



**COMMERCIAL LOAN BROKER
REQUEST FOR PROPOSALS (“RFP”)**

- ISSUE DATE: August 16, 2019
- DUE DATE: **2:00 P.M.** on **September 13, 2019** (“Submission Deadline”)
- INSTURCTIONS: Please submit five (5) paper copies and one (1) electronic copy of the Request for Proposals (“RFP”) on a USB flash drive. Diversity participation information should be included on the USB flash drive in a separate folder labelled “Diversity”. Submittals must be delivered in a sealed envelope in person, via mail or courier. Please write “Loan Broker” clearly on the outside of the sealed envelope. 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.
- CONTACT INFO: Any questions concerning this RFP must be submitted by e-mail to bids@houstonfirst.com no later than **2:00 p.m.** on **September 6, 2019**. Questions will be answered collectively in the form of a Letter of Clarification and made available at www.houstonfirst.com/do-business.

PURPOSE & SCOPE OF SERVICES

Houston First Holdings LLC (“HFH”) requests proposals from experienced commercial loan brokers (each a “Proposer”) capable of assisting HFH in obtaining a loan to refinance certain existing indebtedness secured by the Hilton Americas-Houston Hotel (the “Hotel”).

By engaging a loan broker, HFH seeks to achieve optimal pricing, terms and financing structure for the Hotel, consistent with the goals of HFH. An experienced finance team is needed to prepare and conduct a successful marketing process, identify multiple funding options and assist HFH in all aspects of negotiation of loan applications, commitments, and the satisfaction of lender required due diligence.

BACKGROUND

HFH owns the Hotel and, its parent, Houston First Corporation (“HFC”) manages more than 10 buildings, plazas and parking for nearly 7,000 vehicles. HFC leases the George R. Brown Convention Center, Jones Hall, Wortham Theater Center, Jones Plaza, Miller Outdoor Theatre and other smaller venues from the City of Houston.

HFC represents the consolidation of the former City of Houston Convention & Entertainment Facilities Department and the Houston Convention Center Hotel Corporation. The Houston Convention Center Hotel Corporation (now called Houston First Corporation) is a local government corporation organized in 2000. The consolidation with the Convention & Entertainment Facilities Department was effective on July 1, 2011.

HFC is responsible for the day-to-day maintenance and operation of these properties. HFC also handles licensing of the George R. Convention Center, Wortham Center and Jones Hall to private groups who provide convention and entertainment services that enrich the lives of Houstonians.

HFH is a wholly owned subsidiary of HFC and is the owner of the Hotel. The Hotel is managed by Hilton under a hotel management contract. The Hotel is currently encumbered by a first deed of trust in favor of The Variable Annuity Life Insurance Company securing a loan in the principal amount of \$120,000,000.00.

PRE-PROPOSAL CONFERENCE

A pre-proposal conference and site tour will be held for the benefit of all potential Proposers at **10:00 a.m.** on **September 6, 2019** on the Second Level of **Partnership Tower**, located at 701 Avenida de las Americas, Suite 200, Houston, Texas 77010. Although attendance at the conference is not mandatory, all prospective Proposers are urged to attend.

PROPOSAL FORMAT

Although HFH prefers substance over form, to be considered responsive, Proposers are asked to review the following criteria/information requests and respond, in order, to the best of their ability:

- a. **Transmittal Letter:** Proposers are asked to write a letter communicating effectively why their company should be selected to perform the services specified herein. The letter must be signed by a person authorized to make representations on behalf of the Proposer and include their direct phone number and email address. Proposers must make a specific, unambiguous statement accepting and agreeing to comply, if selected, with the Loan Broker Agreement provided below.
- b. **Experience:** Describe the Proposer's history in meeting the needs of its clients. Provide three references; please include a contact name, phone number, and email address for each such reference.
- c. **Project Team:** Identify the essential personnel who would provide the services, such as the lead broker, financial analysts and others; include a brief summary of their qualifications.
- d. **Pricing:** Please submit Proposer's pricing for services as a flat fee, fixed percentage (based on the final loan amount) or flat fee coupled with a fixed percentage.
- e. **Diversity Commitment:** Proposers should indicate how they intend to make good faith efforts to utilize diverse companies to meet the Diversity Goal set forth in this RFP.

All information provided by Proposers should be organized, clear and concise. Although there are no page limits, Proposers are asked to avoid excessive graphics, title pages, or other extraneous information in their proposal other than requested by HFH.

