



NATIONAL PUBLIC RELATIONS FIRM REQUEST FOR PROPOSALS (“RFP”)

ISSUE DATE: October 2, 2019

DUE DATE: **2:00 P.M.** on **October 30, 2019** (“Submission Deadline”)

INSTRUCTIONS: Proposers are asked to submit five (5) paper copies and one (1) electronic copy of their proposal on a USB flash drive. Submittals must be delivered in a sealed envelope in person, via mail or courier. Please write “PR Firm” 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 **10:00 a.m.** on **October 23, 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 Corporation (“HFC”) requests proposals from experienced public relations firms (each a “Proposer”) to provide representation with specific focus on national consumer (specifically broadcast, magazine and newspaper, national websites and blogs) and trade media. Services include promotion of Houston as a leisure and meetings destination.

Essential services to be provided by the Proposer selected include working with HFC on Houston media events in New York, Chicago, Washington D.C., Los Angeles, and (if applicable key markets) Texas; helping to plan and coordinate media visits, desk-sides and/or activations in New York, Chicago, Los Angeles, Washington D.C., and other potential key markets; hosting journalists and/or possible media FAM visits to Houston (HFC prefers to host single journalists on assignment; however, 1-2 group FAMs can be hosted on a case-by-case basis); working with HFC on developing integrated marketing campaigns; and developing and disseminating monthly pitch ideas, both timely/trend and overall Houston messaging.

The successful Proposer will need to develop a comprehensive program for public/media relations and travel/trade with the goal of positioning Houston as a top U.S. destination reinforcing its strongest brand attributes which are culinary, culture/arts, family travel, meetings & conventions, and business. Additionally, the firm selected must use its own media and travel/trade databases and maintain current, up-to-date media lists during the term of the resulting agreement (this database will be available to Houston First when requested).

Proposers must have at least 10 years’ experience and operate offices in key national media markets in the travel and tourism sector (e.g., New York, Chicago, L.A., and Washington D.C.), including an account team in at least one of those key markets.

BACKGROUND

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, Gus S. Wortham Theater Center, Jones Hall for the Performing Arts, and Miller Outdoor Theatre.

HFC, through the Visit Houston brand, is the primary marketing arm of the City of Houston. A media kit is also available at www.visithoustontexas.com/media/houston-media-kit/. Proposers are also encouraged to review the official website at www.visithouston.com.

PRE-PROPOSAL CONFERENCE

A pre-bid conference has not been scheduled for the solicitation and HFC does not anticipate that such a meeting will be held.

PROPOSAL FORMAT

Although HFC 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 National Public Relations Services Agreement provided below.
- b. **Experience:** Describe the Proposer's history in meeting the needs of its clients. Provide three current national consumer public relations references in the travel and tourism sector; please include a contact name, phone number, and email address for each such reference.
- c. **Essential Personnel:** Identify the essential personnel who would provide the services, such as the account manager, responsible corporate executive and any probable subcontractors; list their qualifications and include a brief summary of their job descriptions. Note any other accounts to be handled by the main contacts for services provided to HFC.
- d. **Pricing:** Please submit Proposer's pricing for services as a flat monthly fee or hourly rates with a not-to-exceed amount. All potential fees and charges to HFC must be fully disclosed.
- e. **Proposer Questionnaire:** To ensure the service needs of HFC are met, and to better understand the benefits offered by Proposer, please review and respond to each item in the Proposer Questionnaire provided below. Costs to HFC for additional services, if any, must be defined clearly.

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 HFC.

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 National Public Relations Services Agreement (15 points); Experience, including references (20 points); Essential Personnel (25 points); Pricing (25 points); and Proposer Questionnaire responses (15 points).

HFC reserves the right to interview the top-ranked Proposers, not to exceed five, prior to a selection being made. 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.

HFC intends to award the contract to the Proposer offering the best value to HFC, as measured by HFC utilizing the foregoing evaluation criteria, including the right to award the contract by criteria other than the lowest price proposed. HFC 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 HFC. This RFP does not commit HFC 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. HFC reserves the right to request proposal clarifications/additional information from some or all Proposers.

LETTERS OF CLARIFICATION

Responses to all material questions timely submitted by potential Proposers, as well as revisions incorporated into this RFP by HFC, 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 National Public Relations Services Agreement provided below. Any requests for clarification or modification to the terms of such agreement must be timely submitted by email to bids@houstonfirst.com. Responses will be included in a Letter of Clarification. Alternative terms or pre-printed forms submitted by a Proposer shall be disregarded and may result in a Proposal being deemed, in HFC's discretion, as non-responsive.

