receiving time in the City Secretary's Office will be the governing time for acceptability of the RFPS. RFPS will not be accepted by telephone or facsimile machine. All RFPS must bear original signatures and figures. The RFP shall be for:

### **RFP #2021-007**

## **DESIGN & INSTALLATION OF INCLUSIVE PLAYGROUND FOR THE NEW VANGUARD ACADEMY BEETHOVEN CITY PARK**

If you have any questions or require additional information regarding this RFP, please contact Ms. Lorena Fuentes, Purchasing Agent, at (956) 388-1895 or at the following e-mail address: [lfuentes@cityofedinburg.com](mailto:lfuentes@cityofedinburg.com). If you have any questions or require additional information regarding specifications for this proposal, please contact Tomas D. Reyna, Assistant City Manager at (956) 388-8207 or [treyrna@cityofedinburg.com](mailto:treyrna@cityofedinburg.com).

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

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

Please read your requirements thoroughly and be sure that the RFP 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 RFP. If no exceptions are noted, and you are the successful respondent, it will be required that the service(s) be provided as specified.

## **SECTION I.** **GENERAL TERMS AND CONDITIONS**

**PURPOSE**

The purpose of these solicitation documents is to provide a proposal for: **DESIGN & INSTALLATION OF INCLUSIVE PLAYGROUND FOR THE NEW VANGUARD ACADEMY BEETHOVEN CITY PARK** The City of Edinburg (hereinafter referred to as "THE CITY") is soliciting professional playground designers and suppliers for services and materials and labor related to constructing an inclusive playground.

**INTENT**

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

**SUBMITTAL OF RFP**

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

Hand Delivered RFPs:

415 W. University Drive  
c/o City Secretary Department (1<sup>st</sup> 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 RFPs:

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

**TIME ALLOWED FOR ACTION TAKEN**

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

**RIGHT TO REJECT/AWARD**

The City of Edinburg reserves the right to reject any or all RFPs, 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 RFP 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 RFPs 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 or no contract in response to this RFP.

## **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 RFP**

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

## **NO RESPONSE TO RFP**

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

## **LIST OF EXCEPTIONS**

The respondent shall attach to his/her RFP 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 the purchase of Playground design and installation 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 Proposals shall be directed to the designated individuals as outlined in the RFP. Such interpretations, which may affect the eventual outcome of this request for statements of Proposals, 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 AND OFFICIAL CONTACT**

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.

Respondents shall not offer gratuities, favors or any monetary value to any official or employee of the City for purpose of influencing the selection. Any attempt by any Respondent to influence the selection process by any means, other than disclosure of Proposals and credentials through the proper channels, shall be grounds from exclusion from the selection process. Once the project is advertised, there shall be no contact with any city official or employee unless using the formal process through the Purchasing Department. Failure to comply will result in the firm being disqualified from the process.

## **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 RFP 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**

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

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

## **CONFLICT OF INTEREST**

### **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 7<sup>th</sup> 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 go to the Texas Ethics Commission web page at [www.ethics.state.tx.us/forms/CIQ.pdf](http://www.ethics.state.tx.us/forms/CIQ.pdf).

## **CERTIFICATE OF INTERESTED PARTIES (Form 1295)**

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

## **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 RFP must be addressed to City Secretary, City of Edinburg, 415 W. University Drive by **Monday, March 22, 2021 until 3:00 p.m.** for consideration. **An (1) original and two (2) copies** of 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 RFP for the **“DESIGN & INSTALLATION OF INCLUSIVE PLAYGROUND FOR THE NEW VANGUARD ACADEMY BEETHOVEN CITY PARK”**. Respondents are advised that all confidential records

**must be submitted in a separate sealed envelope and marked accordingly.**

### **ADDENDA AND MODIFICATIONS**

Any changes, additions, or clarifications to the RFP are made by amendments (addenda). Any respondent in doubt as to the true meaning of any part of the RFP 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 RFP 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 RFP 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. The City may issue a written addendum no later than five calendar days prior to the date bids must be received. Addendums are available online at [www.cityofedinburg.com](http://www.cityofedinburg.com).

### **RFP 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 RFP 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 RFP**

RFPs MUST give full firm name and address of respondent, and be manually signed. Failure to do so will disqualify your RFP. 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 RFP. A corporation shall execute the RFP 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 RFP. Partnership and Individual Respondent shall state in the proposal the names and addresses of all persons with a vested interest therein. The place of residence of each Respondent, or the office address in the case of a firm or company, with county and state and telephone number, shall be given after the signature.

### **BRAND OR MANUFACTURER REFERENCE**

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

## **COOPERATIVE PRICING**

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

## **QUESTIONS AND CLARIFICATIONS**

Questions and clarifications that change or substantially clarify the Request for Proposals will be affirmed in writing and copies will be provided to all firms on record responding to RFP. **Any inquiries to this RFP must be submitted to Mr. Tomas D. Reyna, Assistant City Manager, at (956) 388-8207 or at the following e-mail address: treyna@cityofedinburg.com no later than March 12, 2021 at 5:00 p.m.**

## **HB 89**

(35) The 85th Texas Legislature approved new legislation, effective Sept. 1, 2017, which amends Texas Local Government Code Section 1. Subtitle F, Title 10, Government Code by adding Chapter 2270 which states that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

- 1) does not boycott Israel; and
- 2) will not boycott Israel during the term of the contract

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

## **SECTION II** **RFP REQUIREMENTS**

### **PURPOSE:**

The purpose of these solicitation documents is to provide a proposal for: **DESIGN & INSTALLATION OF INCLUSIVE PLAYGROUND FOR THE NEW VANGUARD ACADEMY BEETHOVEN CITY PARK** The City of Edinburg (hereinafter referred to as "THE CITY") is soliciting professional playground designers and suppliers for services and materials and labor related to constructing an inclusive playground.