EVALUATION

HFH 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 Loan Broker Agreement (15 points); Experience, including references (25 points); Project Team (25 points); Pricing (25 points); and Diversity Commitment (10 points).

HFH reserves the right to interview the top-ranked Proposers, not to exceed five, prior to making a selection. If interviews are scheduled, then up to 30 additional points may be added to the existing proposal scores of the top-ranked Proposers, for a maximum possible total of 130 points, based on their responsiveness and interview.

HFH intends to award the contract to the Proposer offering the best value to HFH, as measured by HFH utilizing the foregoing evaluation criteria, including the right to award the contract by criteria other than the lowest price proposed. HFH reserves the right to select or reject all or part of any proposal, waive minor technicalities, and select proposals in the manner and to the extent that they serve the best

interests of HFH. This RFP does not commit HFH to award a contract, issue a purchase order, or to pay any costs incurred in the preparation of a proposal in response to this RFP. HFH reserves the right to request proposal clarifications/additional information from some or all Proposers. HFH also reserves the right to terminate this RFP and the process associated with it at any time and for any or no reason whatsoever.

LETTERS OF CLARIFICATION

Responses to all material questions timely submitted by potential Proposers, as well as revisions incorporated into this RFP by HFH, if any, will be confirmed in a letter and made available online at <http://www.houstonfirst.com/do-business/> ("Letter of Clarification"). When issued, Letters of Clarification become part of this RFP and automatically supersede any previous specifications or provisions in conflict therewith. By submitting their proposal, Proposers shall be deemed to have received all Letters of Clarification and to have 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 link and ensure they receive any such Letters of Clarification and incorporate them in their proposal.

FORM OF AGREEMENT

By submitting a response to this RFP, Proposer agrees, upon notice of selection, to enter into the Loan Broker Agreement provided below. Pre-printed forms or standard terms submitted by a Proposer shall be disregarded and may result in a Proposal being deemed, in HFH's discretion, as non-responsive. If Proposer has comments or edits to the Loan Broker Agreement, those comments or edits must be included in the Proposer's response to this RFP; otherwise, by submitting a response the Proposer shall be deemed to have agreed to the form of the Loan Broker Agreement.

DIVERSITY COMMITMENT

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. HFH has established the following goal for these services: **15%** 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. Proposer's Diversity participation information should be included on the USB flash drive in a separate folder labelled "Diversity".

RESTRICTIONS ON COMMUNICATIONS

Throughout the selection process, commencing with the Issue Date, Proposers are directed not to communicate with any HFH, HFC, Hilton or Hotel employee, officer or director regarding their Proposal, or any matter relating to this RFP, other than through bids@houstonfirst.com or during the Pre-proposal Conference. Proposers are solely responsible for observation and compliance with such restrictions, and HFH reserves the right to reject any proposal due to violation of this provision.

VENDOR CODE OF CONDUCT

Proposers who do business or seek to do business with HFC or its subsidiaries 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.

CONFLICTS OF INTEREST

Proposers are advised that they have an affirmative obligation to disclose any affiliation or business relationship with an HFH or 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 that they are in compliance 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 RFP content must be filed by the actual or potential Proposer with the HFC 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 HFC 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 RFP 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 RFP; (c) Material grounds for the protest, including the provisions of the RFP 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 protesting party wishes to have HFC consider; and (f) An affidavit attached to support any factual allegations stated in the submission. The HFC Purchasing Agent will notify the Proposer promptly to acknowledge receipt of the request.

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 HFH.

WITHDRAWAL; ERROR

Proposals may be withdrawn due to errors or for any other reason by a written request received by bids@houstonfirst.com prior to the Submission Deadline.

LOAN BROKER AGREEMENT

This Loan Broker Agreement (“Agreement”) is made by and between Houston First Holdings LLC (“HFH”), whose address is 701 Avenida de las Americas, Ste. 200, Houston, Texas 77010, and [TBD] (“Contractor”), whose address [TBD]. In consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Financing Terms

HFH is seeking mortgage or deed-of-trust financing (the “Financing”) for the Hilton Americas Houston-Hotel (the “Property”). Subject to the terms of this Agreement, HFH hereby appoints Contractor as an independent contractor for the purpose of arranging such Financing for the Property and Contractor hereby accepts such appointment.

2. Exclusivity

2.1 HFH grants Contractor an exclusive right to contact prospective financing sources approved by HFH, on behalf of HFH, to arrange for the Financing, and to conduct various other activities necessary in order for HFH to close on the Financing. The exclusive relationship described herein shall expire five calendar months from the date this Agreement is signed by HFH (the “Exclusivity Period”), subject to the provisions of Section 2.2 of this Agreement.