RESTRICTIONS ON COMMUNICATIONS

Throughout the selection process, commencing with the Issue Date, Proposers are directed not to communicate with any HFC employee, officer or director regarding their Proposal, or any matter relating to this RFP, other than through bids@houstonfirst.com. Proposers are solely responsible for observation and compliance with such restrictions, and HFC 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 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 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 RFP 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 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 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; 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.

PROPOSER QUESTIONNAIRE

HFC intends to carefully evaluate the ability of every proposer (each a “Proposer”) to perform successfully under the terms of the resulting agreement, giving due consideration to matters such as past performance, resources, and other material items pertaining to the responsibility of each Proposer. HFC expects each Proposer, to be considered responsive to the requirements of the foregoing RFP, to include a comprehensive document in its Proposal answering all of the following questions fully and truthfully:

1. How long has the Proposer been in business?
2. What is the structure of the Proposer’s firm, how many people does it employ, and what is the account team breakdown?
3. What can the Proposer offer in terms of results to Houston?
4. How does the Proposer recommend HFC measure the success of a PR firm’s efforts?
5. What reporting and communication system will the Proposer use in working with HFC to ensure a responsive, successful relationship?
6. Can the Proposer provide a pitch strategy it would implement promptly upon selection?
7. Can the proposer provide a few examples of integrated campaigns?
8. What awards has the Proposer received relevant to travel and tourism?

NATIONAL PUBLIC RELATIONS SERVICES AGREEMENT

This National Public Relations 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 [TBD]. In consideration of the mutual promises contained herein, the parties hereby agree as follows:

ARTICLE 1: RESPONSIBILITIES

1.1 Contractor acknowledges that the purpose of this Agreement is to retain Contractor, on an as needed basis, to provide services pertaining to the promotion of Houston as a leisure and meetings destination, with specific focus on national consumer (specifically broadcast, magazine and newspaper, national websites and blogs) and trade media.

1.2 Without limiting the foregoing, the essential services to be provided by Contractor shall include working with HFC on Houston media events in New York, Chicago, Washington D.C., Los Angeles, and (if applicable key markets) Texas; helping to plan and coordinate media visits, desk-sides and/or activations in New York, Chicago, Los Angeles, Washington D.C., and other potential key markets; hosting journalists and/or possible media FAM visits to Houston (HFC prefers to host single journalists on assignment; however, 1-2 group FAMs can be hosted on a case-by-case basis); working with HFC on developing integrated marketing campaigns; and developing and disseminating monthly pitch ideas, both timely/trend and overall Houston messaging.

1.3 Contractor shall develop a comprehensive program for public/media relations and travel/trade with the goal of positioning Houston as a top U.S. destination reinforcing its strongest brand attributes which are culinary, culture/arts, family travel, meetings & conventions, and business. Contractor agrees to and shall use its own media and travel/trade databases and maintain current, up-to-date media lists during the term of the resulting agreement (such database to be made available to Houston First upon request).

1.4 Contractor shall undertake and complete its services in a manner commensurate with the best interests of HFC and consistent with the skill, judgment, diligence, and care ordinarily provided by entities performing comparable services. Contractor shall perform expeditiously to ensure the timely and orderly completion of its services.

1.5 The term of this Agreement shall commence on **January 1, 2020** and extend through **December 31, 2025** (the “Term”), unless sooner terminated according to the terms of this Agreement. HFC reserves the option to and may 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.

1.6 Contractor shall act in accordance with applicable laws and observe high standards of ethics in the conduct of its services and responsibilities under this Agreement. 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 to HFC 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 the terms of this Agreement; Contractor shall not enter into any such conflicting agreement during the Term.

1.7 Contractor shall designate a representative who shall have express authority to bind Contractor with respect to all matters under this Agreement and provide a direct phone number and email address for such authorized representative. Contractor shall not subcontract or delegate any portion of the services without the advanced written consent of HFC.

1.8 If any services performed by Contractor do not meet the standards of this Agreement, as determined by HFC in its reasonable discretion, then Contractor shall correct or modify such the service promptly upon demand from, and at no additional cost to, HFC. If Contractor performs services knowing them to be contrary to applicable laws, statutes, ordinances, rules and regulations, and/or lawful orders of public authorities, then Contractor shall be liable for such violation and shall bear the costs attributable to correction.

ARTICLE 2: PAYMENT

2.1 Subject to all terms and conditions of this Agreement, HFC agrees to pay Contractor [TBD] for the performance of services and provision of deliverables under this Agreement:

2.2 Reasonable expenses incurred by Contractor in the performance of its services hereunder will be reimbursed at cost; provided such expenses are approved in advance and in writing by HFC, and further provided that HFC reserves the right to require Contractor to submit estimated travel expenses in a pre-approved form. For the avoidance of doubt, the parties agree that reimbursable expenses shall not include first-class travel or accommodation, overhead or general administrative costs.

