

REQUEST FOR PROPOSAL

by

The University of Texas System Administration

for

**Selection of a Vendor to Provide
Stocking Services for Conference Rooms and Kitchens**

RFP No. FAC20120326

Submittal Deadline: March 26, 2012

Issued: March 12, 2012

REQUEST FOR PROPOSAL

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SECTION 1

INTRODUCTION

1.1 Description of University of Texas System Administration

The University of Texas System Administration (“System”) is responsible for central management and coordination of the 15 institutions of The University of Texas System. The System is housed in five buildings (“System Complex”) and is based in Austin, Texas.

1.2 Background and Special Circumstances

The System Complex is located in downtown Austin and consists of five buildings, totaling approximately 226,000 gross square feet. The System Complex supports a staff of approximately 470 System personnel. There are staff kitchens and meeting rooms scattered throughout the System Complex. The staff kitchens require continuous stocking support. The meeting rooms require beverage and food services on a “as requested” basis.

1.3 Objective of this Request for Proposal

The University of Texas System Administration (the “**System**”) is soliciting proposals from qualified vendors (“Proposers”) in response to this Request for Proposal for Selection of a Vendor to Provide Stocking Services for Conference Rooms and Kitchens (the “**Services**”), RFP No. FAC20120326 (this “**RFP**”). The Services are more specifically described in **Sections 5.3** (Scope of Work) **and 6** as well as **APPENDIX FIVE** of this RFP.

1.4 Group Purchase Authority

Texas law authorizes institutions of higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP.

SECTION 2

NOTICE TO PROPOSER

2.1 Submittal Deadline

System will accept proposals submitted in response to this RFP until **3:00 p.m.**, Central Prevailing Time on **Monday, March 26, 2012** (the "**Submittal Deadline**").

2.2 System Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following System contact (the "**System Contact**"):

David Kruse
Facilities Manager
The University of Texas System
702 Colorado, Suite 3.200
Austin, Texas 78701
Fax: 512-499-4297

System specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to the System Contact. The System Contact must receive all questions or concerns no later than **March 21, 2012**. System will have a reasonable amount of time to respond to questions or concerns. It is System's intent to respond to all appropriate questions and concerns; however, System reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Proposer, if any, selected by System in accordance with the requirements and specifications set forth in this RFP will be the Proposer that submits a proposal in response to this RFP on or before the Submittal Deadline that is the most advantageous to System. The successful Proposer is referred to herein as the "**Contractor**."

Proposer is encouraged to propose terms and conditions offering the maximum benefit to System in terms of (1) services to System, (2) total overall cost to System, and (3) services management expertise. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to System in a contract for the Services.

An evaluation team from System will evaluate proposals. The evaluation of proposals and the selection of Contractor will be based on the information provided by Proposer in its proposal. System may give consideration to additional information if System deems such information relevant.

The criteria to be considered by System in evaluating proposals and selecting Contractor will be those factors listed below:

- 2.3.1 Threshold Criteria Not Scored
 - 2.3.1.1 Ability of System to comply with laws regarding Historically Underutilized Businesses; and
 - 2.3.1.2 Ability of System to comply with laws regarding purchases from persons with disabilities.
- 2.3.2 Scored Criteria
 - 2.3.2.1 the cost of goods and services;
 - 2.3.2.2 the reputation of the Proposer and of the Proposer's goods or services (including references provided by the Proposer; ref. **Section 3.1.7 of APPENDIX ONE**);
 - 2.3.2.3 the quality of the Proposer's goods or services;
 - 2.3.2.4 the extent to which the goods or services meet the System's needs;
 - 2.3.2.5 the Proposer's past relationship, if any, with System or any other University of Texas institution;
 - 2.3.2.6 the total long-term cost to the System of acquiring the Proposer's goods or services;
 - 2.3.2.7 the type and quality of equipment that Proposer proposes to use to perform the Services;
 - 2.3.2.8 the type and quality of products that Proposer proposes to provide in performing the Services; and
 - 2.3.2.9 the Proposer's exceptions to the terms and conditions set forth in **Section 4** of this RFP (ref. **Section 5.2.2**).

2.4 Key Events Schedule

| | |
|--|--|
| Issuance of RFP | March 12, 2012 |
| Pre-Proposal Conference (ref. Section 2.6 of this RFP) | March 19, 2012 |
| Deadline for Questions/Concerns (ref. Section 2.2 of this RFP) | March 21, 2012 |
| Submittal Deadline (ref. Section 2.1 of this RFP) | 3:00 p.m. Central Prevailing Time on Monday, March 26, 2012 |

2.5 Historically Underutilized Businesses

2.5.1 All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a “**HUB**”) in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. The HUB participation goal for this RFP is **24.6%**. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. Proposals that fail to comply with the requirements contained in this Section 2.5 will constitute a material failure to comply with advertised specifications and will be rejected by System as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual

arrangement resulting from this RFP. Proposer acknowledges that, if selected by System, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by Proposer is subject to review by System to ensure compliance with the HUB program.

- 2.5.2 System has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.13 (a), and has determined that subcontracting opportunities are probable under this RFP.
- 2.5.3 A HUB Subcontracting Plan (“**HSP**”) is required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with System’s Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX THREE** and incorporated for all purposes.

Each Proposer must complete and return the HSP in accordance with the terms and conditions of this RFP, including **APPENDIX THREE**. Proposers that fail to do so will be considered non-responsive to this RFP in accordance with Section 2161.252, Government Code.

Questions regarding the HSP should be directed to:

Stephanie Park
HUB Coordinator
512-499-4378
spark@utsystem.edu

Contractor will not be permitted to change its HSP unless: (1) Contractor completes a newly modified version of the HSP in accordance with the terms of **APPENDIX THREE** that sets forth all changes requested by Contractor, (2) Contractor provides System with such a modified version of the HSP, (3) System approves the modified HSP in writing, and (4) all agreements or contractual arrangements resulting from this RFP are amended in writing by System and Contractor to conform to the modified HSP.

- 2.5.4 Proposer must submit three (3) originals of the HSP to System at the same time it submits its proposal to System (ref. **Section 3.2** of this RFP.) The three (3) originals of the HSP must be submitted under separate cover and in a separate envelope (the “HSP Envelope”). Proposer must ensure that the top outside surface of its HSP Envelope clearly shows and makes visible:

- 2.5.4.1 the RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP), both located in the lower left hand corner of the top surface of the envelope,

- 2.5.4.2 the name and the return address of Proposer, and

- 2.5.4.3 the phrase “HUB Subcontracting Plan”.

Any proposal submitted in response to this RFP that is not accompanied by a separate HSP Envelope meeting the above requirements will be rejected by System and returned to the Proposer unopened as that proposal will be considered non-responsive due to material failure to comply with advertised

specifications. Furthermore, System will open a Proposer's HSP Envelope prior to opening the proposal submitted by the Proposer, in order to ensure that the Proposer has submitted the number of completed and signed originals of the Proposer's HUB Subcontracting Plan ("HSP") that are required by this RFP. A Proposer's failure to submit the number of completed and signed originals of the HSP that are required by this RFP will result in System's rejection of the proposal submitted by that Proposer as non-responsive due to material failure to comply with advertised specifications; such a proposal will be returned to Proposer unopened (ref. **Section 1.5** of **APPENDIX ONE** to this RFP). **Note:** The requirement that Proposer provide three originals of the HSP under this **Section 2.5.4** is separate from and does not affect Proposer's obligation to provide System with the number of copies of its proposal as specified in **Section 3.1** of this RFP.

2.6 Pre-Proposal Conference

System will hold a pre-proposal conference at 1:30 p.m., Central Prevailing Time on March 19, 2012, in Room 6.500 of the Colorado Building (ref. **APPENDIX FOUR UT System Administration Map**). The pre-proposal conference will allow all Proposers an opportunity to ask System's representatives relevant questions and clarify provisions of this RFP.

