



INSURANCE BROKERAGE AND RISK MANAGEMENT SERVICES REQUEST FOR PROPOSALS (“RFP”)

ISSUE DATE: June 22, 2021

PROPOSALS DUE: **2:00 P.M.** on **July 28, 2021** (“Submission Deadline”)

INSTRUCTIONS: Proposers are asked to submit five (5) paper copies and one (1) electronic copy of their Proposal on a flash drive. Submittals must be delivered in a sealed envelope in person, via mail or courier. All electronic files should include the name of the company as the first part of the file name. Diversity participation information provided by Proposer should be enclosed in a separately-sealed envelope (and in a separate folder on the flash drive) labelled “Diversity”. Submittals received by email, fax, or after the Submission Deadline will be rejected.

SUBMIT TO: Houston First Corporation, Attn: Mitch Miskowski, 701 Avenida de las Americas, Suite 200, Houston, TX 77010. Please write **“Insurance RFP”** clearly on the outside of the sealed package.

CONTACT INFO: Any questions concerning this RFP must be submitted by email to bids@houstonfirst.com no later than **10:00 a.m.** on **July 15, 2021**. Material questions received will be answered collectively, rather than individually, in a Letter of Clarification made available online at www.houstonfirst.com/do-business. Questions may be edited or combined for clarity or length at the discretion of HFC.

OVERVIEW

Houston First Corporation (“HFC”) requests proposals from experienced, highly-qualified insurance brokerage firms able to provide comprehensive insurance marketing, risk management, claims management, and related services for HFC, Convention and Cultural Services, Inc. (“CCSI”), Houston First Holdings LLC (“HFH”), the Greater Houston Convention and Visitors Bureau (“GHCVB”), and Comicpalooza LLC (collectively, the “Affiliated Entities”).

HFC is a local government corporation created by the City of Houston to facilitate economic growth through the promotion of the greater Houston area and the business of conventions, meetings, tourism, and the arts. The entity is responsible for the operation of the George R. Brown Convention Center, Avenida Houston, Partnership Tower, Wortham Theater Center, Jones Hall for the Performing Arts, Miller Outdoor Theatre, an array of outdoor venues/properties, and parking facilities that can accommodate nearly 10,000 vehicles. HFC is the entity responsible for marketing Houston and increasing awareness of its many attractions and amenities.

HFC owns Partnership Tower and the Avenida North Parking Garage located at 701 Avenida de las Americas, Houston, Texas 77010 as well as Toyota Tundra Parking Garage, located at 1515 Jackson Street, Houston, Texas 77003, all which are part of this RFP.

HFH owns the Hilton Americas-Houston Hotel, located at 1600 Lamar Street Houston, Texas 77010, as well as the Hotel Parking Garage which are also included in this RFP.

Policies for HFC and HFH include Property, Directors and Officers Liability and Employment Practices, Liquor, Crime, Flood, Spa Bond, General Liability, Auto, Cyber Security, Abuse and Molestation, Umbrella and Excess Coverage, Pollution, and TULIP.

CCSI is a non-profit organization that provides labor to HFC through a services agreement. The current insurance policy includes Workers' Compensation, Employed Lawyers, Kidnapping, Cyber Security, Fiduciary, Directors and Officers Liability and Employment Practices.

GHCVB is a 501(c)(6) organization whose coverages include Directors and Officers Liability, Crime, Property, General Liability, Employee Benefits, Professional Liability, Auto, and Umbrella and Excess Coverage.

Comicalooza LLC and other Affiliated Entities periodically require general liability, special event coverage, and event cancellation coverage.

Insurance coverages required under the scope of services does not include Property/Casualty for the following properties owned by the City of Houston and leased to HFC: (i) Civic Center Parking Garage; (ii) Convention District Parking Garage; (iii) George R. Brown Convention Center; (iv) Gus Wortham Theater Center; (v) Historic Cohen House; (vi) Jesse H. Jones Hall for the Performing Arts; (vii) Lynn Wyatt Square; (viii) Miller Outdoor Theatre; (ix) Root Memorial Square Park; (x) Talento Bilingue de Houston; and (xi) Tranquility Parking Garage. Proposers are advised that the scope of services includes liability coverage for such facilities.

Importantly, Proposers should note that insurance coverages for the policy period of May 1, 2021 through April 30, 2022 have been placed with the assistance of the firm under the expiring contract, Arthur J. Gallagher Risk Management Services, Inc. The Proposer selected as a result of this process is to provide risk assessment and claims management services until such time as marketing and placement services are needed for policies scheduled to expire at the end of April 2022.