2.2 If, at the expiration of the Exclusivity Period, HFH has named a lender (the “Approved Lender”) and is actively working towards closing on the Financing, then the Exclusivity Period shall be extended and this Agreement shall govern the transaction with such Approved Lender until such time as the transaction has closed and Contractor has completed all post-closing work required pursuant to this Agreement or HFH, in its sole and absolute discretion, is no longer actively pursuing the Financing from such Approved Lender.

3. Compensation and Term

3.1 HFH shall pay Contractor a fee equal to [TBD] (the “Fee”); provided, however, that the Fee shall be deemed earned, and therefore, shall be paid, only when and if the Financing closes during the Term or the same is otherwise payable under Section 3.2 below. Failure to close on the Financing for any reason whatsoever, including due to the fault of HFH shall excuse HFH from paying the Fee and Contractor shall not seek and hereby waives any other form of compensation (including damages) from and against HFH. Contractor acknowledges and agrees that it shall not be entitled to any other fee, commission or other compensation for the performance of its duties and obligations under this Agreement.

3.2 Contractor shall be entitled to the Fee specified if the Financing contemplated by this Agreement is closed by HFH with any Approved Lender within 90 calendar days after this Agreement expires or is terminated for any reason other than the default of Contractor hereunder.

3.3 This Agreement will commence on the date this Agreement is executed by HFH and shall expire at the end of the Exclusivity Period (the “Term”). HFH may terminate this Agreement, with or without cause, at any time. Upon termination of this Agreement, Contractor will return all documents and other property delivered to Contractor in connection with this Agreement and neither party will have any liability or continuing obligation to the other except in relation to those provisions in this Agreement concerning rights or obligations of either party with respect to representations, payment of the Fee (if any), reimbursement, indemnification, confidentiality and the return or delivery of documents and other property.

4. Scope of Services

4.1 Contractor shall perform services necessary, desirable and customarily performed by mortgage bankers for HFH to obtain the Financing, subject to the terms of this Agreement.

4.2 Due Diligence Responsibilities. Without limiting the generality of Section 4.1, Contractor shall:

- a. Review all due diligence materials currently in HFH's possession and made available to Contractor;
- b. If necessary, conduct a thorough financial due diligence of all documentation, including: reviewing financial source documents, reviewing appraisals and other third-party reports, examining operating statements and all other due diligence materials reasonably required for thorough financial due diligence;
- c. Submit to HFH for prior approval, all materials to be released to any potential lender including, but not limited to: teaser, confidentiality agreement, on-line due diligence data room, requested financing terms, and any other requested supplemental materials;
- d. As required, provide approved potential lenders with secure access to an on-line due diligence war room containing the due diligence materials for the Property;
- e. Work with HFH or any third party to review and obtain all materials required by an Approved Lender within such lender's timeframe;
- f. Coordinate with third party Contractors to obtain needed third party reports and to review and abstract all due diligence materials as required;
- g. Work closely with HFH and any other party necessary to prepare an initial sources and uses statement and revise such sources and uses statement as the transaction progresses;
- h. Provide periodic written or verbal updates to approved potential lenders of any change in conditions or receipt of new information;
- i. Obtain and provide information to satisfy real estate tax analysis for the Property, if required;
- j. Coordinate and, as needed, conduct inspections of the Property and market tours for underwriters, approved potential lenders and other third parties;
- k. Maintain regular contact with approved potential lenders and the Approved Lender to ensure the transaction remains on schedule; and
- l. Coordinate and manage the valuation process for accuracy and timing.

4.3 Bid Process Responsibilities.

(a) Contractor shall prepare a draft "Financing Memorandum" in a form to be approved by HFH. In preparation of the Financing Memorandum, Contractor shall complete an analysis of market and financial

information, including identification of competitive and comparable assets, comparison of comparable property revenue and expense numbers to the extent available, to support the asset valuation. The Financing Memorandum package shall contain the following: A cover letter identifying the financing request as a request of HFH; An executive summary including a description of the financing request; A summary of key financing terms; A complete description of the Property, historical and proforma cash flows; A clear description of any special conditions surrounding the Property or financing request, and Full color photographs and maps, if made available by HFH.

(b) Contractor shall submit the draft Financing Memorandum to HFH for its review and approval prior to the delivery of such Financing Memorandum to any third party.