2.3 Contractor will be paid on the basis of monthly invoices submitted by Contractor, and approved by HFC, detailing the services provided by Contractor and pre-approved expenses incurred 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. HFC shall make payment to Contractor within 30 calendar days of the receipt and approval by HFC of such invoices.

2.4 If any items in any invoice submitted by Contractor are disputed by HFC for any reason, including lack of supporting documentation, then HFC shall temporarily delete the disputed item and pay the remaining amount of the invoice; provided, however, that HFC shall promptly notify Contractor of the dispute and request clarification and/or remedial action. After any dispute shall have been settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only. All payments to Contractor contemplated hereunder shall be paid in U.S. funds; pre-approved expenses incurred in non-U.S. currency will be converted by HFC to U.S. funds at time of payment.

ARTICLE 3: INSURANCE

3.1 Minimum Insurance Requirements. With no intent to limit Contractor's liability under the indemnification provisions hereof, Contractor shall provide and maintain, and shall require its contractors and subcontractors to maintain, for the full duration of the Term, including any extension thereof, at least the following insurance and available limits of liability:

- a. Commercial General Liability, including broad form coverage, contractual liability, bodily injury/death, and property damage in amounts not less than \$1,000,000 each occurrence and \$2,000,000 aggregate;

- b. Workers' Compensation with statutory limits (Contractor shall not self-insure for Workers' Compensation); and
- c. Employer's Liability, with limits of \$1,000,000 for each accident, disease limits of \$1,000,000 per policy and \$1,000,000 per employee.

3.2 Endorsements. Contractor's Commercial General Liability insurance policy shall include an additional insured endorsement in favor of HFC and shall be primary and noncontributory to any other policies of insurance which may be available to HFC with respect to claims arising in connection with this Agreement. All of Contractor's policies must contain an endorsement approved by HFC waiving any claim or right in the nature of subrogation in favor of HFC.

3.3 Rating. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or shall be an eligible non-admitted insurer in the State of Texas and have an A.M. Best's rating of at least A- with a financial size category of Class VI or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States. Contractor 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 HFC.

ARTICLE 4: LIMITATION OF LIABILITY

4.1 Release. **CONTRACTOR AGREES TO AND SHALL RELEASE HFC, ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AND AGENTS 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 DAMAGES OR OTHER RELIEF ARISING UNDER FEDERAL OR STATE EMPLOYMENT LAWS RELATING TO OR INVOLVING PERSONNEL EMPLOYED OR RETAINED BY CONTRACTOR.**

4.2 Indemnification. **TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HFC, INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AND AGENTS, (COLLECTIVELY, "INDEMNITEES") HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, JUDGMENTS, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR OTHER LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE BY CONTRACTOR UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY OR RELATING TO CONTRACTOR AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY, "CONTRACTOR'S") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS; INDEMNITEES' AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE; AND ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL EMPLOYMENT LAWS, INCLUDING WITHOUT LIMITATION, ANY AND ALL CLAIMS AND CAUSES OF ACTION BROUGHT AGAINST INDEMNITEES BY CONTRACTOR'S PERSONNEL AND/OR GOVERNMENT AGENCIES ARISING FROM, RELATING TO, OR INVOLVING SERVICES OF CONTRACTOR'S PERSONNEL UNDER THIS AGREEMENT.**

4.3 Limitation of Liability. HFC SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS (DIRECT OF INDIRECT) AND LOST REVENUES HOWSOEVER ARISING, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF HFC HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN ANY SUCH DAMAGES.

4.4 Notice of Claims. If HFC or Contractor receives notice of any claim or circumstances, which could give rise to an indemnified loss, 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. This notice does not stop or 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 calendar 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.

4.5 Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to HFC. 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 may assume and control the defense, and all defense expenses constitute an indemnification loss.

4.6 Continued Participation. If Contractor elects to defend the claim, 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 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; require the Indemnitees to pay amounts that Contractor does not fund in full; or does 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: CONFIDENTIALITY

5.1 As used in this Agreement, the term "Confidential Information" shall mean any information relating to the business, operations, plans, accounts, finances, or assets of HFC (whether oral or written, and whether in electronic or other form) disclosed by HFC to Contractor or learned or developed by Contractor in connection with the performance of services by Contractor under this Agreement. Confidential Information does not include information that the Contractor can show was already known to the general public prior to disclosure by Contractor or was authorized to be disclosed in advance and in writing by HFC.

