



HOTEL ASSET MANAGEMENT SERVICES REQUEST FOR QUALIFICATIONS (“RFQ”)

- ISSUE DATE:** September 19, 2018
- DUE DATE:** **2:00 p.m.** on **October 23, 2018** (the “Submission Deadline”)
- INSTRUCTIONS:** Respondents must submit five paper copies and one electronic copy (on a flash drive) of their Statement of Qualifications (“SOQ”) in a sealed envelope in person, via mail or courier. Please write “Hotel Asset RFQ” clearly on the outside of the package or envelope. Submissions received by email or fax 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 RFQ must be sent by e-mail to bids@houstonfirst.com no later than **10:00 a.m.** on **October 12, 2018**. Questions will be answered collectively in the form of one or more letters of clarification (each a “Letter of Clarification”) and made available online for all prospective Respondents at www.houstonfirst.com/do-business.

PURPOSE & OVERVIEW

Houston First Holdings LLC (“HFH”) is the owner of the Hilton Americas-Houston (the “Hotel”) located at 1600 Lamar St., Houston, Texas 77010. The Hotel is a 1,200-guest room convention center hotel with a 1,400-car parking garage, conveniently located in downtown Houston.

Statements of Qualifications (“SOQ”) are requested from experienced asset-management firms (“Respondents”) whose team members (specifically assigned to this engagement) have a minimum of ten years’ experience in providing high-quality hotel asset management services and oversight of large convention center hotels. The team selected will provide advice with respect to hotel operations generally, as well as market data and comparative analyses with the goal of achieving optimal performance from the Hotel as a hospitality investment.

BACKGROUND

Houston First Corporation (“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. HFC manages and operates more than 10 city-owned facilities, including the George R. Brown Convention Center, Jesse H. Jones Hall for the Performing Arts, Gus S. Wortham Theater Center, and Miller Outdoor Theatre. HFC is the sole member of HFH.

RFQ PACKETS

A complete copy of this RFQ, including all forms, as well as the agreement and its exhibits, is available on-line at <http://www.houstonfirst.com/do-business/>.

PRE-SUBMITTAL CONFERENCE

A pre-submittal conference will be held for the benefit of all potential Respondents at **10:00 a.m.** on **October 3, 2018** in **Room 343** at the **Hilton Americas-Houston Hotel**, located at 1600 Lamar Street, Houston, Texas 77010. Although attendance at the conference is not mandatory, all prospective Respondents are urged to be present.

LETTERS OF CLARIFICATION

Responses to all material questions timely submitted by potential Respondents, as well as revisions incorporated into this RFQ by HFC, if any will be confirmed in a letter posted online at <http://www.houstonfirst.com/do-business/> ("Letter of Clarification"). When issued, Letters of Clarification become part of this RFQ and automatically supersede any previous specifications or provisions in conflict therewith. By submitting their SOQ, Respondents 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 Respondents to monitor the foregoing link and ensure they receive any such Letters of Clarification and incorporate them in their SOQ.

SOQ FORMAT AND EVALUATION

To be considered responsive, Respondents are asked to include the following information in their SOQ:

- a. **Transmittal Letter:** Write an introductory letter communicating effectively why the Respondent should be selected to perform hotel asset management services. The letter must be signed by a person authorized to make representations on behalf of the Respondent and include a direct phone number and email address. Respondents must make a specific, unambiguous statement accepting and agreeing to comply with the Hotel Asset Management Services Agreement, if selected.
- b. **Experience and References:** Describe the Respondent's specific experience and major achievements, both previous and current, in providing asset-management services to clients at convention center hotels and other hotels/resorts with 800 rooms or more. Provide three references for whom Respondent has provided comparable services as will be required hereunder and a brief description of the services performed specifically by Respondent's key personnel. For each reference, include a contact name, phone number, and email address for the appropriate contact.
- c. **Key Personnel:** Identify the essential personnel who would be assigned to perform client services upon selection, including a summary of their qualifications.
- d. **Diversity Efforts:** Indicate how the Respondent intends to make good faith efforts to utilize diversity companies and identify any probable MWBE and HUB subcontractors or consultants.