PRE-PROPOSAL MEETING

A Pre-Proposal Meeting will be held for the benefit of all prospective Proposers by video teleconference call at **10:00 a.m.** on **July 13, 2021**. Proposers who expect to attend must register in advance by clicking [here](#). Further instructions for joining the meeting will be sent to each registrant. Attendance at the Pre-Proposal Meeting is encouraged, but not mandatory.

LETTERS OF CLARIFICATION

Responses to all material questions timely submitted by potential Proposers, as well as revisions incorporated into this solicitation by HFC, if any, will be confirmed collectively in one or more letters posted online at www.houstonfirst.com/do-business (each a "Letter of Clarification"). When issued, each Letter of Clarification will become part of this solicitation and automatically supersede any previous specifications or provisions in conflict therewith. By submitting their Proposal, Proposers shall be deemed to have reviewed all Letters of Clarification on the website and incorporated them into their submittal. Verbal responses will not otherwise alter the specifications, terms and conditions as stated herein. It is the responsibility of Proposers to monitor the foregoing website and ensure they review any such Letters of Clarification and incorporate them in their Proposal.

PROPOSAL FORMAT

To be considered responsive, Proposers are asked to include the following information in their proposal:

- a. **Transmittal Letter:** Write a brief letter summarizing Proposer's understanding of the services required and communicate effectively why the Proposer should be selected. The letter must be signed by a person authorized to make representations on behalf of the Proposer and include a direct phone number and email address. Proposers must make a specific, unambiguous statement accepting and agreeing to comply with the Insurance Brokerage and Risk Management Services Agreement (provided below) if selected.
- b. **Experience:** Describe the Proposer's insurance experience with governmental entities and hotels comparable, in scope and complexity, to the requirements of this solicitation. Explain in detail the Proposer's methodology for claims management. Provide three references for whom Proposer has provided services and, for each reference, include a contact name, phone number, and email address for the appropriate contact.
- c. **Essential Personnel:** Introduce the essential personnel who would be assigned to provide services, explain their respective functions, and include a summary of their professional qualifications, professional achievements, and length of time working as an agent.
- d. **Marketing Services:** Proposers are asked to explain their approach toward underwriting selection and describe how they would market property and liability insurance program for HFC and its affiliates. Proposers are to provide a list of insurers they would seek to engage on behalf of HFC and, for each insurer listed, provide the percent of business (market share) with each company and whether the Proposer has direct access to the insurer or utilizes an intermediary.
- e. **Pricing:** Proposers are asked to propose a fixed, all-inclusive fee per term year to perform the requested services payable monthly or quarterly in arrears. (See also Section 6.7 of the Insurance Brokerage and Risk Management Services Agreement, pertaining to commissions.)
- f. **Diversity Commitment:** Note any subcontractors Proposer reasonably expects would be used to meet or exceed the Diversity Commitment for this RFP.

EVALUATION

HFC will review and rank every proposal received in response to this RFP based on the following weighted criteria: Transmittal Letter, including expressed acceptance of the Insurance Brokerage and Risk Management Services Agreement; (10 points); Experience (20 points); Essential Personnel (15 points); Marketing Services (25 points); Pricing (20 points); and Diversity Commitment (10 points).

HFC expects to enter into a five-year contract to the Proposer offering the best value to HFC, as measured by HFC utilizing the foregoing evaluation criteria. HFC reserves the right to schedule interviews with the top-ranked firms, not to exceed five, prior to selecting a Proposer. If interviews are scheduled, then up to an additional 20 points may be added to the existing scores of the top-ranked firms, for a maximum possible total of 120 points, based on their responsiveness and project approach during such interviews.

Without limiting the foregoing, HFC reserves the right to select or reject all or part of any proposal, waive minor technicalities, and select one or more proposals in the manner and to the extent that they serve the best interests of HFC. This RFP does not commit HFC to award a contract or issue a purchase order. HFC shall not pay or reimburse any costs incurred in the preparation of a proposal or participation in an interview incurred by any person or entity in connection with this RFP. By submitting a Proposal, Proposers acknowledge that some subjective judgments must be made by HFC in the RFP Process. HFC reserves the right to request proposal clarifications/additional information from some or all Proposers.