Playground equipment and surfacing shall be pursuant to all applicable regulations regarding the design and installation of play equipment, impact attenuating surfaces and accessibility.

### **REQUEST FOR PROPOSALS:**

The required contents and limitations for the preparation of the RFP are described in this section. Failure to provide the requested information or adhere to any of The CITY limitations will result in disqualification of the submitted RFP. A total of **one (1) original and two (2) copies** of the RFP shall be submitted to the address on the cover letter.



## **SUBMITTAL:**

Proposers may submit three proposals. However, each must fully conform to the requirements for submission. Proposers must sequentially label (e.g., Proposal #1, Proposal #2) and separately package each proposal. Proposers may submit alternate pricing schemes without having to submit multiple proposals.

Proposals must include:

1. A rendered plan view of each playground design which includes fall zones.
2. A rendered 3D illustration of each playground design
3. The following information must be included in the proposal:
4. Identify the product equipment line
5. List of components proposed as part of the sample playgrounds
6. Proof of IPEMA certification
7. Structure component and model numbers
8. Protective area (i.e. fall zone) requirements
9. Number of play events for playground
10. Number of children the playground can accommodate
11. Warranty information
12. Estimated lifetime of equipment
13. Any other relevant descriptive information
14. General Specifications Document
15. A chart listing exact number of elevated play activities, number of elevated play activities are ADA compliant accessible, ground level activity types, and ground level activity.

## **SECTION III** **SCOPE OF WORK**

The City of Edinburg is seeking proposals for the design and construction of an inclusive playground at the new Vanguard Academy Beethoven City Park 2225 S Veterans Blvd. The intent of this proposal is to select equipment with a musical design that will be presented to an inclusive playground committee as options for their playground. Once the design is selected by the committee, the City shall work with the selected equipment vendor to adjust the design as necessary for the specific site requirements. This final playground design shall fall within the budget established by the City.

### A. Playground Design

- The design shall provide an area site plan that includes an accessible pathway from the sidewalk on within the playground area and appropriate drainage for the playground area. The site plan should also include a seating area with a canopy for two six foot benches with an extension for a wheel chair.
- All equipment must be cool to the touch.
- The design must include a poured in place surface (pour and play).
- The area for the playground may not exceed two 2813 Square Feet and One 204 Square feet. See attached Exhibit A for the conceptual plan for the park which will show the location of the playground area.
- The footprint of the playground area must not exceed 6,450 square feet. Please see Exhibit A for the Park Site Plan.
- The playground should provide play equipment for 5-12 year olds.

- Excavation, restoration, and concrete border of the play area will be the responsibility of the Contractor.
- The playground should provide an inclusive play experience. An inclusive play experience provides:
  - Equipment that provides Interactive play for children with disabilities and children without disabilities.
  - Ramps are preferred over transfer stations.
- Preferred Inclusive equipment from sample Companies, but will accept and all approved equal equipment meeting ADA and IPEMA certification and specifications:
  - Landscape Structures, Park Place Recreations Designs, Miracle recreation, Play & Park Structures, Burke, or comparable.
- Register project with Texas Department of Licenses and Regulations (TDLR) and coordinate all inspections.

## **SECTION IV**

### **PROPOSAL AND SUBMISSION REQUIREMENTS**

To achieve a uniform review process and obtain the maximum degree of comparability, the proposals shall be organized in the manner specified below. The typeface shall be of 12 font or greater.

#### Proposal Narrative

All proposal information shall be presented in a single bound volume that has been checked sufficiently to ensure completeness and accuracy of detail. Proposals that do not comply with the instructions in this RFP will not be accepted. It is mandatory that the proposal contains the following five (5) items and that it be presented in the following order:

1. Cover
2. Title Page
3. Letter of Transmittal
4. Table of Contents
5. Core Content
  - a. Recent Inclusive Playground Design and Installation Experience
  - b. Consultant Project Approach
  - c. Community Build Support
  - d. Key Project Personnel
  - e. Past Project Performance
  - f. Cost Proposal
  - g. Staff Availability and Capability to Meet Deadlines
6. Supporting Attachments

Items 5 and 6 should be separated with either color-coded or tab-type dividers so the information may be quickly located.

#### A. Title Page

Show the RFP title being proposed on, the name of your firm, address, telephone number(s), name of contact person, and date.