Although there is no page limit, Respondents are asked to ensure that their SOQs are clear and concise.

Each SOQ received in response to this RFQ will be reviewed and ranked based on the following weighted criteria: Transmittal Letter, including acceptance of Hotel Asset Management Services Agreement (20 points); Experience and References (40 points); Key Personnel (30 points); and Diversity Efforts (10 points).

The top-ranked firms, not to exceed five, will be asked to submit a proposal, including fees, and participate in an in-person interview. Up to 35 additional points (20 for proposal and pricing; 15 for interview responsiveness) may be added to the existing SOQ scores of the top-ranked Respondents, for a maximum possible total of 135 points. HFH and HFC reserve the right to require the top-ranked firms to sign a confidentiality and non-disclosure agreement as a pre-condition of submitting a proposal.

This RFQ does not commit HFC or HFH to award a contract, issue a purchase order, or to pay any costs incurred in the preparation of a SOQ in response to this RFQ.

FORM OF AGREEMENT

By submitting a response to this RFQ, Respondent agrees, if selected, to enter into the Hotel Asset Management Services Agreement set forth below.

DIVERSITY PARTICIPATION

The Respondent 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 (See <https://www.houstonfirst.com/static/media/uploads/attachments/supplydiversity.pdf>). HFC has established the following goal for these services: **20%** of the total value of the Agreement. Respondents 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. All diversity-participation information provided by Respondents, including required forms, should be delivered with the Respondent's SOQ in a **separately-sealed envelope** labelled "**Diversity**".

VENDOR CODE OF CONDUCT

Respondents 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 Respondents be familiar with and abide by the Code of Conduct for Vendors.

RESTRICTIONS ON COMMUNICATIONS

From the date issued until the Submission Deadline, Respondents are directed not to communicate with HFC employees, officers or board member regarding any matter relating to this RFQ, other than bids@houstonfirst.com.

CONFLICTS OF INTEREST

Respondents are required to disclose affiliations or business relationships that might cause a conflict of interest with HFC. The disclosure form, available at: www.ethics.state.tx.us/forms/CIQ.pdf should be completed and submitted if required. By submitting their SOQ, Respondents represent that they are in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

PUBLIC INFORMATION

HFC is subject to the Texas Public Information Act ("TPIA"). Information submitted by Respondents 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. Respondents will be advised of any request for public information that implicates their materials and will have the opportunity to raise objections to disclosure with the Texas Attorney General at their expense.

RFQ PACKETS

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

HOTEL ASSET MANAGEMENT SERVICES AGREEMENT

This Hotel Asset Management Services Agreement (“Agreement”) is made by and between Houston First Holdings LLC (“HFH”), whose address for purposes of this Agreement is 701 Avenida de las Americas, Suite 200, Houston, Texas 77010, and [TBD] (“Firm”), whose address is [TBD]. In consideration of the mutual promises contained herein, the parties hereby agree as follows:

ARTICLE 1: RESPONSIBILITIES OF FIRM

1.1 Firm shall provide all labor and supervision necessary to undertake and complete Firm’s services in a timely and professional manner in accordance with this Agreement, including the Scope of Services attached hereto as **Exhibit “A”** and made a part hereof for all purposes.

1.2 Firm shall perform its services consistent with the skill and care ordinarily provided by persons performing similar services under the same or similar circumstances. Firm shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of its services.

1.3 Except with HFH’s prior knowledge and written consent, Firm shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise Firm’s professional judgment with respect to the services or this Agreement.

1.4 Firm shall comply with all applicable state and federal laws and regulations and all applicable provisions of the City of Houston Code of Ordinances.

1.5 Pursuant to and in accordance with the Confidentiality and Non-Disclosure Agreement attached hereto as **Exhibit “B”** and made a part hereof for all purposes, Firm agrees to and shall hold all Confidential Information (as defined in such exhibit) in strict confidence and further agrees be bound by the terms, conditions and restrictions of such Confidentiality and Non-Disclosure Agreement without exception.