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Number of Copies

Proposer must submit a total of three (3) complete and identical copies of its *entire* proposal. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of at least one (1) copy of the submitted proposal. The copy of Proposer's proposal bearing an original signature should contain the mark "original" on the front cover of the proposal. Please note that this RFP requires each Proposer to submit certain information in electronic Microsoft Excel format (ref. **Section 6**.)

3.2 Submission

Proposals must be received by System on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and should be delivered to:

Jennifer Murphy, Director of
Accounting & Purchasing Services
The University of Texas System
702 Colorado, Suite 3.200
Austin, Texas 78701

3.3 Proposal Validity Period

Each proposal must state that it will remain valid for System's acceptance for a minimum of one-hundred eighty (180) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Agreement (ref. **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

- 3.4.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);
- 3.4.1.2. Agreement (ref. **APPENDIX TWO**);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.5 Submittal Checklist

Proposer is instructed to complete, sign, and return the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, then System may reject the proposal:

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)
- 3.5.6 Signed and completed originals of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX THREE**).

SECTION 4

GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of System, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any contract or agreement that results from this RFP.

If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will submit a list of the exceptions as part of its proposal in accordance with **Section 5.2.2** of this RFP. Proposer's exceptions will be reviewed by System and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then System may consider Proposer's exceptions when System evaluates Proposer's proposal.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

5.2 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer’s proposal:

5.2.1 Proposers are required to provide references as referenced in Section 3.1.7 of **APPENDIX ONE.**

5.2.2 If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX TWO**), Proposer must submit a list of the exceptions.

5.3 Scope of Work

Contractor will provide the following Services to University:

5.3.1 Stock Locations: Stock the Locations (including kitchens) listed in Section 5.3.3 below with coffee brewers, pot warming plates.

5.3.2 Stock the Locations listed in Section 5.3.3 below with coffee, tea, soda, condiments, creamers, plastic ware, cups, and the other products detailed in **APPENDIX FIVE** below, as requested by the departments served by those kitchens. All items will be delivered to Ashbel Smith Hall’s Second Floor Kitchen. System staff will distribute items to the requesting departments.

5.3.3 Locations

There are a total of (23) coffee service areas included in the Locations list set forth below.

Ashbel Smith Hall (8)

- 2nd floor kitchen
- 3rd floor kitchen
- 4th floor kitchen
- 5th floor kitchen
- 6th floor kitchen
- 7th floor kitchen
- 8th floor kitchen
- 9th floor kitchen

The Colorado Building (7)

- Basement employee break area kitchen
- 2nd floor kitchen
- 3rd floor kitchen
- 4th floor kitchen
- 5th floor kitchen

- Conference room 6.500 kitchen area
- ODOP Suite # 1.122 kitchen area

Claudia Taylor Johnson Hall (3)

- 1st floor break area
- 2nd floor break area
- 3rd floor employee break area kitchen

O'Henry Hall (3)

- 1st floor break area
- 2nd floor break area
- 4th floor kitchen area

The Lavaca Building (2)

- 1st floor break area
- 2nd floor break area

5.3.4 Products List. The Contractor must, at a minimum, supply all of the Products identified in **Appendix Five** as requested by System. If Proposer takes exception to any products set forth in **Appendix Five**, Proposer must submit a list of those exceptions with replacement Products that will be offered. (Note: System may not require Contractor to provide all of the Products to all of the Locations identified above.)

5.3.5 Additional Services related to stocking the Locations or providing Products as may be requested by System in writing from time to time (including for specific meetings or gatherings.)

SECTION 6

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System Administration

Ref.: Selection of a Vendor to Provide Stocking Services for Conference Rooms and Kitchens

RFP No.: _____

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the services required pursuant to the above-referenced Request for Proposal upon the terms and in accordance with the requirements set forth below. Proposer must submit the information required by this Pricing and Delivery Schedule in the form of a completed copy of this Schedule or as otherwise required below.

6.1 Pricing for Services and Equipment Offered

It is System's expectation that the final Contractor selected will only be compensated for its performance of the Services under any Agreement resulting from this RFP through the University's payment for Products and Equipment as set forth in this Section 6.1.

In no event will System be responsible for reimbursing any of the Contractor's expenses incurred in performing the Services under the Agreement.

- 6.1.1 Products. In its proposal, each Proposer must complete the Products & Price List attached as **APPENDIX FIVE** to identify the prices it will charge System for the Products identified in that List. (However, System does not represent, warrant, or guarantee that its actual consumption of Products under any Agreement resulting from this RFP will equal the estimates set forth in the Products & Price spreadsheet.)

The Contractor shall provide its completed Products & Price List sheet above as an Microsoft Excel spreadsheet formatted per the attached **Appendix Five**.

6.1.2 Equipment. Each Proposer must identify in its response to this Pricing and Delivery Schedule all equipment (i.e., coffee brewers, pot warming plates) that Contractor offers to provide, install, and use in order to perform the Services ("Equipment"). If Proposer proposes to charge prices or fees System for any such Equipment, then Proposer's response must identify all such prices or fees. The Proposer must provide all of the above information in an Equipment list as a Microsoft Excel spreadsheet that must set forth the type, model number, year of manufacture and quantity of each Equipment item that the Proposer proposes. Furthermore, Proposer must include in its proposal all current manufacturer literature describing the capabilities of each item of Equipment that it proposes.

6.1.3 Competitive Pricing Structure. In its proposal each Proposer must identify how it will ensure a competitive pricing structure for all Products and Equipment that that it proposes to provide.

6.2 Delivery Schedule of Events and Time Periods

Proposer must identify the time within which it will mobilize and provide, and implement all Products, Equipment and supplies necessary for Proposer to start performance of the Services at the UT System facilities if Proposer is selected by System as a result of this RFP, with a time period starting from the Effective Date of the Agreement resulting from this RFP. Specifically, Proposer must identify how long it requires to ensure that its coffee service machines and other applicable Equipment will be connected to the plumbing at the UT System facilities so that such machines and equipment will be in place and fully operational in support of Proposer's performance of the Services.

Delivery Schedule and number of employees: Proposer shall identify the delivery method and number of employees that it proposes to provide to perform the Services set forth in this RFP.

6.3 System's Payment Terms

University's standard payment terms for services are "Net 30 days."

Contractor understands and agrees that payments under this Agreement may be subject to the withholding requirements of Section 3402(t) of the Internal Revenue code.

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX ONE
PROPOSAL REQUIREMENTS

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SECTION 1

GENERAL INFORMATION

1.1 Purpose

System is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by System.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of Proposer.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.2 Inquiries and Interpretations

System may in its sole discretion respond in writing to written inquiries concerning this RFP and mail its response as an Addendum to all parties recorded by System as having received a copy of this RFP. Only System's responses that are made by formal written Addenda will be binding on System. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by System prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum as specified in this Section. Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4 of APPENDIX ONE**). The Addenda Checklist must be received by System prior to the Submittal Deadline and should accompany Proposer's proposal.

Any interested party that receives this RFP by means other than directly from System is responsible for notifying System that it has received an RFP package, and should provide its name, address, telephone number and FAX number to System, so that if System issues Addenda to this RFP or provides written answers to questions, that information can be provided to such party.

1.3 Public Information

Proposer is hereby notified that System strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

System may seek to protect from disclosure all information submitted in response to this RFP until such time as a final agreement is executed.

Upon execution of a final agreement, System will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act (Government Code, Chapter 552.001, et seq.)*. Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Government Code*.

1.4 Type of Agreement

Contractor, if any, will be required to enter into a contract with System in a form substantially similar to the Agreement between System and Contractor (the "**Agreement**") attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

1.5 Proposal Evaluation Process

System will select Contractor by using the competitive sealed proposal process described in this Section. System will open the HSP Envelope submitted by a Proposer prior to opening the Proposer's proposal in order to ensure that Proposer has submitted the number of completed and signed originals of the Proposer's HUB Subcontracting Plan ("HSP") that are required by this RFP (ref. **Section 2.5.4** of the RFP.) All proposals submitted by the Submittal Deadline accompanied by the number of completed and signed originals of the HSP that are required by this RFP will be opened publicly to identify the name of each Proposer submitting a proposal. Any proposals that are not submitted by the Submittal Date or that are not accompanied by the number of completed and signed originals of the HSP that are required by this RFP will be rejected by System as non-responsive due to material failure to comply with advertised specifications. After the opening of the proposals and upon completion of the initial review and evaluation of the proposals, System may invite one or more selected Proposers to participate in oral presentations. System will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Contractor.