5.2 Contractor agrees to and shall hold all Confidential Information in strict confidence and protect it with the same degree of care with which the Contractor protects its own confidential information, but in any event with no less than a commercially reasonable standard of care; use Confidential Information only for purposes permitted or necessary to fulfill contractual obligations between Contractor and HFC; not copy or otherwise duplicate Confidential Information, or knowingly allow anyone else to copy or otherwise duplicate any Confidential Information then under its control; 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; not take advantage of any business opportunity

based on or derived in whole or in part from the Confidential Information; and not otherwise disclose Confidential Information to any other person or entity.

5.3 Contractor hereby acknowledges and agrees that in the event of any actual or threatened breach of this Agreement (including, by way of example and not limitation, any disclosure of Confidential Information), HFC may suffer irreparable harm and injury and that no remedy at law will afford HFC adequate protection against, or appropriate compensation for, such injury. Accordingly, Contractor agrees that, in addition to all other rights and remedies available at law or in equity (all of which are expressly reserved by HFC), HFC shall be entitled to injunctive relief and specific performance under this Agreement, as well as the right to recover all costs (including reasonable attorneys' fees) that may be incurred to enforce this Agreement.

5.4 If Contractor is legally compelled, pursuant to a subpoena or other applicable law to disclose any Confidential Information disclosed to it by HFC, then Contractor agrees that it shall provide HFC with reasonably prompt notice of such request or requirement, and will in good faith consult with and consider the suggestions of HFC concerning the nature and scope of such Confidential Information the Contractor proposes to disclose.

ARTICLE 6: DEFAULT AND TERMINATION

6.1 Default. Contractor shall be deemed to be in default under this Agreement due to the occurrence of any of the following events: (a) Contractor fails to perform or observe any material term, condition or requirement under this Agreement; (b) Contractor, or any employee, agent, contractor, or subcontractor of Contractor, violates applicable law in connection with the performance of the Services; (c) Contractor becomes insolvent; (d) All or substantial part of Contractor's assets are assigned for the benefit of its creditors; (e) A receiver or trustee is appointed for Contractor; or (f) Contractor assigns this Agreement without the prior written consent of HFC.

6.2 Remedies. If default by Contractor occurs, then HFC shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, HFC shall have the right, but not the obligation, to cure or cause to be cured on behalf of Contractor any such default, and Contractor shall pay HFC on demand all costs and expenses incurred by HFC in effecting such cure, in addition to all actual damages, losses, costs or expenses incurred by HFC as a result of such default by Contractor.

6.3 Termination for Convenience. HFC reserves the right to terminate this Agreement for convenience at any time by giving 20 calendar days' 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 service 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. **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 HFC'S TERMINATION FOR CONVENIENCE.**

6.4 Termination by Contractor. Contractor may terminate this Agreement only if HFC defaults and fails to cure the default after receiving written notice thereof. Default by HFC occurs if HFC fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor seeks to terminate the Agreement, then Contractor must deliver a written notice to HFC describing the default and proposed termination date. Such date must be at least 90 days after HFC receives notice. If HFC cures the default before the proposed termination date, then the proposed termination date is ineffective. If HFC does not cure the default before the proposed termination date, then Contractor may terminate this Agreement upon 30 days' notice to HFC and may seek any remedy available under applicable law, subject to the provisions and limitations of this Agreement.

6.5 Remedies Cumulative. The rights and remedies of HFC under this Agreement shall be cumulative. HFC shall have and may exercise all other rights and remedies not inconsistent herewith as provided under applicable law, or in equity. No exercise by HFC of one right or remedy shall be deemed an election, and no delay by HFC shall constitute a waiver, election or acquiescence to any default, breach, violation, or on-performance by Contractor.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1 Inspections and Audits. HFC and its designees shall have the right to examine and review Contractor's books, records and billing documents which are directly related to performance or payment under this Agreement. Contractor shall maintain such books, records, and billing documents for two 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.

7.2 Force Majeure. 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 authorities. 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 7 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.

7.3 Successors and Assigns; Survival. HFC and Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement with respect to all covenants of this Agreement. Contractor shall not assign, in law or otherwise, sublet or transfer any interest in this Agreement without the prior written consent of HFC. 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.

7.4 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.

7.5 Governing Law/Venue. 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 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.**

7.6 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.

7.7 Extent of Agreement. This Agreement, with regard to the subject matter hereof, represents the entire and integrated agreement between HFC and Contractor and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may not be altered or amended otherwise except in writing executed on behalf of HFC and Contractor.

[signature block to follow in final agreement]