1.6 Firm shall use good faith efforts to award subcontracts equal to **20%** of the cost of services under this Agreement to certified, diverse suppliers of goods and services in accordance with the Diversity Program established by Houston First Corporation, which is made a part hereof by this reference. Firm shall disclose the manner and extent to which it has made such efforts from time to time in a form approved by Houston First Corporation.

ARTICLE 2: TERM AND PAYMENT

2.1 The term of this Agreement shall commence **January 1, 2019** and expire **December 31, 2024**, unless renewed or sooner terminated as provided in this Agreement (the “Term”). Without limiting the foregoing, HFH may extend the Term, on the same terms and conditions, by up to 120 calendar days to ensure the completion of services required by HFH by notifying Firm in writing prior to the expiration of the Term.

2.2 Subject to all terms and conditions of this Agreement, HFH agrees to pay Firm as follows for services provided hereunder: [TBD].

2.3 Reasonable expenses incurred by Firm in the performance of services under will be reimbursed at cost; provided such expenses are approved in advance and in writing by HFH. For the avoidance of doubt, the parties agree that reimbursable expenses shall not include first-class travel or accommodation, overhead or general administrative costs.

2.4 Firm will be paid on the basis of monthly invoices submitted by Firm, and approved by HFH, detailing the services provided and expenses incurred by Firm during the previous month and the attendant fee. Invoices shall be submitted electronically by the fifth calendar day of the month following each month in which services are performed. HFH shall make payment to Firm within 30 calendar days of the receipt and approval by HFH of such invoices.

2.5 If any item in any invoice submitted by Firm are disputed by HFH for any reason, including lack of supporting documentation, then HFH shall temporarily delete the disputed item and pay the remaining amount of the invoice; provided, however, that HFH shall promptly notify Firm of the dispute and request clarification and/or remedial action. After any dispute shall have been settled, Firm shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

ARTICLE 3: INSURANCE AND INDEMNIFICATION

3.1 With no intent to limit Firm's liability under indemnification provisions, Firm shall provide and maintain in full force and effect for the duration of the Term, including all extensions and amendments thereto, at least the following insurance and available limits of liability:

Commercial General Liability	Including Bodily Injury & Property Damage, Combined Limits of \$1,000,000 each Occurrence and \$2,000,000 aggregate
Workers' Compensation	Statutory limits for Workers' Compensation (Firm shall not self-insure for Workers' Compensation)
Employer's Liability	\$1,000,000 each accident, disease limits of \$1,000,000 per policy and \$1,000,000 per employee

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, must include an additional insured endorsement in favor of HFH, Houston First Corporation, the City of Houston, and The Variable Annuity Life Insurance Company c/o AIG Asset Management on the original policy and all renewals or replacements during the term of this Agreement (collectively, the "Additional Insured Parties").

3.4 Each policy must contain an endorsement approved by HFH waiving any claim or right in the nature of subrogation in favor of the Additional Insured Parties.

3.5 Firm shall be solely responsible for payment of all insurance premiums hereunder. Firm shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for same against the Additional Insured Parties.

3.6 Each policy hereunder, except Workers' Compensation, shall be primary insurance to any other insurance available to the Additional Insured Parties with respect to claims arising hereunder.

3.7 FIRM AGREES TO AND SHALL RELEASE THE ADDITIONAL INSURED PARTIES, 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 FIRM UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED IN PART BY THE NEGLIGENCE OF THE ADDITIONAL INSURED PARTIES, AND FURTHER INCLUDING ALL LIABILITY FOR DAMAGES OR OTHER RELIEF ARISING UNDER FEDERAL OR STATE EMPLOYMENT LAWS RELATING TO OR INVOLVING PERSONNEL EMPLOYED OR RETAINED BY FIRM UNDER THIS AGREEMENT.