System may make the selection of Contractor on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, System may make the selection of Contractor on the basis of negotiation with any of Proposers. In conducting such negotiations, System will use commercially reasonable efforts to avoid disclosing the contents of competing proposals.

At System's sole option and discretion, System may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, System may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, System will defer further action on proposals not included within the competitive range pending the selection of Contractor; provided, however, System reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of System.

After submission of a proposal but before final selection of Contractor is made, System may permit a Proposer to revise its proposal in order to obtain the Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. System will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. System is not obligated to select Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to System overall, as determined by System.

System reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of System. Proposer is hereby notified that System will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by System.

1.6 Proposer's Acceptance of Evaluation Methodology

By submitting a proposal, Proposer acknowledges (1) Proposer's acceptance of [a] the Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] the Criteria for Selection (ref. **2.3** of this RFP), [c] the Specifications and Additional Questions (ref. **Section 5** of this RFP), [d] the terms and conditions of the Agreement (ref. **APPENDIX TWO**), and [e] all other requirements and specifications set forth in this RFP; and (2) Proposer's recognition that some subjective judgments must be made by System during this RFP process.

1.7 Solicitation for Proposal and Proposal Preparation Costs

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and System has made no representation written or oral that one or more agreements with System will be awarded under this RFP; (2) System issues this RFP predicated on System's anticipated requirements for the Services, and System has made no representation, written or oral, that any particular scope of services will actually be required by System; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

1.8 Proposal Requirements and General Instructions

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of System.
- 1.8.3 System will not provide compensation to Proposer for any expenses incurred by Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer, unless otherwise expressly agreed in writing. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by System, at System's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 System makes no warranty or guarantee that an award will be made as a result of this RFP. System reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Agreement when deemed to be in System's best interest. System reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to System, at System's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.
- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by System, in System's sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

Proposals must include responses to the questions in Specifications and Additional Questions (ref. **Section 5** of this RFP). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.2 Execution of Offer

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of the Proposer duly authorized to bind Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by System, in its sole discretion.

1.9.3 Pricing and Delivery Schedule

Proposer must complete and return the Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery Schedule, Proposer should describe in detail (a) the total fees for the entire scope of the Services; and (b) the method by which the fees are calculated. The fees must be inclusive of all associated costs for delivery, labor, insurance, taxes, overhead, and profit.

System will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Pricing and Delivery Schedule.

In the Pricing and Delivery Schedule, Proposer should describe each significant phase in the process of providing the Services to System, and the time period within which Proposer proposes to be able to complete each such phase.

1.9.4 Proposer's General Questionnaire

Proposals must include responses to the questions in Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.5 Addenda Checklist

Proposer should acknowledge all Addenda to this RFP (if any) by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**) as part of its proposal. Any proposal received without a completed and signed Addenda Checklist may be rejected by System, in its sole discretion.

1.9.6 Submission

Proposer should submit all proposal materials enclosed in a sealed envelope, box, or container. The RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown in the lower left-hand corner on the top surface of the container. In addition, the name and the return address of Proposer should be clearly visible.

Proposer must also submit the number of originals of the HUB Subcontracting Plan ("HSP") as required by this RFP (ref. **Section 2.5** of the RFP.)

Upon Proposer's request and at Proposer's expense, System will return to a Proposer its proposal received after the Submittal Deadline if the proposal is properly identified. System will not under any circumstances consider a proposal that is received after the Submittal Deadline or which is not accompanied by the number of completed and signed originals of the HSP that are required by this RFP.

System will not accept proposals submitted by telephone, proposals submitted by Facsimile ("FAX") transmission, or proposals submitted by electronic transmission (i.e., e-mail) in response to this RFP.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to System. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal

Deadline. No proposal may be withdrawn after the Submittal Deadline without System's consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to System, in System's sole discretion.

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP and (b) do not place any requirements on System that are not set forth in this RFP or in the Appendices to this RFP. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with System as specified herein and that such intent is not contingent upon System's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

1.9.7 Page Size, Binders, and Dividers

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted bound. Preprinted material should be referenced in the proposal and included as labeled attachments.

1.9.8 Table of Contents

Proposals must include a Table of Contents with page number references. The Table of Contents must contain sufficient detail and be organized according to the same format as presented in this RFP, to allow easy reference to the sections of the proposal as well as to any separate attachments (which should be identified in the main Table of Contents). If a Proposer includes supplemental information or non-required attachments with its proposal, this material should be clearly identified in the Table of Contents and organized as a separate section of the proposal.

1.9.9 Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

SECTION 2

EXECUTION OF OFFER

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.

- 2.1 By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between System and Proposer; (3) System has made no representation or warranty, written or oral, that one or more contracts with System will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
 - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
 - 2.1.6 If selected by System, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
 - 2.1.7 If selected by System, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
 - 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that System will rely on such statements, information and representations in selecting Contractor. If selected by System, Proposer will notify System immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY SYSTEM, INDEMNIFY, AND HOLD HARMLESS SYSTEM, THE UNIVERSITY OF TEXAS SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENCE, ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
 - 2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2 By signature hereon, Proposer offers and agrees to furnish the Services to System and comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3 By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and the Proposer may be removed from all proposal lists at System.
- 2.4 By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at System's option, may result in termination of any resulting contract or agreement.
- 2.5 By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor

communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

2.6 By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFP, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.

2.7 By signature hereon, Proposer certifies as follows:

"Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."

2.8 By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to System in writing; (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before System enters into a contract or agreement with Proposer.

2.9 By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

2.10 By signature hereon, Proposer represents and warrants that all products and services offered to System in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.

2.11 Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time System makes an award or enters into any contract or agreement with Proposer.

2.12 **Proposer should complete the following information:**

If Proposer is a Corporation, then State of Incorporation: _____

If Proposer is a Corporation then Proposer's Corporate Charter Number: _____

RFP No.: FAC20120326

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

(Email Address)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Proposals must include responses to the questions contained in this Proposer's General Questionnaire. Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer will explain the reason when responding N/A or N/R.

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

Address of office that would be providing service under the Agreement:

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

NOTE: If Proposer is a subsidiary, System prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by System.

3.1.3 Proposer will provide a financial rating of Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.

3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.

3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under an Agreement with System (if any).

3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by System's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of System? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to Section 231.006, *Family Code*, and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the *Texas Public Information Act*, Chapter 552, *Government Code*, and other applicable law.

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of Proposer's service approach and will describe any unique benefits to System from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.4** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of an Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
 - 3.2.3.1 Identification of tasks to be performed;
 - 3.2.3.2 Time frames to perform the identified tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and
 - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in the RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

- 3.3.1 Proposer will provide summary resumes for its proposed key personnel who will be providing services under the Agreement with System, including their specific experiences with similar service projects, and number of years of employment with Proposer.
- 3.3.2 Proposer will describe any difficulties it anticipates in performing its duties under the Agreement with System and how Proposer plans to manage these difficulties. Proposer will describe the assistance it will require from System.

3.4 Service Support

Proposer will describe its service support philosophy, how it is implemented, and how Proposer measures its success in maintaining this philosophy.

3.5 Quality Assurance

Proposer will describe its quality assurance program, its quality requirements, and how they are measured.

3.6 Miscellaneous

- 3.6.1 Proposer will provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to System. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.2 Proposer will provide details describing any unique or special services or benefits offered or advantages to be gained by System from doing business with Proposer. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.3 Does Proposer have a contingency plan or disaster recovery plan in the event of a disaster? If so, then Proposer will provide a copy of the plan.