DIVERSITY PARTICIPATION

The Proposer selected will be required to use good-faith efforts to award subcontracts to diversity participants certified by any of the identified certification agencies as defined in the [HFC Diversity Program](#). HFC has established the following goal for these services: **35%** of the total value of the agreement. Proposers should note if they are certified as a diversity participant in their submittal; however, such certification shall not lessen or otherwise alter the requirement to use good faith efforts to award subcontracts to diversity participants. Diversity participation information provided by Proposers should be delivered with the Proposal in a **separately-sealed envelope** labelled "**Diversity**".

FORM OF AGREEMENT

By submitting a response to this RFP, Proposer agrees, upon notice of selection, to enter into the Insurance Brokerage and Risk Management Services Agreement attached hereto as Attachment "A". Any questions or objections to the terms must be raised prior to submission of a Proposal by submitting an email to bids@houstonfirst.com. Responses to material questions and issues will be included in a Letter of Clarification. Preprinted forms or standard terms submitted by a Proposer shall be disregarded and may result in a Proposal being deemed, in HFC's reasonable discretion, as non-responsive.

VENDOR CODE OF CONDUCT

Proposers who do business or seek to do business with HFC are expected to interact with HFC with high ethics and integrity. To promote ethical conduct by its existing and potential contractors, HFC has adopted a Code of Conduct for Vendors, available online at www.houstonfirst.com/do-business. HFC requires that all Proposers be familiar with and abide by the Code of Conduct for Vendors.

RESTRICTIONS ON COMMUNICATIONS

Throughout the selection process, commencing with the Issue Date, potential Proposers are directed not to communicate, directly or indirectly, with any HFC employee, officer, director, or selection committee member regarding their Proposal, or any matter relating to this solicitation, other than through bids@houstonfirst.com. Proposers who disregard the Restrictions on Communications provision do so at their peril, as **HFC shall have the right to reject any bid due to violation of this provision.**

CONFLICTS OF INTEREST

Proposers are advised that they have an affirmative obligation to disclose any affiliation or business relationship with an HFC employee, officer, or director creating a conflict of interest (or appearing to a reasonable person to potentially exist). Those who need the disclosure form may find it online at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. By submitting a proposal, Proposers represent to HFC that they have complied with the requirements of Chapter 176 of the Texas Local Government Code.

PROTEST PROCEDURES

Any protest relating to the form, terms and conditions, selection criteria, specifications, exhibits, or any other material solicitation content must be filed by the actual or potential Proposer with the Purchasing Agent no later than five business days prior to the Submission Deadline. If the protest consists of a dispute regarding the Proposer recommended by the selection committee, or otherwise relates to the alleged misapplication of selection criteria, then the Purchasing Agent must receive the protest from an actual Proposer after the Submission Deadline, but at least three business days prior to consideration of a contract resulting from this solicitation by an HFC committee or Board of Directors, whichever is earlier.

All protests must be made in writing and delivered to Houston First Corporation, Attn: Purchasing Agent, 701 Avenida de las Americas, Ste. 200, Houston, TX 77010. To be considered by HFC, protests must be timely received and include, at a minimum, all of the following information: (a) The name, address and contact information of the Proposer, with sufficient information to establish that a bona fide Proposer is the person or entity filing the protest; (b) The full title of the solicitation; (c) Material grounds for the protest, including the provisions of the solicitation and the applicable law or regulation that serves as the basis for the protest; (d) A statement of the specific relief requested by the Proposer; (e) Reference to and attachment of any pertinent documents or sources relied upon by the protestor that the protestor wishes to have HFC consider; and (f) An affidavit attached to support any factual allegations stated in the submission. The Purchasing Agent will notify the Proposer promptly to acknowledge receipt of a protest.

PUBLIC INFORMATION

HFC is subject to the Texas Public Information Act ("TPIA"). Information submitted by Proposers is subject to release under the provisions of the TPIA set forth in Chapter 552 of the Texas Government Code. Each page where confidential or proprietary information appears must be labeled as such clearly and unambiguously. Proposers will be advised of any request for public information that implicates their materials and may, in accordance with applicable law, elect to assert objections to disclosure with the Texas Attorney General at their cost and expense.

RFP PACKETS

A complete copy of this RFP, including exhibits, necessary forms and other relevant information is available on-line at www.houstonfirst.com/do-business. This RFP provides the information necessary to prepare and submit a proposal for consideration and ranking by HFC.