3.8 FIRM AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE ADDITIONAL INSURED PARTIES, THE THEIR AGENTS, EMPLOYEES, OFFICERS, AND DIRECTORS 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 PERFORMANCE BY FIRM UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY OR RELATING TO FIRM'S ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS; THE ADDITIONAL INSURED PARTIES' AND FIRM'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER FIRM IS IMMUNE FROM LIABILITY OR NOT; AND THE ADDITIONAL INSURED PARTIES' AND FIRM'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER FIRM IS IMMUNE FROM LIABILITY OR NOT. FIRM SHALL NOT INDEMNIFY THE ADDITIONAL INSURED PARTIES FOR THEIR SOLE OR FROSS NEGLIGENCE.

3.9 If HFH or Firm 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.

3.10 This notice does not prevent HFH from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If HFH does not provide this notice within the 30-day period, it does not waive any right to indemnification except to the extent that Firm is prejudiced, suffers loss, or incurs expense because of the delay.

3.11 Firm may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to HFH. Firm shall then control the defense and any negotiations to settle the claim. Within 10 calendar days after receiving written notice of the indemnification request, Firm must advise HFH as to whether or not it will defend the claim. If Firm does not assume the defense, then HFH shall assume and control the defense, and all defense expenses constitute an indemnification loss.

3.12 If Firm elects to defend the claim, then HFH may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Firm may settle the claim without the consent or agreement of HFH, 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 Firm 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 4: TERMINATION

4.1 Either party may terminate 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.

4.2 HFH may terminate this Agreement at any time by giving 10 calendar days' written notice to Firm. HFH's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future. On receiving the notice, Firm 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, Firm shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. HFH shall then pay the fees to Firm for services actually performed, but not already paid for, in the same manner as prescribed herein.

4.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE FIRM'S EXCLUSIVE REMEDIES FOR HFH'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. FIRM WAIVES ANY CLAIM (OTHER THAN CLAIMS FOR PAYMENT FOR SERVICES RENDERED), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM HFH'S TERMINATION FOR CONVENIENCE.

ARTICLE 5: MISCELLANEOUS PROVISIONS

5.1 Inspections and Audits. HFH and its designees shall have the right to examine and review Firm's books, records and billing documents that are directly related to performance or payment under this Agreement. Firm shall maintain such books, records, and billing documents for three years after the cessation of Firm'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.

5.2 Ownership of Documents. Firm shall grant and assign and hereby does grant and assign to HFH all right, title, interest and full ownership worldwide in and to all Instruments of Service, including any modifications or improvements thereto, that are developed, written or produced by Firm, its agents, employees, contractors and subcontractors pursuant to this Agreement. Firm shall execute all documents required by HFH to further evidence such assignment and ownership. Firm shall cooperate with HFH in registering, creating or enforcing any copyrights or other possessory or proprietary rights arising hereunder. As used herein, the term "Instruments of Service" includes all representations in any medium, of the tangible and intangible creative work performed by Firm including, without limitation, reports, studies, surveys, and other similar documents and materials.

5.3 Non-Waiver. 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.

5.4 Notices. 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 prescribed by notice to the sending party.

5.5 Independent Contractor. The relationship of Firm to HFH shall be that of an independent contractor. Firm 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.

5.6 Survival. Firm shall remain obligated to HFH under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of the term of this Agreement.

5.7 Assignment. Firm shall not assign, in law or otherwise, any interest in this Agreement without the prior written consent of HFH. HFH may assign this Agreement, in whole or in part, to Houston First Corporation at any time without prior notice to Firm.

5.8 Governing Law/Venue. The Agreement shall be governed by the laws of the State of Texas, without regard to any conflict of law provisions and applicable sections of the City of Houston Code of Ordinances. Litigation in connection with this Agreement shall be in a court of competent jurisdiction in Harris County, Texas.

5.9 Extent of Agreement. This Agreement, including any exhibits which are made a part hereof, represents the entire and integrated agreement between HFH and Firm and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may not be altered or amended except in writing executed on behalf of all of the parties.

[Signature block and Exhibit "A" Scope of Services to follow in final Agreement]

EXHIBIT “B”
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement (“CNDA”) is made by and between Houston First Holdings LLC (“HFH”), whose address for purposes of this Agreement is 701 Avenida de las Americas, Suite 200, Houston, Texas 77010, and [TBD] (“Firm”), whose address is [TBD].