## B. Letter of Transmittal

- a. Identify the RFP project for which the proposal has been prepared.
- b. Briefly state your firm's understanding of the services to be performed and make a positive commitment to provide the services as specified.
- c. Provide the name(s) of the person(s) authorized to make representations for your firm, their titles, address, and telephone numbers.
- d. A corporate officer or other individual who has the authority to bind the firm must sign the letter. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

## C. Table of Contents

## D. Details of Core Content

1. Recent Playground Experience Include as a part of your proposal a brief statement concerning the recent relevant experience of the persons from your firm and each sub-consultant who will be actively engaged in the proposed effort. Please include details about designing and constructing inclusive playgrounds. Do not include firm experience unless individuals who will work on this project participated in that experience.
2. Playground Design & Narrative At a minimum, the proposal must include a design plan that includes drawings and/or images of each of the sections of the playground. The design plan must also incorporate an accessible pathway to the playground and an appropriate drainage plan. Details, scaling, color, multiple viewpoints, and labeling are appreciated and will help SPR understand the design plan better. The proposal also must include a narrative on the design meets the scope of work.
3. Community Build Support Include as a part of your proposal a brief statement on how your business approaches community build installations. Provide detail on how many employees are provided for the installation and the scope of each party's responsibilities.
4. Key Project Personnel It is recommended personnel have a thorough knowledge and understanding of designing and constructing inclusive playgrounds. Specific background information on key individuals who will be assigned to the project must be included. The background information on these individuals should emphasize their work experience relative to project requirements, current projects, and availability. The proposed key personnel must be the personnel assigned to the project.
5. Past Project Performance Information is to be provided on the firm's performance on past projects (include public projects if applicable), in regards to the project management items identified. Provide the names, addresses, current telephone numbers, and a brief project description of three past or current clients who are able to comment on aspects of your work relevant to this proposal.
6. Cost Proposal
  1. Base Bid Please provide a detailed cost proposal. The cost of the surfacing, playground equipment, concrete walls, concrete pads, canopy's, benches and tables and installation. The proposal should include cost for:
    - Design/Management of Play and Canopy Area
    - Excavation, base material, and concrete curb for play area
    - Play area equipment

- Poured in Place Surfacing
- Concrete Pad with benches and Canopy
- Sidewalks connecting the pads
- Concrete Walls
- Miscellaneous (please describe)

The City of Edinburg and Vanguard Academy will be responsible for:

- i. All sidewalks around the to and from the new play areas from parking lot.
- ii. All safe fencing around the site
- iii. All lighting for play area.
- iv. All striping and crosswalks from parking lot.

2. Bid Alternatives Provide a detailed cost proposal for the following bid alternatives:

- i. One Fully Assessable Family Restroom with adult and children change tables.

7. Staff Availability and Capability to meet Deadlines the Proposer will be responsible for placing a sign at the site depicting the playground design along with the construction date. The playground must be installed by August 01, 2021.

8. Warranty Please provide SPR with warranty documents for the equipment and installations, including any conditions and response time for repair and/or replacement of any components during the warranty period. Please also indicate the life expectancy under normal use, considering it will be subject to Texas weather.

9. Supporting Attachment Attach only information pertinent to the project being proposed on the that will provide reviewers clear and concise insights into your firm's capabilities.

## **SECTION V** **EVALUATION CRITERIA AND SELECTION PROCESS**

A committee of individuals representing the City of Edinburg will evaluate the proposals. The committee will rank the proposals as submitted.

The City of Edinburg reserves the right to award contract(s) based solely on the written proposals. The City also reserves the right to request oral interviews. The City reserves the right to request additional questions to be answered during the interviews, to determine which proposers will be interviewed, to determine the format and content of the interviews, and to establish the maximum number of people who may attend the interview from a proposer. The consultant's project manager identified in the proposal will be required to attend a requested interviews. By submitting a proposal, it is understood that the proposers may not change (add or delete) personnel for interviews from those listed in the proposals without written consent from the City.

**SECTION VI**  
**VENDOR RFP EVALUATION**

**RFP – EVALUATION:** The evaluation system consists of a 100 percentage point system. The RFP will be ranked after evaluation. The submittal evaluation will be based on the following criteria.

- |  |                 |
|--|-----------------|
| 1. Recent Play Ground Experience   | 30 Total Points |
| <ul style="list-style-type: none"><li>▪ Playground Design &amp; Narrative</li><li>▪ Experience with Similar Projects</li><li>▪ Community Built Support</li><li>▪ List of Past Projects References</li></ul>                        |                 |
| 2. Previous Experience with City   | 5 Total Points  |
| 3. Availability  | 20 Total Points |
| <ul style="list-style-type: none"><li>▪ Capability on how you will meet schedules &amp; deadlines</li><li>▪ Current workload and ability to commence various projects</li><li>▪ Key Project Personnel</li><li>▪ Warranty</li></ul> |                 |
| 4. Financial Responsibility, Stability, and Cost Proposal  | 40 Total Points |
| <ul style="list-style-type: none"><li>▪ Years in Business</li><li>▪ Pervious Insurance Claims</li><li>▪ Insurance Responsibility</li><li>▪ Cost Proposal</li></ul>   |                 |
| 5. RFP Submission Packet & Supporting Documents  | 5 Total Points  |

**SECTION VII**  
**AWARD OF CONTRACT**

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 Wednesday, March 30, 2021 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 RFP's for any reason whatsoever. The City may waive informalities or irregularities in the RFP'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 RFP's.