SECTION 4
ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System Administration

Ref.: Selection of Vendor to Provide Stocking Services for Conference Rooms and Kitchens

RFP No.: FAC20120326

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX TWO

AGREEMENT BETWEEN UNIVERSITY AND CONTRACTOR

This Agreement between University and Contractor ("**Agreement**") is made and entered into effective as of _____, 20____ (the "**Effective Date**"), by and between **The University of Texas** _____, an agency and institution of higher education established under the laws of the State of Texas ("**University**" or "**System**"), and _____, a _____ ("**Contractor**"), Federal Tax Identification Number _____.

University and Contractor hereby agree as follows:

1. **Scope of Work.**

- 1.1 Contractor will perform the scope of the work ("**Work**") set forth in **Exhibit A**, Scope of Work, attached and incorporated for all purposes, to the satisfaction of University and in accordance with the schedule ("**Schedule**") for the Work set forth in **Exhibit B**, Schedule, attached and incorporated for all purposes. Time is of the essence in connection with this Agreement. University will have no obligation to accept late performance or waive timely performance by Contractor.
- 1.2 Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Work.
- 1.3 Upon execution of this Agreement, all services previously performed by Contractor on behalf of University and included in the description of the Work, will become a part of the Work and will be subject to the terms and conditions of this Agreement.

2. **The Project.**

The Work will be provided in connection with _____ and all other related, necessary and appropriate services (the "**Project**").

3. **Time for Commencement and Completion.**

The term of this Agreement will begin on the Effective Date and expire on _____, 20____. University will have the option to renew this Agreement for _____ (____) additional _____ (____) year terms.

4. **Contractor's Obligations.**

- 4.1 Contractor will perform the Work in compliance with all applicable federal, state and local, laws, regulations, and ordinances. Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone acting for the firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Contractor's response to

University's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

- 4.2 Contractor represents, warrants and agrees that (a) it will use its best efforts to perform the Work in a good and workmanlike manner and in accordance with the highest standards of Contractor's profession or business, and (b) all of the Work to be performed will be of the quality that prevails among similar businesses of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances.
- 4.3 Contractor will call to University's attention in writing all information in any materials supplied to Contractor (by University or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
- 4.4 Contractor warrants and agrees that the Work will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will at no time be in any way diminished by reason of any approval by University nor will Contractor be released from any liability by reason of any approval by University, it being agreed that University at all times is relying upon Contractor's skill and knowledge in performing the Work.
- 4.5 Contractor will, at its own cost, correct all material defects in the Work as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in the Work within a reasonable time, then University may correct the defective Work at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Work that University may have at law or in equity.
- 4.6 Contractor will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement. Contractor will cause all persons connected with Contractor directly in charge of the Work to be duly registered and/or licensed under all applicable federal, state and local, laws, regulations, and ordinances. Contractor will assign to the Project a designated representative who will be responsible for the administration and coordination of the Work.
- 4.7 Contractor represents that if (i) it is a corporation, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor; or (ii) if it is a partnership, limited partnership, limited liability partnership, or limited liability company then it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
- 4.8 Contractor represents and warrants that neither the execution and delivery of this Agreement by Contractor nor the performance of its duties and obligations under this Agreement will (a) result in the violation of any provision [i] if a corporation, of Contractor's articles of incorporation or by-laws, [ii] if a limited liability company, of its articles of organization or regulations, or [iii] if a partnership, of any partnership agreement by which Contractor is bound; (b) result in the violation of any provision of any agreement by which Contractor is

bound; or (c) to the best of Contractor's knowledge and belief, conflict with any order or decree of any court or other body or authority having jurisdiction.

4.9 Contractor represents and warrants that: (i) the Work will be performed solely by Contractor, its full-time or part-time employees during the course of their employment, or independent contractors who have assigned in writing all right, title and interest in their work to Contractor for the benefit of University; (ii) University will receive free, good and clear title to all Work Material developed under this Agreement; (iii) the Work Material and the intellectual property rights protecting the Work Material are free and clear of all encumbrances, including security interests, licenses, liens, charges or other restrictions; (iv) the Work Material will not infringe upon or violate any patent, copyright, trade secret, trademark, service mark or other property right of any former employer, independent contractor, client or other third party; and (v) the use, reproduction, distribution, or modification of the Work Material will not violate the rights of any third parties in the Work Material, including trade secret, publicity, privacy, copyright, trademark, service mark and patent rights.

4.10 Premises Rules

If this Agreement requires Contractor's presence on University's premises or in University's facilities, Contractor agrees to cause its employees, representatives, agents, or subcontractors to become aware of, fully informed about, and in full compliance with all applicable University rules and policies, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.

5. The Contract Amount.

5.1 University will pay Contractor for the performance of the Work as more particularly set forth in Exhibit C, Payment for Services, attached and incorporated for all purposes. Contractor understands and agrees that payments under this Agreement may be subject to the withholding requirements of Section 3402(t) of the Internal Revenue Code.

5.2 The Contract Amount includes all applicable federal, state or local sales or use taxes payable as a result of the execution or performance of this Agreement.

5.3 University, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on the Work in accordance with Section 151.309, *Texas Tax Code*, and Title 34 *Texas Administrative Code* ("**TAC**") Section 3.322.

6. Payment Terms.

6.1 At least ten (10) days before the end of each calendar month during the term of this Agreement, Contractor will submit to University an invoice covering the services performed for University to that date, in compliance with Exhibit C, Payment for Services. Each invoice will be accompanied by documentation that University may reasonably request to support the invoice amount. University will, within twenty-one (21) days from the date it receives an invoice and supporting documentation, approve or disapprove the amount reflected in the invoice. If University approves the amount or any portion of the amount, University will promptly pay (each a "**Progress Payment**") to Contractor the amount approved so long as Contractor is not in default under this Agreement. If University disapproves any invoice amount, University will give Contractor specific reasons for its disapproval in writing.

- 6.2 Within ten (10) days after final completion of the Work and acceptance of the Work by University or as soon thereafter as possible, Contractor will submit a final invoice ("**Final Invoice**") setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Final Invoice by University, University will pay ("**Final Payment**") to Contractor the amount due under the Final Invoice.
- 6.3 Notwithstanding any provision of this Agreement to the contrary, University will not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor if Contractor is in default under this Agreement.
- 6.4 The cumulative amount of all Progress Payments and the Final Payment (defined below) will not exceed the Contract Amount as more particularly set forth in **Exhibit C**, Payment for Services.
- 6.5 No payment made by University will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 6.6 The acceptance of Final Payment by Contractor will constitute a waiver of all claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of the Final Invoice for payment.
- 6.7 University will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor at mutually convenient times; (b) examining any reports with respect to the Project; and (c) other reasonable action.
- 6.8 In no event will System be responsible for reimbursing any of the Contractor's expenses incurred in performing the Services under the Agreement.

7. Ownership and Use of Work Material.

- 7.1 All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with the Work (collectively, "**Work Material**"), whether or not accepted or rejected by University, are the sole property of University and for its exclusive use and re-use at any time without further compensation and without any restrictions.
- 7.2 Contractor grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to the Work Material and will cooperate fully with University in any steps University may take to obtain or enforce patent, copyright, trademark or like protections with respect to the Work Material.
- 7.3 Contractor will deliver all Work Material to University upon expiration or termination of this Agreement. University will have the right to use the Work Material for the completion of the Work or otherwise. University may, at all times, retain the originals of the Work Material. The Work Material will not be used by any person other than University on other projects unless expressly authorized by University in writing.

7.4 The Work Material will not be used or published by Contractor or any other party unless expressly authorized by University in writing. Contractor will treat all Work Material as confidential.