WHEREAS, the parties have executed on or about the date hereof, that certain Hotel Asset Management Services Agreement, of which this CNDA forms an integral part;

WHEREAS, Firm has been given or may obtain access to certain Confidential Information (as defined below) relating to the business, operations, plans, and/or assets of HFH in connection with services provided by Firm in advance of the best interest of HFH and its affiliates;

WHEREAS, HFH has requested that Firm agree to maintain such information in confidence and Firm has agreed to do so in consideration of the mutual promises contained herein and goodwill between the parties;

NOW, THEREFORE, in light of the foregoing recitals, which are incorporated herein by this reference, the parties hereby agree as follows:

1. As used herein, the term “Confidential Information” shall mean any information relating to the business, operations, plans, finances, or assets of HFH and its affiliated entities, including by way of example and not limitation, Houston First Corporation (whether oral or written, and whether in electronic or other form) disclosed to Firm or learned by Firm in connection with the performance of services on behalf of HFH and its affiliated entities.
2. Firm agrees to and shall (a) hold all Confidential Information in strict confidence and protect it with the same degree of care with which the Firm protects its own confidential information, but in any event with no less than a commercially reasonable standard of care; (b) use the Confidential Information only for purposes permitted or necessary to fulfill contractual obligations between Firm and HFH; (c) not copy or otherwise duplicate Confidential Information, or knowingly allow anyone else to copy or otherwise duplicate any Confidential Information then under its control; (d) restrict disclosure of Confidential Information solely to select employees on a need-to-know basis who are under legal obligations requiring them to keep such Confidential Information confidential; and (e) not otherwise disclose Confidential Information to any other person or entity, including but not limited to existing or future clients.
3. Firm hereby acknowledges and agrees that in the event of any actual or threatened breach of this CNDA (including, without limitation, disclosure of the Confidential Information), HFH will suffer irreparable harm and injury and no remedy at law will afford it adequate protection against, or appropriate compensation for, such injury. Accordingly, Firm agrees that, in addition to all other rights and remedies available at law or in equity (all of which are reserved by HFH), HFH shall be entitled to specific performance under this CNDA, as well as injunctive relief.
4. If Firm is legally compelled, pursuant to a subpoena or other applicable law to disclose any Confidential Information disclosed to it by HFH, then Firm agrees that it shall provide HFH with reasonably prompt notice of such request or requirement, and will consult in good faith with and consider the suggestions of HFH concerning the nature and scope of such Confidential Information the Firm proposes to disclose.

5. This CNDA shall continue in full force and effect with respect to each particular item of Confidential Information for a period ending four years following the Effective Date hereof.
6. Firm agrees that it shall, at any time upon the request of HFH, return all copies of the Confidential Information (and all excerpts made therefrom or notes with respect thereto made by Firm) to HFH or, alternatively, at HFH's option, destroy the same (and provide evidence of such destruction to HFH within a reasonable time).
7. HFH has not made and hereby expressly disclaims any warranty or representation as to the completeness, accuracy, or validity of any Confidential Information or other information furnished directly or indirectly to Firm, orally or in writing. HFH shall have no liability to Firm or any other person or entity in respect to the completeness, accuracy, or validity of any Confidential Information.
8. This CNDA and the rights and obligations of the parties hereunder may be assigned only upon the prior written approval of the parties hereto. The rights and obligations of the parties hereto will inure to the benefit of, will be binding upon, and will be enforceable by the parties hereto and their permitted successors and assigns.
9. No modification of this CNDA or waiver of any of its terms will be effective unless set forth in a writing signed by the party against whom it is sought to be enforced.
10. This CNDA shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to principles of conflicts of laws. Harris County, Texas shall be the exclusive place of venue in respect to any and all legal proceedings in respect to or arising out of this CNDA.
11. The parties hereto have caused this CNDA to be duly executed by their authorized representatives to be effective for all purposes as of the date of signature by HFH ("Effective Date"):

[Signature block to follow in final CNDA]