**Final Selection and The CITY Council Approval:** Selection shall be made of one or more proposers deemed to be fully qualified and best suited among those submitting Proposals on the basis of the evaluation factors included in the Request for Proposals, if so stated in the Request for Proposals. Negotiations shall be conducted with the proposers so selected. After negotiations have been conducted with each proposer so selected, the agency shall select the proposer which, in its opinion, has made the best proposal, and shall award the contract to that proposer. The City may cancel this Request for Proposals or reject Proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed the most advantageous. Should the City determine in writing and in its sole discretion that only one proposer is fully

qualified, or that one proposer is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that proposer. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated. After the selection of the most qualified firm(s), scope of services and billing rates will be negotiated and used as attachments to the City's Professional Services Agreement. This Agreement will then be submitted to the City Council for approval. If the City and the selected firm cannot successfully negotiate an agreement, then the City will enter into negotiations with the next best qualified firm on the evaluation rating list. This procedure may be repeated until one (1) or more firms has been selected and approved by the City Council.

**Remedy of Technical Errors:** THE CITY reserves the right to accept one or more submittals or reject any or all submittals received in response to this RFP, and to waive informalities and irregularities in the submittals received. THE CITY also reserves the right to terminate this RFP, and reissue a subsequent solicitation, and/or remedy technical errors in the RFP process.

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.

RFP Issued	March 5 2021
Publish RFP	March 5 and 12, 2021
RFP Submission Deadline (Post Marked or Delivered)	March 22, 2021
RFP Review	March 22 – 26, 2021
Firms Interviews, if required	March 31, 2021
City Council Selects Firm(s)	April 6, 2021

If you should have any questions regarding the preparation of the RFP contact Mr. Tomas D. Reyna, Assistant City Manager at (956) 388-8210 or [treyna@cityofedinburg.com](mailto:treyna@cityofedinburg.com) or Mr. Javier Garza, Director of Parks and Recreation at (956) 381-5631 or [javgarza@cityofedinburg.com](mailto:javgarza@cityofedinburg.com).

Responses to the RFP 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 **March 22, 2021 and no later than 3:00 pm**. Six (6) complete sets of the response no larger than 30 bound pages must be submitted no later than this date and time. The RFP is to be placed in a sealed envelope indicating that its contents are in response to the Request for Proposal for the **RFP 2021-007 DESIGN & INSTALLATION OF INCLUSIVE PLAYGROUND FOR THE NEW VANGUARD ACADEMY BEETHOVEN CITY PARK**

- Attachment I: Park Location Exhibit
- Attachment II: Sample Agreement
- Attachment III: Form of Proposal
- Attachment IV: Bid Bond
- Attachment V: Ligation Disclosure Form
- Attachment VI: Company Providing Proposal General Questionnaire
- Attachment VII: House Bill 89 Verification

**ATTACHMENT I  
PARK LOCATION EXHIBIT**





**Map Disclaimer:**  
 This product is for informational purpose and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. The user of information agrees to these terms by using the data provided. City of Edinburg and the software developers assume no legal responsibility for the information.

- Legend:**
- 10' HIKE AND BIKE LOOP
  - 5' SIDEWALK EXPANSION
  - FENCE
  - LOT 2 PROPERTY LINE
  - ACCESSIBLE PARKING
  - PLAYGROUND EQUIPMENT
  - RESTROOM
  - PARK SIDEWALK CONNECTIONS
  - CROSSWALK
  - VANGUARD BEETHOVEN SUBDIVISION

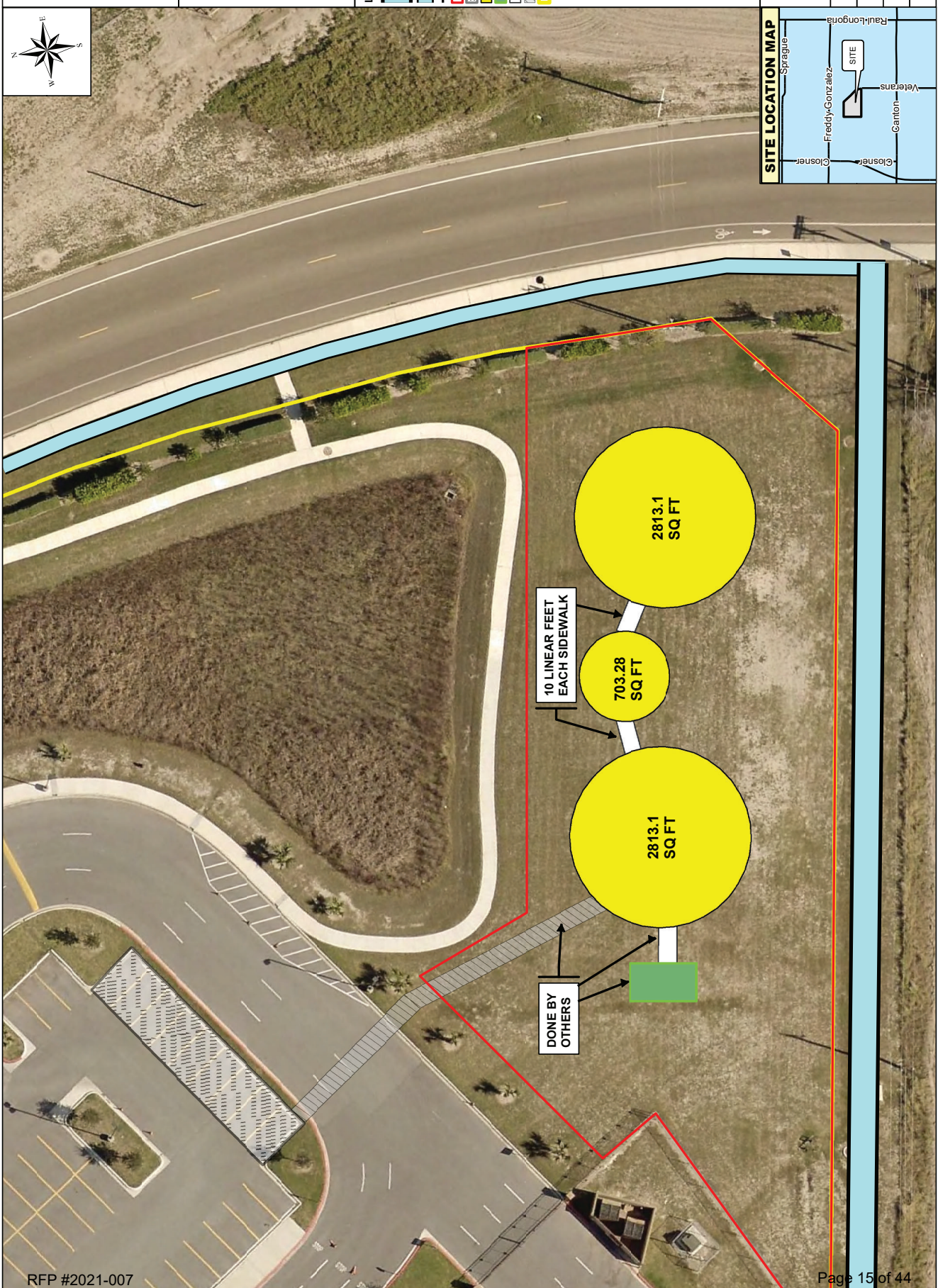
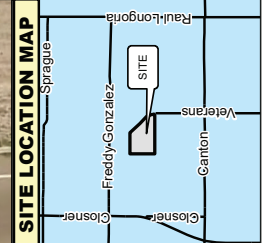
**PROJECT NAME:**  
 VANGUARD BEETHOVEN  
 LOT 2  
 PROPOSED PARK