8. Default and Termination.

- 8.1 In the event of a material failure by a party to this Agreement to perform in accordance with the terms of this Agreement (“**default**”), the other party may terminate this Agreement upon fifteen (15) days’ written notice of termination setting forth the nature of the material failure; provided, that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the fifteen-day period.
- 8.2 University may, without cause, terminate this Agreement at any time upon giving seven (7) days’ advance written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for the Work satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement; provided, that, Contractor has delivered all Work Material to University. Notwithstanding any provision in this Agreement to the contrary, University will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.
- 8.3 Termination under **Sections 8.1** or **8.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.
- 8.4 If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, University will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with University’s curative actions.

9. Indemnification

9.1 TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS UNIVERSITY AND THE UNIVERSITY OF TEXAS SYSTEM, AND THEIR RESPECTIVE AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY “INDEMNITEES”) FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS’ FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY “CLAIMS”) BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM CONTRACTOR’S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

9.2 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UNIVERSITY WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UNIVERSITY AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

10. Relationship of the Parties.

For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, Contractor is an independent contractor and is not a state employee, partner, joint venturer, or agent of University. Contractor will not bind nor attempt to bind University to any agreement or contract. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers’ compensation insurance.

11. Insurance.

11.1 Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance in the form, with companies admitted to do business in the State of Texas and having an A.M. Best Rating of A-:VII or better, and in amounts (unless otherwise specified), as University may require:

- 11.1.1 Workers Compensation Insurance with statutory limits, and Employer’s Liability Insurance with limits of not less than \$1,000,000:
 - Employers Liability - Each Accident \$1,000,000
 - Employers Liability - Each Employee \$1,000,000
 - Employers Liability - Policy Limit \$1,000,000

Policies must include (a) Other States Endorsement to include TEXAS if business is domiciled outside the State of Texas, and (b) a waiver of all rights of subrogation and other rights in favor of University;

11.1.2 Commercial General Liability Insurance with limits of not less than:

| | |
|---|-------------|
| Each Occurrence Limit | \$1,000,000 |
| Damage to Rented Premises | \$ 100,000 |
| Medical Expenses (any one person) | \$ 10,000 |
| Personal & Advertising Injury | \$1,000,000 |
| General Aggregate | \$2,000,000 |
| Products - Completed Operations Aggregate | \$2,000,000 |

Policy will include independent contractor's liability, covering, but not limited to, the liability assumed under the indemnification provision of this contract, fully insuring Contractor's (or Subcontractor's) liability for bodily injury (including death) and property damage.

11.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage;

11.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and (i) providing coverage in excess of the coverages of, and (ii) "following form" subject to the same provisions as, the underlying policies required in Section 11.1.1 Employers Liability Insurance, Section 11.1.2 Commercial General Liability Insurance, and Section 11.1.4 Commercial Auto Liability Insurance.

11.2 Contractor will deliver to University:

11.2.1 Evidence satisfactory to University in its sole discretion, evidencing the existence of all insurance after the execution and delivery of this Agreement and prior to the performance or continued performance of any services to be performed by Contractor under this Agreement.

Additional evidence, satisfactory to University in its sole discretion, of the continued existence of all insurance not less than thirty (30) days prior to the expiration of any insurance. Insurance policies, with the exception of Workers' Compensation and Employer's Liability, will be endorsed and name University as an Additional Insured. All policies will be endorsed to provide a waiver of subrogation in favor of University. All policies with the exception of Workers' Compensation and Employer's Liability will be endorsed to provide primary and non-contributory coverage. No policy will be canceled until after thirty (30) days' unconditional written notice to University.

Contractor will be responsible for providing to University immediate notice of its receipt of a notice of cancellation, termination, material change, or non-renewal relating to any insurance policy required herein. This requirement may be satisfied by providing a copy of the notice received by the Contractor to the University within two

business days or by endorsement of the policy to require notice to the University to be provided by the insurer.

11.3 The insurance policies required in this Agreement will be kept in force for the periods specified below:

11.3.1 Commercial General Liability Insurance, Business Automobile Liability Insurance; **Umbrella/Excess Liability Insurance**, will be kept in force until receipt of Final Payment by University to Contractor; and

11.3.2 Workers' Compensation Insurance and Employer's Liability Insurance will be kept in force until the Work has been fully performed and accepted by University in writing.

12. **Miscellaneous.**

12.1 **Assignment and Subcontracting.** Except as specifically provided in **Exhibit E**, Historically Underutilized Business Subcontracting Plan, attached and incorporated for all purposes, Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on University; and (b) be a breach of this Agreement for which Contractor will be subject to all remedial actions provided by Texas law, including Chapter 2161, *Texas Government Code*, and 34 TAC Chapter 20, §§20.101 – 20.108. The benefits and burdens of this Agreement are assignable by University.

12.2 **Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

12.3 **Tax Certification.** If Contractor is a taxable entity as defined by Chapter 171, Texas Tax Code ("**Chapter 171**"), then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

12.4 **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until the debt or delinquency is paid in full.

12.5 **Loss of Funding.** University performance of its duties and obligations under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "**Legislature**") and/or allocation of funds by the Board of Regents of The University of Texas System (the "**Board**"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.

- 12.6 **Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between Contractor and University and will constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by both University and Contractor.
- 12.7 **Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (“**force majeure occurrence**”).
- 12.8 **Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
- 12.9 **Governing Law.** Travis County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement and all of the rights and obligations of the parties to this Agreement and all of the terms and conditions of this Agreement will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- 12.10 **Waivers.** No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.
- 12.11 **Confidentiality and Safeguarding of University Records; Press Releases; Public Information.** Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, records or record systems (collectively, “**University Records**”). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by applicable federal, state and local, laws, regulations, and ordinances, including the Gramm-Leach-Bliley Act (Public Law No: 106-102) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (“**FERPA**”). If University Records are subject to FERPA, (1) University designates Contractor as a University official with a legitimate educational interest in University Records, and (2) Contractor acknowledges that its improper disclosure or redisclosure of personally identifiable information from University Records will result in Contractor’s exclusion from eligibility to contract with University for at least five (5) years. Contractor represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by University in writing; (2) safeguard University Records according to reasonable administrative, physical and technical standards (such as standards established by (i) the National Institute of Standards and Technology and (ii) the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Contractor protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all applicable federal, state and local, laws, regulations, and ordinances, including FERPA and the Gramm-Leach Bliley Act, and the terms of this Agreement; and (4) comply with the

University's rules, policies, and procedures regarding access to and use of University's computer systems. At the request of University, Contractor agrees to provide University with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of University Records.

- 12.11.1 **Notice of Impermissible Use.** If an impermissible use or disclosure of any University Records occurs, Contractor will provide written notice to University within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide University with all information requested by University regarding the impermissible use or disclosure.
- 12.11.2 **Return of University Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all University Records created or received from or on behalf of University will be (1) returned to University, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any University Records, Contractor will provide University with written notice of Contractor's intent to destroy University Records. Within five (5) days after destruction, Contractor will confirm to University in writing the destruction of University Records.
- 12.11.3 **Disclosure.** If Contractor discloses any University Records to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor by this Section.
- 12.11.4 **Press Releases.** Except when defined as part of the Work, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of University in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of University.
- 12.11.5 **Public Information.** University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act*, Chapter 552, *Texas Government Code*.
- 12.11.6 **Termination.** In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if University reasonably determines that Contractor has breached any of the restrictions or obligations set forth in this Section, University may immediately terminate this Agreement without notice or opportunity to cure.
- 12.11.7 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.
- 12.12 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- 12.13 **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments will be available to University or its authorized representative during business hours and will be retained for four (4) years after final Payment or abandonment of the Project, unless University otherwise instructs Contractor in writing.

12.14 **Notices.** Except as otherwise provided by this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below) as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is set forth below) or email (to the extent an email address is set forth below), when received:

If to University: University of Texas System Administration
Facilities Management
702 Colorado Street, Suite 3.200
Austin, Texas 78701
Attention: David Kruse

If to Contractor: _____

Attention: _____

or other person or address as may be given in writing by either party to the other in accordance with this Section.