WITHDRAWAL OF PROPOSAL; ERRORS

To withdraw a Proposal due to an error or any other reason, a written request from the Proposer must be received at bids@houstonfirst.com prior to the Submission Deadline.

ATTACHMENT “A”

INSURANCE BROKERAGE AND RISK MANAGEMENT SERVICES AGREEMENT

This Insurance Brokerage and Risk Management Services Agreement (“Agreement”) is made by and between Houston First Corporation (“HFC”), whose address is 701 Avenida de las Americas, Ste. 200, Houston, Texas 77010, and [TBD], (“Contractor”) whose address is [TBD]. In consideration of the mutual promises contained herein, the parties hereby agree as follows:

ARTICLE 1: SERVICES AND TERM

1.1 As used herein, the term “Coverages” shall mean policies of insurance for the following, subject to additions, deletions and modifications during the Term as agreed to by HFC based on the recommendations of Contractor: Property/Casualty (for the Hilton Americas-Houston Hotel, Tundra Garage, and Partnership Tower, including the Avenida North Garage); General Liability; Automobile Liability; Workers’ Compensation; Directors & Officers Liability; Employment Practices; Liquor Liability; Crime; Flood; Spa Bond; Cyber Security; Abuse & Molestation; Umbrella; Excess Umbrella; Pollution; TULIP; Special Event Coverage; Event Cancellation; Employed Lawyers Professional Liability; Kidnapping; and Fiduciary Liability.

1.2 As used herein, the term “Affiliated Entities” shall mean Convention & Cultural Services, Inc., Houston First Holdings LLC, Greater Houston Convention & Visitors Bureau, Comicpalooza LLC, and their present and future subsidiaries, divisions and successors.

1.3 Contractor agrees to and shall provide professional insurance brokerage, risk assessment, claims management, policy renewal, consulting, and related services necessary to develop and sustain a comprehensive and tailored insurance program, including the Coverages, with the most competitive terms available for and on behalf of HFC and the Affiliated Entities in accordance with this Agreement, including the Scope of Services attached hereto as Exhibit “A” and made a part hereof for all purposes (collectively, “Services”).

1.4 Contractor shall undertake and complete the Services expeditiously, in a manner commensurate with the best interests of HFC, and consistent in all respects and at all times with skill, judgment, diligence, care, and best industry practices.

1.5 Contractor shall act in accordance with applicable laws and observe high standards of ethics in the conduct of the Services and Contractor’s responsibilities under this Agreement.

1.6 Contractor shall not take for itself or divert to a third party any corporate opportunity arising out of this Agreement or discovered otherwise through the use of HFC property or information. Contractor represents that it is not a party to any outstanding agreement creating or appearing to create a conflict of interest with regard to its services hereunder or that would preclude Contractor from complying with this Agreement; Contractor shall not enter into any such conflicting agreement during the Term.

1.7 The term of this Agreement shall commence on **November 1, 2021** and expire on **October 31, 2026** (“Term”); provided, however that HFC reserves the right to extend the Term by up to an additional six calendar months, on the same terms and conditions, by notifying Contractor in writing of such extension prior to the expiration of the Term.

ARTICLE 2: PAYMENT

2.1 Subject to all terms and conditions of this Agreement, Contractor agrees to provide the Services in

exchange for a fixed fee of [TBD] per Term year (the “Fee”), due and payable by HFC in the following installments, subject to prior receipt of separate invoices from Contractor: [TBD].

2.2 For each of the aforementioned installment payments, Contractor agrees to prepare and deliver to HFC a written invoice at least 30 calendar days, but no more than 60 calendar days, prior to the aforementioned due date for each such installment payment. Each such invoice shall reference this Agreement and include such other detail as HFC may reasonably require. HFC will make payment to Contractor within 30 calendar days of the receipt and approval by HFC of each such invoice.

2.3 Contractor acknowledges and agrees that the Fee represents the maximum amount due and payable to Contractor for performance of the Services under this Agreement; there shall be no reimbursable expenses of any kind or type.

2.4 If HFC requires Contractor to arrange to provide (i) Property/Casualty insurance coverage for facilities other than the Hilton Americas-Houston Hotel, Tundra Garage, or Partnership Tower (including the North Garage), or (ii) Property/Casualty insurance coverage for one or more entities other than HFC and the Affiliated Entities, then the parties agree that an amendment for such additional services shall be required, including such additional fees as the parties may mutually agree.