**REQUESTED BY:**  
 CITY MANAGER'S OFFICE

**DATE:**  
 JANUARY 08, 2021

**CREATED BY:**  
 ENGINEERING DEPT - GIS DIVISION

**NOT TO SCALE:** SHEET 1 OF 1





**ATTACHMENT II  
SAMPLE AGREEMENT**

STATE OF TEXAS           §           **AGREEMENT BETWEEN THE CITY OF  
EDINBURG AND NAME OF BUSINESS,  
COUNTY OF HIDALGO   §           **INC FOR THE DESIGN & INSTALLATION  
OF INCLUSIVE PLAYGROUND FOR THE  
CITY OF EDINBURG       §           **NEW           VANGUARD           ACADEMY  
BEETHOVEN CITY PARK******

The City of Edinburg, Hidalgo County, Texas, a municipal corporation, (hereinafter “City”) and Name of Business (hereinafter “Contractor”), are the parties to this Agreement.

### **RECITALS**

**WHEREAS**, the City desires to engage the Contractor for certain services; and, **WHEREAS**, the Contractor represents that it has the knowledge, ability, equipment, and personnel to properly provide services needed by the City; and,

**NOW, THEREFORE**, City and Contractor do mutually agree as follows:

### **SECTION I EMPLOYMENT OF CONTRACTOR**

A. City agrees to employ Contractor to furnish and provide the Services, as stated in this agreement and **Exhibit “A”**. In general, such services are described as set up, decorate, install, and uninstall all equipment and supplies needed for the Design and & Installation of Inclusive Playground for the New Vanguard Academy Beethoven City Park upon receipt of Services to the City’s satisfaction, the City agrees to pay Contractor as stated in this Agreement.

### **SECTION II SERVICES OF CONTRACTOR**

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

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

**SECTION III**  
**RESPONSIBILITY OF THE CITY**

- A. City will facilitate Contractor's work with the following tasks:
1. Provide Contractor with its requirements for the Services.
  2. Assist Contractor by providing information reasonably available to the City and pertinent to the Services.
  3. Facilitate access to and make provisions for Contractor to enter upon public property as reasonably required for Contractor to perform its Services.
  4. Give prompt written notice to Contractor whenever City observes or otherwise becomes aware of any defect in Services.

**SECTION IV**  
**RESPONSIBILITIES OF CONTRACTOR**

- A. Contractor shall perform the Services described in **Exhibits "A"**.
- B. Contractor shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by its profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, plans, information, and other items and Services furnished under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, ordinances, codes, and regulations in performing the Services. If Contractor fails to meet applicable professional standards, Contractor shall without additional compensation correct or revise any errors or deficiencies, with or without request to do so by the City.
- C. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of Services furnished by Contractor under this Agreement. Contractor shall keep the City informed of the Services performed under this Agreement. In connection with the performance of the Services by Contractor, Contractor agrees to promptly and fully disclose to City any information regarding the Services as City may request.
- D. Contractor shall perform Services necessary to accomplish the work specified in this Agreement, in accordance with this Agreement.
- E. City's review or approval of reports, and other services furnished hereunder shall not in any way relieve Contractor of responsibility for the technical adequacy of the work. Neither 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.