Notwithstanding any other requirements for notices given by a party under this Agreement, if Contractor intends to deliver written notice to University pursuant to Section 2251.054, *Texas Government Code*, then Contractor will send that notice to University as follows:

Dr. Scott C. Kelley
Executive Vice Chancellor for Business Affairs
University of Texas System Administration
201 West 7th Street
Austin, Texas 78701-2982
Fax: (512) 499-4289
Email: legalnotices@utsystem.edu

with copy to: University of Texas System Administration
Accounting and Purchasing Services
702 Colorado, Suite 3.200
Austin, Texas 78701
Fax: (512) 499-4576
Email: jmurph@utsystem.edu
Attention: Jenny Murphy

or other person or address as may be given in writing by University to Contractor in accordance with this Section.

- 12.15 **Severability.** In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.
- 12.16 **State Auditor's Office.** Contractor understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "**Auditor**"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), *Texas Education Code*. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with subcontractors.
- 12.17 **Limitation of Liability.** EXCEPT FOR UNIVERSITY'S OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES UNIVERSITY WILL HAVE NO LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING ANY DUTY OR OBLIGATION OF UNIVERSITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR, NO PRESENT OR FUTURE AFFILIATED ENTERPRISE, SUBCONTRACTOR, AGENT, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE, ATTORNEY OR REGENT OF UNIVERSITY, OR THE UNIVERSITY OF TEXAS SYSTEM, OR ANYONE CLAIMING UNDER UNIVERSITY HAS OR WILL HAVE ANY PERSONAL LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT.
- 12.18 **Survival of Provisions.** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination, including **Sections 6.7, 9, 12.5, 12.9, 12.10, 12.11, 12.13, 12.16, 12.17, 12.19** and **12.21**.
- 12.19 **Breach of Contract Claims.**
- 12.19.1 To the extent that Chapter 2260, *Texas Government Code*, as it may be amended from time to time ("**Chapter 2260**"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 will be used, as further described herein, by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor:
- 12.19.1.1 Contractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor will submit written notice, as required by subchapter B of Chapter 2260, to University in accordance with the notice provisions in this Agreement. Contractor's notice will specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that University allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with subchapter B of Chapter 2260 is a required prerequisite to

Contractor's filing of a contested case proceeding under subchapter C of Chapter 2260. The chief business officer of University, or another officer of University as may be designated from time to time by University by written notice to Contractor in accordance with the notice provisions in this Agreement, will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve the claims.

12.19.1.2 If the parties are unable to resolve their disputes under **Section 12.19.1.1**, the contested case process provided in subchapter C of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by University.

12.19.1.3 Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107, *Texas Civil Practices and Remedies Code*. The parties hereto specifically agree that (i) neither the execution of this Agreement by University nor any other conduct, action or inaction of any representative of University relating to this Agreement constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit and (ii) University has not waived its right to seek redress in the courts.

12.19.2 The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, thereafter enacted or subsequently amended.

12.19.3 University and Contractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

12.20 **Undocumented Workers.** The *Immigration and Nationality Act* (8 *United States Code* 1324a) ("**Immigration Act**") makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form I-9 Employment Eligibility Verification Form ("**I-9 Form**") as the document to be used for employment eligibility verification (8 *Code of Federal Regulations* 274a). Among other things, Contractor is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, University may terminate this Agreement in accordance with **Section 8**. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

- 12.21 **Limitations.** THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE A PART OF THIS AGREEMENT, INCLUDING THOSE TERMS AND CONDITIONS RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "**LIMITATIONS**"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.
- 12.22 **Ethics Matters; No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy available at <http://www.utsystem.edu/policy/policies/int160.html>, University's Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/SOCcombined.pdf>, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.
- 12.23 **Enforcement.** Contractor agrees and acknowledges that University is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing the Work. Contractor's services provide a peculiar value to University. University cannot be reasonably or adequately compensated in damages for the loss of Contractor's services. Accordingly, Contractor acknowledges and agrees that a breach by Contractor of the provisions of this Agreement will cause University irreparable injury and damage. Contractor, therefore, expressly agrees that University will be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.
- 12.24 **Historically Underutilized Business Subcontracting Plan.** Contractor agrees to use good faith efforts to subcontract the Work in accordance with the Historically Underutilized Business Subcontracting Plan ("**HSP**") (ref. **Exhibit E**). Contractor agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to University in the format required by Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, "**TPSS**"). Submission of compliance reports will be required as a condition for payment under this Agreement. If University determines that Contractor has failed to subcontract as set out in the HSP, University will notify Contractor of any deficiencies and give Contractor an opportunity to submit documentation and explain why the failure to comply with the HSP should not be attributed to a lack of good faith effort by Contractor. If University determines that Contractor failed to implement the HSP in good faith, University, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC Sections 20.101 through 20.108. University may also revoke this Agreement for breach and make a claim against Contractor.

12.24.1 **Changes to the HSP.** If at any time during the term of this Agreement, Contractor desires to change the HSP, before the proposed changes become effective (a) Contractor must comply with 34 TAC Section 20.14; (b) the changes must be reviewed and approved by University; and (c) if University approves changes to the HSP, this Agreement must be amended in accordance with **Section 12.6** to replace the HSP with the revised subcontracting plan.

12.24.2 **Expansion of the Work.** If University expands the scope of the Work through a change order or any other amendment, University will determine if the additional Work contains probable subcontracting opportunities *not* identified in the initial solicitation for the Work. If University determines additional probable subcontracting opportunities exist, Contractor will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of 34 TAC Section 20.14 before (a) this Agreement may be amended to include the additional Work; or (b) Contractor may perform the additional Work. If Contractor subcontracts any of the additional subcontracting opportunities identified by University without prior authorization and without complying with 34 TAC Section 20.14, Contractor will be deemed to be in breach of this Agreement under **Section 8** and will be subject to any remedial actions provided by Texas law including Chapter 2161, *Texas Government Code* and 34 TAC Section 20.14. University may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Sections 20.101 through 20.108.

12.25 **Responsibility for Individuals Performing Work; Criminal Background Checks.** Each individual who is assigned to perform the Work under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing the Work under this Agreement. Prior to commencing the Work, Contractor will (1) provide University with a list ("**List**") of all individuals who may be assigned to perform the Work on University's premises and (2) have an appropriate criminal background screening performed on all the individuals on the List. Contractor will determine on a case-by-case basis whether each individual assigned to perform the Work is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on University's premises who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform the Work on University's premises.

Prior to commencing performance of the Work under this Agreement, Contractor will provide University a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will provide University an updated certification letter each time there is a change in the individuals on the List.

University and Contractor have executed and delivered this Agreement to be effective as of the Effective Date.

UNIVERSITY:

CONTRACTOR:

THE UNIVERSITY OF TEXAS

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Attest: _____
Corporate Secretary

Attach:

EXHIBIT A – Scope of Work

EXHIBIT B – Schedule

EXHIBIT C – Payment for Services

EXHIBIT D – HUB Subcontracting Plan

EXHIBIT A

SCOPE OF WORK

To be finalized by Contractor and System, but must address all Scope of Work requirements set forth in Section 5.3 in the main body of the RFP.

EXHIBIT B

SCHEDULE

To be finalized by Contractor and System.

EXHIBIT C

PAYMENT FOR SERVICES

SERVICE FEES:

Fees to be finalized by Contractor and System.

Notwithstanding the foregoing, the cumulative amount of Service Fees remitted by University to Contractor will not exceed \$ _____ (“**Contract Amount**”) without the prior written approval of University.

If University submits, in advance, a written request for additional services not contemplated or reasonably inferred by this Agreement, Contractor will be paid for actual hours incurred by Contractor’s personnel directly and solely in support of the additional services at the Service Fees set forth above.

In no event will System be responsible for reimbursing any of the Contractor’s expenses incurred in performing the Services under the Agreement.