ARTICLE 3: INSURANCE

3.1 With no intent to limit Contractor’s liability under the indemnification provisions, Contractor shall provide and maintain, and shall require its contractors and subcontractors to maintain, from the Effective Date, until final completion of all work related hereto, the following insurance and available limits of liability:

Commercial General Liability	Including contractual liability, bodily injury/death, property damage, and personal and advertising injury with limits of at least \$1,000,000 each occurrence and \$2,000,000 aggregate
Excess Umbrella	\$5,000,000 over General Liability, Automobile, and Employer’s Liability
Automobile Liability	Combined single limit of \$1,000,000
Workers’ Compensation	Statutory limits for Workers’ Compensation
Employer’s Liability	Limits of \$1,000,000 for each accident, disease limits of \$1,000,000 per policy and \$1,000,000 per employee
Professional Liability (E&O)	Limits of at least \$10,000,000 per occurrence and \$25,000,000 aggregate (provided, however, that Contractor’s contractors and subcontractors may maintain Professional Liability limits of \$1,000,000 per occurrence with a \$3,000,000 aggregate)

3.2 The issuer of any policy shall have a Certificate of Authority to transact insurance business in the State of Texas or have a Best's rating of at least A– and a Best’s Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, Property-Casualty United States.

3.3 Each policy, except those for Workers' Compensation and Employer's Liability, Automobile Liability, and Professional Liability, must include an additional insured endorsement in favor of HFC, the Affiliated Entities and the City of Houston on the original policy and all renewals or replacements during the term of this Agreement. Contractor agrees to waive any claim or right in the nature of subrogation against HFC, the Affiliated Entities and the City of Houston as respects any claims arising under to this Agreement. Each policy hereunder, except Workers' Compensation insurance, shall be primary insurance to any other insurance available to HFC, the Affiliated Entities and the City of Houston with respect to claims arising hereunder.

3.4 Contractor shall provide (and shall require its contractors and subcontractors to provide) a certificate evidencing the foregoing within 10 calendar days of the Effective Date and each anniversary thereof during the Term.

ARTICLE 4: LIMITATION OF LIABILITY

4.1 CONTRACTOR AGREES TO AND HEREBY DOES RELEASE HFC, THE AFFILIATED ENTITIES, AND THE CITY OF HOUSTON, INCLUDING THEIR AGENTS, EMPLOYEES, OFFICERS, AND DIRECTORS FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE BY CONTRACTOR UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LIABILITY FOR DAMAGES OR OTHER RELIEF ARISING UNDER FEDERAL OR STATE EMPLOYMENT LAWS RELATING TO OR INVOLVING PERSONNEL EMPLOYED BY CONTRACTOR UNDER THIS AGREEMENT.

4.2 TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HFC, THE AFFILIATED ENTITIES, AND CITY OF HOUSTON, INCLUDING THEIR AGENTS, EMPLOYEES, OFFICERS, AND DIRECTORS (COLLECTIVELY "INDEMNITEES") HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, BY REASON OF COPYRIGHT INFRINGEMENT, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO THE ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF CONTRACTOR UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LIABILITY FOR DAMAGES OR OTHER RELIEF ARISING UNDER FEDERAL OR STATE EMPLOYMENT LAWS RELATING TO OR INVOLVING PERSONNEL EMPLOYED BY CONTRACTOR UNDER THIS AGREEMENT. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE INDEMNITEES HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR DOES NOT INDEMNIFY THE INDEMNITEES FOR THEIR SOLE NEGLIGENCE. CONTRACTOR AGREES TO AND SHALL CAUSE ITS CONTRACTORS AND SUBCONTRACTORS TO RELEASE AND INDEMNIFY THE INDEMNITEES TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE INDEMNITEES.