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

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

## **SECTION V** **PAYMENT AND FEES**

A. City hereby agrees to pay a sum not to exceed **\$000,000.00** for services to be performed. Contractor shall submit all invoices to City in the manner specified herein. Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

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

a. Claims have been made against City based on Contractor's conduct in the performance or furnishing of Services, or City has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of Services, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, and non-compliance with Laws and Regulations;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with Services and related work;

c. Any Services are defective, requiring correction or replacement;

d. City has been required to correct defective Services or has accepted defective Services;

e. Other items entitle City to a set-off against the payment amount.

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

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

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

F. Contractor shall provide an invoice upon completion of set up, decorating, and installation ("Phase I Services"). Payment terms shall be net thirty (30) days from receipt of invoice.

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

## **SECTION VI**

### **TERM OF AGREEMENT**

A. Except as provided below, this Agreement, Phase I Services shall be completed **NO LATER THAN August 1, 2021**. Maintenance and repair services for the installed display (Phase I Services) shall be upon request of the City while the display.

B. City may cancel this Agreement immediately if, in the City's sole judgment, the Services rendered by Contractor breach or violate any of the provisions of this Agreement, including but not limited to Vendor's inability, or anticipated inability.

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

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

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

**SECTION VII**  
**LIQUIDATED DAMAGES**

A. Contractor and Owner recognize that time is of the essence as stated in Section VI above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner **based on fees below** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.

For Contract of Amount			Cost Per Day
\$5,000.00	To	\$25,000.00	<b>\$100.00</b>
\$25,000.01	To	\$100,000.00	<b>\$200.00</b>
\$100,000.01	To	\$500,000.00	<b>\$250.00</b>

<b>\$500,000.01</b>	<b>To</b>	<b>\$1,000,000.00</b>	<b>\$300.00</b>
\$1,000,000.01	To	\$2,000,000.00	<b>\$400.00</b>
\$2,000,000.01	To	\$3,000,000.00	<b>\$500.00</b>
\$3,000,000.01	To	\$4,000,000.00	<b>\$600.00</b>
\$4,000,000.01	To	\$5,000,000.00	<b>\$700.00</b>
\$5,000,000.01	And	Over	<b>\$800.00</b>

2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$250** for each day that expires after such time until the Work is completed and ready for final payment.
3. Milestones: Contractor shall pay Owner **\$250** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Section VI will apply, rather than the Milestone rate.

**SECTION VIII**  
**MINIMUM INSURANCE REQUIREMENTS**

Contractor shall be adequately insured and carry liability, workers' compensation, automobile insurance and professional liability for injury to its employees and others incurring loss or injury as a result of the acts of Contractor or its employees. 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 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

F. Evidence of the above insurance coverage is attached as Exhibit "B" and the City of Edinburg shall be listed as an additional insured.

G. Contractor hereby agrees as follows:

1. To punctually pay or cause to be paid all premiums and other sums payable under each insurance policy required to be obtained, kept, and maintained pursuant to this Lease;
2. To maintain in full force and effect the policies required to be carried to the extent so required to be carried pursuant to the terms hereof;
3. To ensure that all Casualty Proceeds are paid to the Party entitled to receive same;
4. Not, at any time, to take any action (or omit to take action) which action (or omission) would cause any insurance policies required to be obtained, kept, and maintained under this Lease to become void, voidable, unenforceable, suspended,



or impaired in whole or in part or which would otherwise cause any sum paid out under any such insurance policy to become repayable in whole or in part; and

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

### **SECTION IX** **ALTERNATE DISPUTE RESOLUTION/NEUTRAL PARTY**

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

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

### **SECTION X** **CONTROLLING LAW, MANDATORY VENUE, AND FEES AND EXPENSES**

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

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

### **SECTION XI** **INDEMNIFICATION**

A. To the maximum extent allowed by law, Contractor agrees to and shall indemnify, hold harmless, and defend City, 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 attorney's fees arising out of or directly connected with the negligent or willful conduct of Contractor, its agents, officers and employees.

B. Contractor agrees to assist City in defense of claims or litigation brought against the City related to the Services.

## **SECTION XII** **LIMITATION OF LIABILITY**

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

## **SECTION XIII** **AGREEMENT CONSTRUCTION**

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

## **SECTION XIV** **NO PENDING LITIGATION**

A. Contractor represents that there is no action, proceeding, inquiry, or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending to the best knowledge of Contractor threatened against or affecting the Contractor or any subsidiaries of the Contractor, questioning the validity or any action taken or to be taken by the Contractor in connection with the execution, delivery, and performance by the Contractor of this Agreement to which the Contractor may be a party or seeking to prohibit, restrain, or enjoin the execution, delivery, or performance by the Contractor hereof or thereof, where in an unfavorable decision, ruling, or finding (i) would

adversely effect the validity or enforceability of, or the authority or ability of the Contractor to perform, its obligations under this Agreement to which the Contractor may be party or (ii) would have an adverse effect on the consolidated financial condition or results of operations of the Contractor or on the ability of the Contractor to conduct its business as presently conducted or as proposed or contemplated to be conducted.

**SECTION XV**  
**SEVERABILITY**

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

**SECTION XVI**  
**NOTICE**

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

(a) Notices to the City:

City of Edinburg  
415 W. University Drive  
Edinburg, Texas 78539  
Attn.: City Manager  
rongarza@cityofedinburg.com

With a copy to:

City of Edinburg  
415 W. University Drive  
Edinburg, Texas 78539  
Attn.: City Attorney  
omarochoa@cityofedinburg.com

(b) Notices to Contractor: Nambe of Business

Street:                      Address  
City, State, Zip:        City, State, and Zip Code  
Attn.:                      Contractor Representative  
Email address:        [email](#)

B. Such Notices shall be deemed delivered (i) in the case of U.S. mail in the manner provided above, three (3) business days after posting, (ii) if sent by nationally

recognized overnight courier with electronic tracking service, the next business day after depositing same with such overnight courier before the overnight deadline and if deposited with such courier after such deadline, then the next succeeding business day, or (iii) if by email, the date and time indicated in the email.