(c) Contractor shall create a list of potential lenders and submit such list to HFH for its review and approval.

(d) Contractor shall negotiate a confidentiality agreement (the "Confidentiality Agreement"), in a form to be approved by HFH's legal representatives, with each approved potential lender.

(e) Once HFH has approved the Financing Memorandum and the list of potential lenders, Contractor may distribute the Financing Memorandum to the approved potential lenders on such list who have executed and delivered to HFH a Confidentiality Agreement. All approved potential lenders shall be treated equally throughout the bid process and in no event shall Contractor provide preferential treatment to any approved potential lender or "steer" the Financing to any particular lender.

(f) Contractor shall obtain loan quotes and/or term sheets from approved potential lenders on a deadline mutually agreed to by Contractor and HFH and shall prepare a summary of such loan term sheets for HFH ("Quote Summary Form"). Contractor shall send copies of the loan quotes and/or term sheets and the summaries prepared by it to HFH. Where significant variances exist relative to requested terms, or where commentary from potential lenders regarding existing or proposed structures of the proposed transaction may impact pricing, Contractor shall contact HFH to determine if alternate structures or adjustments to the financing models are appropriate.

(g) Contractor shall consult with HFH to identify any material, structural or legal requirement of the financing proposals which vary from HFHs' customary practices, specifically identifying any recourse requirements of the financing proposals.

(h) Contractor shall work closely with HFH to narrow the list of approved potential lenders and discuss the various financing proposals as may be applicable or appropriate and will assist HFH in negotiating such proposals for HFH's consideration. Once a narrow list of approved potential lenders has been agreed to by HFH, Contractor shall distribute revised financing terms to such approved potential lenders, if such financing terms are different from those financing terms initially distributed to the approved potential lenders.

(i) After the list of approved potential lenders has been narrowed, Contractor shall work with all remaining approved potential lenders to obtain final term sheets on a deadline mutually agreed to by Contractor and HFH. Copies of all final term sheets shall be provided to HFH. To facilitate comparison of the final term sheets, Contractor shall prepare a detailed Quote Summary Form and a debt summary and debt cost analysis and shall be available to HFH to analyze the final term sheets.

(j) Contractor shall also request potential lender's underwriting and identify any areas of questions or concerns and work to resolve these questions or concerns.

(k) Contractor shall discuss with approved potential lenders the timing and approval process for the Financing in detail, and shall identify any issues, questions or concerns that may impact timing, cost or the ability to close the Financing.

(l) Contractor shall work closely with HFH to select a lender. Such selection shall be made in the sole and absolute judgment of HFH. Following the selection of an Approved Lender, Contractor will notify unsuccessful bidders of the outcome of the bid process. Except where approved by HFH, Contractor should not reveal the name of the successful bidder, the rate, or any other identifying information to the unsuccessful bidders.

4.4 Responsibilities of Contractor After Lender Selection

(a) Upon selection of a lender (the "Selected Lender"), Contractor will forward a copy of the Selected Lender's term sheet to HFH's legal representatives for review, amendment, and final approval. Contractor shall have no authority to negotiate any terms or conditions outside of the term sheet. Contractor shall work with the Selected Lender and all interested parties to assure the final term sheet complies with all key terms as provided to Contractor by HFH and, at closing, shall provide HFH with a report stating either that the material terms of the Financing comply with the material terms set forth in the approved term sheet or any differences or discrepancies between the material terms of the Financing and the approved term sheet. To the extent that Contractor becomes aware of any conflict or unresolved issue that is not directly in conformance with HFH's key terms, or is not explicitly approved by HFH's legal representatives, or is not in direct conformance with previously agreed upon terms and conditions, Contractor shall notify HFH promptly in writing and work with HFH to resolve such issue.

(b) Contractor shall have no authority to bind HFH, but shall keep HFH fully informed of all issues to be negotiated in the loan documents. To the extent the loan application contains unresolved provisions, Contractor shall provide HFH with summaries addressing such issues and shall make recommendations with respect to any open issues.

(c) Contractor shall work with HFH to assure the movement of funds by HFH are in the correct amount and processed in a timely fashion.

(d) Contractor shall confirm that the Selected Lender agrees to the form and scope of all third-party reports ordered by HFH or Contractor.

(e) If HFH elects to rate lock, Contractor shall work diligently with HFH to complete early interest rate lock agreements as may be applicable. Contractor is not responsible for rate locks, and shall have no authority to bind HFH to any rate lock agreement.