4.3 If HFC or Contractor receive notice of any claim or circumstances, which could give rise to an indemnified loss, then the receiving party shall give written notice to the other party within 30 calendar days. The notice must include a description of the indemnification event in reasonable detail, the basis on which indemnification may be due, and the anticipated amount of the indemnified loss. Such notice does not prevent HFC from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If HFC does not provide this notice within

the 30-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to HFC. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 calendar days after receiving written notice of the indemnification request, Contractor must advise HFC as to whether or not it will defend the claim. If Contractor does not assume the defense, then HFC shall assume and control the defense, and all defense expenses constitute an indemnification loss. If Contractor elects to defend the claim, then HFC may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of HFC, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnitees to comply with restrictions or limitations that adversely affect the Indemnitees, (ii) would require the Indemnitees to pay amounts that Contractor does not fund in full, (iii) would not result in the Indemnitees' full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

ARTICLE 5: TERMINATION

5.1 Either party may terminate its performance under this Agreement if the other party defaults and fails to cure the default after receiving notice of it. Default occurs if a party fails to perform one or more of its material duties under this Agreement. If a default occurs, then the injured party shall deliver a written notice to the defaulting party describing the default and the proposed termination date. The date must be at least 30 calendar days after receipt of the notice. The injured party, at its sole option, may extend the proposed termination date to a later date. If the defaulting party cures the default before the proposed termination date, then the proposed termination is ineffective. If the defaulting party does not cure the default before the proposed termination date, then the injured party may terminate this Agreement on the termination date.

5.2 HFC may terminate this Agreement at any time by giving 30 calendar days' written notice to Contractor. HFC's right to terminate this Agreement for convenience is cumulative of all rights and remedies that exist now or in the future. On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. HFC shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed herein. **TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S EXCLUSIVE REMEDIES FOR HFC'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED HEREIN), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM TERMINATION FOR CONVENIENCE.**

ARTICLE 6: MISCELLANEOUS PROVISIONS

6.1 Contractor shall make good faith efforts to award subcontracts equal to **35%** of the value of this Agreement to Contractor to certified, diverse suppliers of goods and services in accordance with the Diversity Program established by HFC, which is made a part hereof for all purposes. Contractor shall disclose to HFC the manner and extent to which it has made good faith efforts to achieve such goal and submit reports on forms provided by HFC with each invoice, or as directed by HFC.

6.2 Timely performance by both parties is essential to this Agreement. However, neither party will be

liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. For purposes of this Agreement, Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders and the acts of superior governmental or military authority. This relief is not applicable unless the affected party does the following: uses due diligence to remove the Force Majeure as quickly as possible; provides the other party with prompt written notice of the cause and its anticipated effect; and provides the other party with written notice describing the actual delay or non-performance incurred within 10 calendar days' after the Force Majeure ceases. If the Force Majeure continues for more than 30 calendar days, then either party may terminate this Agreement by giving 15 calendar days' written notice to the other party; such termination is not a default or breach of this Agreement.

6.3 Contractor grants HFC, including any of its authorized representatives, the right to examine and review Contractor's books, records and billing documents that are related to performance, payment or compliance under this Agreement. Contractor shall maintain such books, records, and billing documents for three years after the cessation of Contractor's services under this Agreement. Nothing in this Section shall affect the time for bringing a cause of action or the applicable statute of limitations.

6.4 Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

6.5 All notices required or permitted hereunder shall be in writing and shall be deemed received when actually received or if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the other party at the address prescribed in the preamble hereof or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

6.6 Contractor agrees to and shall hold all Confidential Information in strict confidence and protect it with the same degree of care with which Contractor protects its own confidential information, but in any event with no less than a commercially reasonable standard of care. Contractor shall restrict use of Confidential Information to purposes necessary to fulfill the services provided. The term "Confidential Information" means any information relating to the business, operations, plans, finances, or assets of HFC and the Affiliated Entities (whether oral or written, and whether in electronic or other form) disclosed to Contractor or learned or developed by Contractor in connection with its performance under this Agreement.

6.7 Contractor agrees that the only source of income, revenue or compensation earned or received in connection with the Agreement, with the exception of contingent or supplemental commission to Contractor, if any, is the fee to be paid to Contractor (and indirectly its subcontractors) directly by HFC, except expenses that HFC has agreed to reimburse Contractor. Any other source of income, revenue or compensation, including, but not limited to, commissions and overrides received by Contractor or its subcontractors in connection with this Agreement must be disclosed and reimbursed back to HFC, or credited against the Fee stated in Section 2.1, at HFC's option. At any time, in addition to and without limiting any other right hereunder, HFC shall have the right to obtain and audit Contractor's books and records related to compensation for HFC's account. These records include, but are not limited to: Form 5500s, Form 1099s, Commission Statements, Compensation Statements, and Account Statements provided directly by Insurance Carriers, Managing General Agents, and/or compiled by Contractor's internal account management systems.