**SECTION XVII**  
**SUCCESSORS AND ASSIGNS**

City and Contractor 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 Contractor shall assign, sublet, or transfer interest in this Agreement without written consent of the other.

**SECTION XVIII**  
**CONFLICT OF TERMS**

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

**SECTION XIX**  
**NO WAIVERS OR ACCORD AND SATISFACTION**

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

B. No failure or delay of the City, in any one or more instances (i) in exercising any power, right, or remedy under this Agreement or (ii) in insisting upon the strict performance by Contractor of its covenants, obligations, or agreements under this Agreement, shall operate as a waiver, discharge, or invalidation thereof, nor shall any single or partial exercise of any such right, power, or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power, or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power, or remedy. The covenants, obligations, and agreements of Contractor and the rights and remedies of the City upon a default shall continue and remain in full force and effect with respect to any subsequent breach, act, or omission.

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

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

**CITY OF EDINBURG:**

BY: \_\_\_\_\_  
Ron Garza, 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 Ayala, City Secretary

**APPROVED AS TO FORM:**

**Omar Ochoa Law Firm, P.C.**

BY: \_\_\_\_\_  
Omar Ochoa  
City Attorney

**NAME OF BUSINESS**

BY: \_\_\_\_\_  
Name  
Reparative  
Address  
City, State, and Zip Code  
Phone Number  
Email Address

**Attachments:** Exhibit "A" Proposal  
Exhibit "B" Insurance  
Exhibit "C" Payment and Performance Bond

**EXHIBIT "A" PROPOSAL**

SAMPLE AGREEMENT

**EXHIBIT "B" TO INSURANCE**

SAMPLE AGREEMENT

**Exhibit "C" PAYMENT AND PERFORMANCE BOND**

SAMPLE AGREEMENT



**ATTCHMENT III  
FORM OF PROPOSAL**

Document 00310

FORM OF PROPOSAL

To: CITY OF EDINBURG

Project No.: RFP 2021-007

Project: DESIGN & INSTALLATION OF INCLUSIVE PLAYGROUND FOR THE NEW VANGUARD ACADEMY BEETHOVEN CITY PARK

Bidder: [Print or type full name of proprietorship, partnership, corporation, or joint venture]

1.0 OFFER

Having examined the place of the Work and all matters referred to in the Bid Documents, and the Contract Documents prepared by or approved by the Engineer for the named Project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the Total Bid Price of:

[Print or type in words, Bidder's Total Bid Price] (Dollars)

(\$ [Print or type in figures, Bidder's Total Bid Price])

[Working Days]

Unit Price or Combination Stipulated Price and Unit Price Contract. If the Bid is for a Unit Price Contract or a combination of Stipulated Price and Unit Price Contract, the Total Bid Price, including Cash Allowances, if any, is tabulated in: Document 00405 - Schedule of Unit Price Work for a Project with no Alternate Bids, or Document 00407 - Schedule of Alternates for a Project with Alternate Bids.

Cash Allowances. All Cash Allowances, totaled in either Document 00405 - Schedule of Unit Price Work, as applicable, and described in the Bid Documents are included in the Total Bid Price.

Changes in Contract Price Due to Variations in Actual Quantities. For items quoted in Document 00405 - Schedule of Unit Price Work, the Total Bid Price is based in whole or in part on the Unit Price multiplied by the quantity for each of the items listed. The Contract Price is subject to change due to variation in the actual quantities of each item in the completed Work in accordance with the Contract Documents.

Alternate Bids. Alternate Bid work, as described in the Bid Documents, will be performed for an amount added or deducted to the Total Bid Price for each Alternate Bid that is accepted by the Owner. The Owner may accept or reject any or all Alternate Bids.

Security Deposit. Included herewith is a Security Deposit in the amount of 5 percent of the greatest amount of the Total Bid Price, or Total Alternate Bid Price(s).

Period for Bid Acceptance. This offer shall be open to acceptance and is irrevocable for 90 days from the Bid date. That period may be extended by mutual written agreement of the Owner and the Bidder. After 90 days, the Bidder may withdraw without penalty if no mutual agreement can be reached.

**2.0 CONTRACT TIME**

If this offer is accepted, Substantial Completion of the Work will be achieved within the time stated in Document 00020 - Notice to Bidders. The Date of Commencement will be established by the Notice to Proceed.