EXHIBIT D

HUB SUBCONTRACTING PLAN

THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION
November 2011

APPENDIX THREE

POLICY ON UTILIZATION HISTORICALLY UNDERUTILIZED BUSINESSES

Vendor/Commodities



**The University of Texas System
Office of HUB Development
Policy on Utilization of Historically Underutilized Businesses (HUBs)**

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**The University of Texas System
Office of HUB Development**

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| POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs) |
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Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Section 20.13 of the Texas Administrative Code (TAC), The Board of Regents of the University of Texas System, acting through the Office of HUB Development shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the “Texas Comptroller”), set forth in 34 TAC Sections 20.10-20.28, encourage the use of HUBs by implementing these policies through race-, ethnic- and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with the following goals as specified in the State of Texas Disparity Study:

- **11.2% for heavy construction other than building contracts;**
- **21.1% for all building construction, including general contractors and operative builders contracts;**
- **32.7% for all special trade construction contracts;**
- **23.6% for professional services contracts**
- **24.6% for all other services contracts, and**
- **21% for commodities contracts.**

The University of Texas System shall make a good faith effort to meet or exceed these goals to assist HUBs in receiving a portion of the total contract value of all contracts that U. T. System expects to award in a fiscal year. The University of Texas System may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F.

SUMMARY OF REQUIREMENTS
Historically Underutilized Business (HUBs) Subcontracting Plan

It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUBs) in all contracts. Accordingly, The University of Texas System has adopted “**EXHIBIT H, Policy on Utilization of Historically Underutilized Businesses**”. The Policy applies to all contracts with an expected value of \$100,000 or more. The Board of Regents of The University of Texas System is the contracting authority.

1. In all contracts for professional services, contracting services, and/or commodities with an expected value of \$100,000 or more, The University of Texas System (“U. T. System” or the “University”) will indicate in the purchase solicitation (e.g. RFQ, RFP, or CSP) whether or not U. T. System has determined that subcontracting opportunities are probable in connection with the contract. A HUB Subcontracting Plan is a required element of the architect, contractor or vendor Response to the purchase solicitation. The HUB Subcontracting Plan shall be developed and administered in accordance with the Policy. **Failure to submit a required HUB Subcontracting Plan will result in rejection of the Response.**
2. If subcontracting opportunities are probable, U. T. System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents, and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
 - a. When subcontracting opportunities are probable, and the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors **[[34 TAC §20.14 (d) (1)(A)(B)(C)(D) (i)(ii)(iii)(2)(3)(A)(B)(C)(D)(E)(F)(4)(A)(B)].**
 - b. When subcontracting opportunities are probable, but the Respondent can perform such opportunities with its employees and resources, the Respondent’s HUB Subcontracting Plan shall include **the Self Performance HUB Subcontracting Plan, Section 3 – Self Performance Justification as the HUB Subcontracting Plan (HSP). [34 TAC §20.14 (d)(5)(A)(B)(C)(D)].**
3. If subcontracting opportunities are not probable, U. T. System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
 - a. When subcontracting opportunities are not probable, and the Respondent proposes to perform all of the work with its employees and resources, the Respondent shall submit a HUB Subcontracting Plan that includes **the Self Performance HUB Subcontracting Plan, Section 3 – Self Performance Justification as the HUB Subcontracting Plan (HSP).**
 - b. When subcontracting opportunities are not probable, but the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors.
4. Respondents shall follow, but are not limited to, procedures listed in the Policy when developing a HUB Subcontracting Plan.
5. In making a determination whether a good faith effort has been made in the development of the required HUB Subcontracting Plan, U. T. System shall follow the procedures listed in the Policy. If accepted by the University, the HUB Subcontracting Plan shall become a provision of the Respondent's contract with the University of Texas System. **Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort.** Any revisions after the submission of the HUB Subcontracting Plan shall be approved by the HUB Coordinator.
6. The University of Texas System shall reject any Response that does not include a fully completed HUB Subcontracting Plan, as required. **An incomplete HUB Subcontracting Plan is considered a material failure to comply with the solicitation for proposals.**

7. Changes to the HUB Subcontracting Plan. Once a Respondent's HUB Subcontracting Plan is accepted by U. T. System and becomes a provision of the contract between Respondent and U. T. System, the Respondent can only change that HUB Subcontracting Plan if (a) the Respondent complies with 34 TAC Section 20.14; (b) the Respondent provides its proposed changes to U. T. System for review; (c) U. T. System (including U. T. System's HUB Coordinator) approves Respondent's proposed changes to its HUB Subcontracting Plan; and (d) U. T. System and the Respondent amend their contract (via a writing signed by authorized officials of both parties) in order to replace the contract's existing HUB Subcontracting Plan with a revised HUB Subcontracting Plan containing the changes approved by U. T. System.
8. Expansion of Work. If, after entering into a contract with a Respondent as a result of a purchase solicitation subject to the Policy, U. T. System wishes to expand the scope of work that the Respondent will perform under that contract through a change order or any other contract amendment (the "Additional Work"), U. T. System will determine if the Additional Work contains probable subcontracting opportunities not identified in the initial purchase solicitation for that contract. If U. T. System determines that probable subcontracting opportunities exist for the Additional Work, then the Respondent must submit to U. T. System an amended HUB Subcontracting Plan covering those opportunities that complies with the provisions of 34 TAC Section 20.14. Such an amended HUB Subcontracting Plan must be approved by U. T. System (including U. T. System's HUB Coordinator) before (a) the contract may be amended by U. T. System and the Respondent to include the Additional Work and the amended HUB Subcontracting Plan and (b) the Respondent performs the Additional Work. If a Respondent subcontracts any of the additional subcontracting opportunities identified by U. T. System for any Additional Work (i) without complying with 34 TAC Section 20.14 or (ii) before U. T. System and that Respondent amend their contract to include a revised HUB Subcontracting Plan that authorizes such subcontracting, then the Respondent will be deemed to be in breach of its contract with U. T. System. As a result of such breach, U. T. System will be entitled to terminate its contract with the Respondent, and the Respondent will be subject to any remedial actions provided by Texas law, including those set forth in Chapter 2161, Texas Government Code, and 34 TAC Section 20.14. University may report a Respondent's nonperformance under a contract between that Respondent and U. T. System to the Texas Comptroller in accordance with 34 TAC Sections 20.101 through 20.108.
9. A Response may state that the Respondent intends to perform all the subcontracting opportunities with its own employees and resources in accordance with the Policy. However, if such a Respondent enters into a contract with U. T. System as a result of such a Response but later desires to subcontract any part of the work set forth in that contract, before the Respondent subcontracts such work it must first change its HUB Subcontracting Plan in accordance with the provisions of Section 7 above .
10. The University shall require a vendor to whom a contract has been awarded to report the identity and the amount paid to its subcontractors on a monthly basis using a **HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (PAR)** as a condition for payment.
11. If the University determines that the successful Respondent failed to implement an approved HUB Subcontracting Plan in good faith, the University, in addition to any other remedies, may report nonperformance to the Texas Comptroller in accordance with 34 TAC, Section 20.14, (g)(1) related remedies of nonperformance to professional services firms, contractor, and vender implementation of the HUB Subcontracting Plan.
12. In the event of any conflict between this "Summary of Requirements" and the remainder of the HUB Policy, the remainder of the HUB Policy will control.
13. These requirements, including the attachments referred to above, may be downloaded over the Internet from <http://www.utsystem.edu/hub/hubforms.html>. For additional information contact Office of HUB Development, The University of Texas System Administration, 512/499-4530.