6.8 The relationship of Contractor to HFC shall be that of an independent contractor. Contractor has

the authority to select the means, methods and manner of providing services subject to the terms, conditions, and specifications in this Agreement. No principal/agent, partnership, joint venture, joint employer, or other relationship, other than an independent contractor relationship, is created or intended by this Agreement.

6.9 This Agreement shall be construed in accordance with the laws of the State of Texas without regard to conflict of law principles. Any litigation in connection with this Agreement shall be in a court of competent jurisdiction in Harris County, Texas.

6.10 Contractor shall remain obligated to HFC under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of the term of this Agreement. Each and every agreement contained in this Agreement is, and shall be construed as, a separate and independent agreement. If any provision of this Agreement should be held to be invalid or unenforceable, then the validity and enforceability of the remaining provisions of this Agreement to another person or circumstance shall not be affected thereby.

6.11 Contractor and HFC agree to comply with all applicable federal and state laws and regulations concerning labor and labor relations and the terms and conditions thereof. Each party shall furnish to the other, upon written request, evidence of compliance with such provisions as may be applicable to each party's obligations under this Agreement.

6.12 This Agreement, including the Scope of Services made a part hereof, represents the entire and integrated agreement between HFC and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral, with regard to the subject matter hereof. This Agreement may not be altered, amended, renewed, or extended except in writing signed by Contractor and HFC.

[Signature page to follow in final Agreement]

EXHIBIT "A"

SCOPE OF SERVICES

For and on behalf of HFC and the Affiliated Entities, with no intent to limit the scope of Contractor's Services under the foregoing Agreement, Contractor agrees to and shall perform the following Marketing, Risk Assessment, and Claims Management services for and on behalf of HFC and the Affiliated Entities:

1. MARKETING

- a. Prepare and review all HFC and insurance program data placed into the market submission package;
- b. Leverage all relationships and other marketplace resources available to Contractor;
- c. Competitively solicit and negotiate underwriting quotations for the Coverages from various qualified insurance markets on behalf of, but subject to the direction of, HFC;
- d. Provide HFC with a summary of market solicitations and underwriter responses;
- e. Follow-up with insurance carriers for timely issuance of policies, endorsements, agreements;
- f. Review all policies and endorsements for accuracy and conformity to specifications;
- g. Provide easy-to-understand coverage summaries for all new coverage and updates on changes to existing coverage;
- h. Ensure that the Coverages are continuous and uninterrupted throughout the Term; and
- i. Other services reasonably related to the foregoing.

2. RISK ASSESSMENT

- a. Deliver support and administrative assistance by answering questions and requests quickly, meet with HFC staff on a regular basis, assist in preparing applications, process certificates of insurance and auto identification cards timely, and maintain an up to date schedule of insurance;
- b. Service the insurance policies and bonds, including issuance of binders and processing of changes, endorsements, premium billings and carrier remittance;
- c. Continually analyze the factors that are driving the cost of risk;
- d. Develop and present cost-effective strategies for handling risk;
- e. Monitor the published financial information of HFC's insurers and alert HFC to changes in their status;
- f. Develop natural catastrophe analytics modeling;
- g. Utilize analytics and other appropriate tools to assist HFC in determining the appropriate limits and retentions;
- h. Evaluate all factors affecting Property/Casualty insurance procurements, including flood zones, probable maximum loss, surveys and market trend analysis;

- i. Review Certificates of Insurance to verify compliance with contractual requirements;
- j. Design, tailor and produce management claim reports to meet HFC's requirements as requested; and
- k. Other services reasonably related to the foregoing.

3. CLAIMS MANAGEMENT

- a. Designate and assign a principal to represent Contractor (the "Representative") with regard to all matters arising in connection with the Services;
- b. Direct and ensure that the Representative shall expeditiously and personally investigate and document all potential claims of bodily injury occurring at or involving HFC or Affiliated Entity property, assets, or personnel;
- c. Promptly communicate the results of each claim or incidental investigation to HFC's General Counsel;
- d. Work proactively and cooperatively with HFC's General Counsel to select outside counsel to handle claims and lawsuits as needed;
- e. Respond to and timely answer all lawsuit discovery requests;
- f. Work to finalize and settle all claims, demands and legal actions in the best interest of HFC;
- g. Ensure that Representative shall not, under any circumstance, assign the claims handling function to another individual or to a claims office within its firm, or forward claims to the insurance of record without fully investigating any claim and attempting to resolve such claim in the best interest of HFC; and
- h. Other services reasonably related to the foregoing.