**3.0 ADDENDA**

The following Addenda have been received. The modifications to the Bid Documents noted therein have been considered and all costs relating thereto are included in the Bid Price:

- Addendum No. \_\_\_\_\_, dated \_\_\_\_\_
- Addendum No. \_\_\_\_\_, dated \_\_\_\_\_
- Addendum No. \_\_\_\_\_, dated \_\_\_\_\_
- Addendum No. \_\_\_\_\_, dated \_\_\_\_\_
- Addendum No. \_\_\_\_\_, dated \_\_\_\_\_
- Addendum No. \_\_\_\_\_, dated \_\_\_\_\_

**4.0 SUPPLEMENTS TO THIS BID:**

The following Supplements are attached as an integral part of this Bid:

- Document 00405 - Schedule of Unit Price Work, if applicable
- Document 00411 – Bid Bond (*Form supplied by Bidder*)
- Document 00420 – Statement of Bidder’s Qualifications
- Document 00423 – Certification to Bidder’s Experience & Qualifications
- Document 00425 – Equipment & Material Suppliers List

**5.0 SIGNATURES:**

Bidder: \_\_\_\_\_  
[Please print or type the full name of your proprietorship, partnership, corporation, or joint venture.\*]

By: \_\_\_\_\_  
[Signature]\*\* [Date]

Name: \_\_\_\_\_  
[Please print or type name] [Title]

Address: \_\_\_\_\_  
[Mailing]

\_\_\_\_\_  
[Street, if different]

Telephone: \_\_\_\_\_  
[Print or type telephone number]

\* If the Bid is a joint venture, add additional Bid form signature sheets for each member of the joint venture.

**\*\*** *The undersigned, as bidder, certifies that the only person or parties interested in this proposal as principals are those named herein; that the Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the Contract for the Project.*

**Note:** *This document constitutes a government record, as defined by § 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in § 37.10 of the Texas Penal Code.*

**END OF DOCUMENT**

**ATTCHMENT IV  
BID BOND**

Document 00411

## **BID BOND**

### **PART 1 - GENERAL**

#### **1.01 SECTION INCLUDES**

This section describes the standardized bid (Proposal) bond form to be submitted with the bid on the project.

#### **1.02 REFERENCES – Not Used**

#### **1.03 BID BOND FORMS**

Bidder is to inset an original bid bond or a copy of cashiers check provided for bid bond Purposes. Original check is to be submitted along with bid.

### **PART 2 - PRODUCT – Not Used**

### **PART 3 - EXECUTION**

STANDARIZED FORMS FOLLOW



1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
  - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2. All Bids are rejected by Owner, or
  - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of



said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

**END OF SECTION**

**ATTACHMENT V  
LITIGATION DISCLOSURE FORM**

**Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your submittal from consideration or termination of the contract, once awarded.**

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

**Circle One**                      YES                      NO

- 1 Have you or any member of your Firm or Team to be assigned to this engagement ever been terminated (for cause or otherwise) from any work being performed for the CITY or any other Federal, State or Local Government, or Private Entity?

**Circle One**                      YES                      NO

3. Have you or any member of your Firm or Team to be assigned to this engagement ever been involved in any claim or litigation with the CITY or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

**Circle One**                      YES                      NO

**If you have answered “Yes” to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your submittal.**

**ATTACHMENT VI  
COMPANY PROVIDING PROPOSAL GENERAL QUESTIONNAIRE**

1. Name/Name of Agency/Company: \_\_\_\_\_  
(Full, correct legal name)
- Address: \_\_\_\_\_  
\_\_\_\_\_
  - Telephone/Fax: \_\_\_\_\_
  - Email address: \_\_\_\_\_
2. Does your Company anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months that may affect the organization's ability to carry out its submittal?
- Yes \_\_\_ No \_\_\_
3. Is your Company authorized and/or licensed to do business in Texas?  
Yes \_\_\_ No \_\_\_
4. Where is the Company's corporate headquarters located? \_\_\_\_\_
5. a. Does the Company have an office located in Edinburg, Texas?  
Yes \_\_\_ No \_\_\_
- b. If the answer to the previous question is "yes", how long has the Company conducted business from its Edinburg office?  
\_\_\_\_\_ (years) \_\_\_\_\_ (months)
- c. State the number of full-time employees at the Edinburg office. \_\_\_\_\_
6. Has the Company or any of its principals been debarred or suspended from contracting with any public entity? Yes \_\_\_  
No \_\_\_
- If yes, identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Indicate person whom The CITY may contact concerning your submittal.
- Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

8. Surety Information

Have you or the Company ever had a bond or surety instrument "called," canceled, or forfeited?

Yes ( ) No ( )

If yes, state the name of the bonding company, date, amount of bond and reason for such bond being "called," or its cancellation or forfeiture. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Bankruptcy Information

Have you or the Company ever been declared bankrupt or filed for protection from creditors under state or federal proceedings? Yes ( ) No ( )

If yes, state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. Provide any other names under which your business has operated within the last 10 years.

\_\_\_\_\_

\_\_\_\_\_

**ATTACHMENT VII  
HOUSE BILL 89 VERIFICATION**

I, \_\_\_\_\_, the undersigned representative of \_\_\_\_\_, (Company or Business name) (hereafter referred to as company) **being an adult over the age of eighteen (18) years of age, verify that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:**

- 1. Does not boycott Israel currently; and**
- 2. Will not boycott Israel during the term of the contract.**
- 3) Is not currently listed on the State of Texas Comptroller’s Companies that Boycott Israel List located at <https://comptroller.texas.gov/purchasing/publications/divestment.php>**

*Pursuant to Section 2270.001, Texas Government Code:*

*1. “Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

*2. “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

---

\_\_\_\_\_  
**SIGNATURE OF COMPANY REPRESENTATIVE:**

\_\_\_\_\_  
**TYPE/PRINT NAME AND TITLE:**

\_\_\_\_\_  
**DATE:**