(f) Contractor shall work with lender to finalize insurance requirements and coordinate with HFH's insurance consultants to obtain any additional insurance policies on behalf of HFH.

(g) Contractor shall work with HFH to coordinate the negotiation of all loan documents. To the extent that Contractor becomes aware of any unresolved issues during the negotiation of the loan documents, Contractor shall participate in the negotiation of such issues if requested by HFH. Contractor shall have no authority to bind HFH, and all final loan documents shall be subject to the review and approval of

HFH, in its sole and absolute discretion. Contractor shall provide HFH with notice of unresolved issues in any loan document and work with all interested parties to address such open issues.

(h) Contractor shall work with HFH and the Selected Lender to coordinate and track the distribution and receipt of any required estoppels and/or subordination and attornment agreements (“SNDAs”).

(i) Contractor shall confirm that the Selected Lender has received and approved any leases, management agreements, estoppels, SNDAs, title policies, surveys, insurance policies, engineering reports and other due diligence items required by the Selected Lender.

(j) To the extent applicable, Contractor shall coordinate with HFH to establish a cash management account at an HFH preferred bank or another bank that may be required by Selected Lender.

(k) Contractor shall take part in all closing conference calls on HFH’s behalf and provide HFH with a verbal summary of such conference calls and discussion updates and will work with HFH’s legal representatives to produce and/or track closing checklist items.

(l) Contractor shall review all disbursement and settlement statements for accuracy and discuss such settlement statements with HFH.

(m) Contractor shall complete all other tasks and assignments as reasonably required by HFH or the Selected Lender in order for HFH to close on the Financing in a timely manner in accordance with the terms of the final term sheet approved by HFH (with such changes as may have been approved by HFH).

4.5 Post-Closing Requirements

After the closing of the Financing and without additional compensation, Contractor shall work with HFH General Counsel to compile all closing documents and assist HFH in completing all post-closing items required by the Selected Lender. These responsibilities may include, but are not limited to: monitoring and reporting on progress of all closing undertakings, including without limitation, working to obtain final third-party reports and reserve or insurance requirements.

5. Reports and Deliverables

5.1 Contact List. Promptly following the execution of this Agreement, Contractor shall distribute a complete contact list to all parties. The contact list should include the identity, role and contact information for all team members of Contractor and HFH.

5.2 Due Diligence Checklist. Promptly following the execution of this Agreement, HFH and Contractor shall engage in a detailed debriefing of the general terms and conditions of the proposed Financing. Thereafter, Contractor shall distribute a due diligence checklist identifying all documents that will be required and the parties responsible therefore and important dates for obtaining the financing. After HFH has chosen the Selected Lender, Contractor shall distribute a revised checklist identifying all documents to be delivered to the Selected Lender prior to closing and all critical dates.

5.3 Deal Timeline. Contractor shall distribute a deal timeline identifying critical dates for receipt of information, delivery of the Financing Memorandum to approved potential lenders who have executed acceptable Confidentiality Agreements, required receipt of loan term sheets from approved potential lenders and other critical dates as may be apply to the marketing, selection, and due diligence and closing process as well as assist in tracking delivery dates for any post-closing items.

5.4 Deal Status Notification. At least once per week, Contractor shall either send HFH written notification regarding the status of the transaction or engage in a conference call with HFH regarding the status of the transaction, which shall include progress of key timeline items, any anticipated changes in deal structure, and any new information that may impact the deal structure or anticipated timelines.

6. Cooperation

Contractor and HFH each agree to cooperate fully with one another in all matters relating to the arrangement of the Financing, as governed by this Agreement; provided, however, the selection and pursuit of any Financing shall be made solely by HFH in the exercise of its sole and absolute discretion and HFH shall owe no duty to Contractor to negotiate with any prospective lenders or to continue any such negotiations. Further, Contractor agrees to consult with HFH and to the extent necessary or appropriate to enable Contractor to perform its duties and obligations as set forth in this Agreement. Contractor also agrees to promptly respond to all requests for information by HFH. HFH agrees to furnish to Contractor such documents, material and information which, in the judgment of HFH, are reasonably necessary or appropriate to effectively render the services described in this Agreement. HFH further agrees to promptly notify Contractor upon learning that any of the information contained in any of the materials provided to Contractor, or a prospective lender, is materially untrue, inaccurate or incomplete in any material respect. Contractor shall have no obligation to independently verify the accuracy or completeness of any information provided by HFH to the Contractor, but Contractor shall promptly notify HFH of any inaccuracies or mistakes in such information of which Contractor becomes aware. HFH shall not rely on the Contractor to offer any professional opinion with respect to any engineering, tax or environmental matters related to the Property.

7. Diversity Program

Contractor shall make good faith efforts to award subcontracts equal to 15% of the value of this Agreement to certified, diverse suppliers of good and services in accordance with the Houston First Corporation Diversity Program, which is made a part hereof for all purposes by this reference. Contractor shall disclose to HFH the manner and extent to which it has made good faith efforts to achieve such goal and submit reports on forms provided by HFH with each invoice, or as directed by HFH.

8. Indemnification

TO THE MAXIMUM EXTENT ALLOWED BY LAW, CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HFH AND HOUSTON FIRST CORPORATION HARMLESS FROM AND AGAINST ANY CLAIM, CAUSE OF ACTION, DAMAGE, JUDGEMENT, COST, EXPENSE (INCLUDING ATTORNEY'S FEES), OR OTHER LIABILITY (COLLECTIVELY, "CLAIM") THAT MAY RESULT BY REASON OR ACTIONS OR FAILURES TO ACT OF CONTRACTOR OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR CONTRACTORS; PROVIDED HOWEVER, THAT THE FOREGOING OBLIGATION SHALL NOT APPLY IN THE EVENT THAT A CLAIM RESULTS FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF HFH OR HOUSTON FIRST CORPORATION.

9. Limitation of Damages

Contractor and HFH agree that it would be difficult to calculate damages due to a loss of opportunity in connection with the arrangement of the Financing contemplated herein and agree, because such damages are speculative in nature and are not subject to being estimated at the time of execution of this Agreement, that neither party shall be liable to the other for any special, consequential, incidental, punitive or similar damages with respect to any claims related to the Financing or this Agreement.

10. Confidentiality

Contractor agrees, for itself and all persons retained or employed by Contractor in performing its services, to hold in confidence and not to use or disclose to others any confidential or proprietary information of HFH heretofore or hereafter disclosed to Contractor, which may become known to Contractor in the performance of, or as a result of, its services, except where HFH specifically authorizes Contractor to disclose any of the foregoing to others or such disclosure reasonably results from the performance of Contractor's duties hereunder; provided, however, that for purposes of this Agreement information shall not be deemed to be confidential if it is otherwise within the public domain or if Contractor has obtained such information from a source other than HFH or their employees or agents, or to the extent any such information is required to be disclosed by applicable law, rule or regulation.

11. Applicable Law and Consent to Jurisdiction

Contractor shall strictly comply with all applicable laws, ordinances, codes, and regulations that affect performance by Contractor hereunder. 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. **TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES (a) ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER ACQUIRE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUIT, ACTION OR PROCEEDING, AND (b) ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT.**

12. Notice

All notices, requests, permissions, waivers and other communications (individually and collectively, a "Notice") to either party hereunder shall be in writing and, unless otherwise specified herein, shall be delivered by hand, United States registered or certified mail, return receipt requested, or national overnight express delivery service (in each case postage or delivery charges paid by the party giving such communication) addressed to the party to whom such communication is given at its address set forth in this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Unless otherwise specified herein, each such Notice addressed and given as set forth above shall be effective the date of receipt of such Notice, or attempted delivery of such Notice, if receipt is refused; and if sent by mail as aforesaid, the date which is 72 hours after such Notice is deposited in the mail, postage prepaid as aforesaid.

13. Independent Contractor Status

HFH and Contractor agree that they do not intend to form, and this Agreement shall not be construed as creating, a partnership or joint venture under any circumstances. Neither party hereto shall have any authority, in any manner or to any extent, to bind the other party. With respect to each other, the parties shall be independent contractors for all purposes.

14. Severability

If any provision of this Agreement or the application thereof to any party or circumstances shall be held invalid or unenforceable, the other provisions of this Agreement or the application of such provision to other party or circumstances shall not be affected thereby but shall continue to be valid and enforceable to the fullest extent permitted under applicable law.

15. Survival

The parties shall remain obligated to each other under all clauses of this Agreement that expressly or by their nature extend beyond the expiration of the Term or termination of the Agreement.

16. Modification

Except as specified herein, no provision of this Agreement shall be modified, waived or terminated except by an instrument in writing signed by the party against whom such modification, waiver or termination is to be enforced.

17. Entire Agreement

This Agreement contains the entire understanding among Contractor and HFH relating to obtaining Financing for the Property and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may only be modified by a written agreement signed by both parties.

[signature page to follow in final agreement]