**Vendor/Commodities HSP
Summary of Attachments required from Respondents**

| | Letter of Transmittal Page 7 | HUB Subcontracting Plan (HSP) Pages 9-15 | Progress Assessment Report (PAR) Page 17 |
|---|---|---|---|
| 1. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE PROBABLE. | | | |
| 1. A. Respondent Proposes Subcontractors: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> . | X | X | |
| 1. B. Respondent Proposes Self-Performance: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> , but the Respondent can perform such opportunities with its employees and resources. | X | X | |
| 2. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE NOT PROBABLE. | | | |
| 2. A. Respondent Proposes Self-Performance: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> , but the Respondent can perform such opportunities with its employees and resources. | X | X | |
| 2. B. Respondent Proposes Subcontractors: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> but the Respondent proposes to subcontract any part of the work. | X | X | |
| 3. Changes in the HUB Subcontracting Plan After Award: Attachments required from the Respondent to whom a contract has been awarded if it desires to make changes to the approved HUB Subcontracting Plan. | | X | |
| 4. Reporting: The Progress Assessment Report (PAR) is required with all payment requests. The submittal of this attachment is a condition of payment. | | | X |

(RESPONDENT'S BUSINESS LETTERHEAD)

Date

Mr. Hopeton Hay
Manager, HUB Development Program
The University of Texas System
702 Colorado, Suite 6.60
Austin, Texas 78701

Re: Historically Underutilized Business Plan for _____ (related services)
RFP No. _____

Dear Mr. Hay,

In accordance with the requirements outlined in the specification section "HUB Participation Program," I am pleased to forward this HUB Subcontracting Plan as an integral part of our response in connection with your invitation for Request for Proposals referencing the above project.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.13 is *[SELECT ONE OF THE FOLLOWING TO COMPLETE THIS SENTENCE:*

_____ 11.2% for heavy construction other than building contracts

_____ 21.1% for all building construction, including general contractors and operative builders contracts

_____ 32.7% for all special trade construction contracts

_____ 23.6% for professional services contracts

XX _____ 24.6% for all other services contracts

_____ 21% for commodities contracts.

This HUB Subcontracting Plan includes _____ Subcontracting Opportunities (no. of subcontractors) This represents a cumulative percentage of _____%, representing _____% for minority-owned HUBs and _____% for women-owned HUBs. When a HUB is owned by minority women, I have classified that HUB as minority-owned rather than women-owned firm.

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller certification document, or, if the HUB is certified by another Texas Comptroller approved certifying agency, a copy of their approved certification document.

Should we discover additional subcontractors claiming Historically Underutilized Business status during the course of this contract we will notify you of the same. In addition, if for some reason a HUB is unable to fulfill its contract with us, we will notify you immediately in order to take the appropriate steps to amend this contractual obligation.

Sincerely,

(Project Executive)

cc: Contract Administrator

(BUSINESS LETTERHEAD)

Date

Mr. Hopeton Hay
Manager HUB Development Program
The University of Texas System
702 Colorado, Ste. 6.60
Austin, TX 78701

Re: Historically Underutilized Business Plan for (Project Title)
Project Number ____ - ____

Dear Mr. Hay:

In accordance with the requirements outlined in the specification section "HUB Participation Program," I am pleased to forward this HUB Subcontracting Plan as an integral part of our proposal in connection with your invitation for request for proposals, referencing Project Number _____.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs).

Good Faith Effort will be documented by a two part HUB Subcontracting Plan (HSP) process. Part one (1) of the HSP submission will reflect self-performance with the appropriate sections completed per the instructions in Option One of the HSP Quick Checklist located on page 10 of The University of Texas Exhibit H Policy on Utilization of Historically Underutilized Businesses (HUBs).

As the scope of work/project is defined under this ID/IQ contract, part two (2) of the process will require a revised HUB Subcontracting Plan (HSP) and the Good Faith Effort will be documented per instructions in Attachment B (page 16-17) and Option Four of the HSP Quick Check List. The revised HUB Subcontracting Plan will be submitted to the HUB Coordinator prior to execution of each contract process. Documentation of subcontracted work will be provided with each pay request.

Sincerely,

Contractor's Name

cc: Project Manager

HSP Quick Check List for Other Services, Special Trades & Commodities

- Option Four is the **only** acceptable method for responses that contain subcontracting opportunities (with HUB or Non HUB vendors). **No other Good Faith Effort method will be accepted.**
- Responses for Miscellaneous Service Agreements for indefinite duration/indefinite quantity - Two Part Process:
 1. Submit a Letter of Commitment (page 8) and complete Option One.
 2. Submit revised HSP documenting Good Faith Effort in Option Four prior to execution of each contract process.

Option One - Misc. Service Agreements (ID/IQ contracts)

- ❖ If you are not subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete the following sections:
 - a) Section 1 – Respondent and Requisition Information
 - b) Section 2A – No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - c) Section 3 – Self Performing Justification – Check no and provide explanation in box.
 - d) Section 4 – Affirmation

Option Two – not applicable

- ❖ If all of your subcontracting opportunities will be performed using only HUB vendors, complete the following sections:
 - a) Section 1 - Respondent and Requisition Information
 - b) Section 2A – Yes, I will be subcontracting portions of the contract
 - c) Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors
 - d) Section 2C – Yes
 - e) Section 4 – Affirmation
 - f) Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity

Option Three - not applicable

- ❖ If you are subcontracting with HUB vendors and Non-HUB vendors, and the total percentage of subcontracting with HUB vendors meets or exceeds the HUB Goal the contracting agency identified in “Agency Special Instructions/Additional Requirements”, complete the following:
 - a) Section 1 - Respondent and Requisition Information
 - b) Section 2A – Yes, I will be subcontracting portions of the contract
 - c) Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
 - d) Section 2(C) – No
 - e) Section 2(D) – Yes
 - f) Section 4 – Affirmation
 - g) Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity

Option Four -

- If you are subcontracting with HUB vendors and Non-HUB vendors (or only Non HUB vendors), complete the following:
 - a) Section 1 - Respondent and Requisition Information
 - b) Section 2A – Yes, I will be subcontracting portions of the contract
 - c) Section 2B – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
 - d) Section 2C – No
 - e) Section 2D – No
 - f) Section 4 – Affirmation
 - g) Good Faith Effort (Attachment B) – Complete this attachment for each subcontracting opportunity



HUB SUBCONTRACTING PLAN (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders contracts,
- 32.7 percent for all special trade construction contracts,
- 23.6 percent for professional services contracts,
- 24.6 percent for all other services contracts, and
- 21 percent for commodities contracts.

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

Other Services HUB Goal – 24.6%

Commodities HUB Goal – 21%

Special Trades HUB Goal – 32.7%

- Responses for other services, commodities and special trades construction that contain subcontracting opportunities shall submit a HUB Subcontracting Plan (HSP) that meets the Good Faith Effort prescribed in Method B (Attachment B). See instructions for Option Four (4) on the HSP Quick Check List. **No other Good Faith Effort method will be accepted.**
- Responses for Miscellaneous Service Agreements for indefinite duration/indefinite quantity – Two (2) part process:
 1. Submit a Letter of HUB Commitment (page 8) and a Good Faith Effort described in Option One.
 2. Submit a revised HSP prior to execution of each contract process.**No other Good Faith Effort method will be accepted.**
- Respondents shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered NON- responsive.
- Respondents who intend to Self-Perform all of their work shall submit an HSP for Self Performance HUB Subcontracting Plan (HSP).
- Prime Contractor Progress Assessment Report (PAR) shall be submitted with each request for payment as a condition of payment.
- Please note that phone logs are no longer acceptable documentation of good faith effort. Only fax, e-mail and written correspondence are acceptable.

SECTION 1 RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: _____ Bid Open Date: ____ / ____ / ____
mm/dd/yyyy

Enter your company's name here: _____

Requisition #: _____

SECTION 2 SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b, of this SECTION and continue to Item c of this SECTION.)

- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If **No**, continue to SECTION 3.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

| Item # | Subcontracting Opportunity Description | HUBs | | Non-HUBs |
|---|--|---|---|---|
| | | Percentage of the contract expected to be subcontracted to HUBs with which you have had contracts in place for <u>five (5) years or less.</u> | Percentage of the contract expected to be subcontracted to HUBs with which you have had contracts in place for <u>more than five (5) years.</u> | Percentage of the contract expected to be subcontracted to non-HUBs . |
| 1 | | % | % | % |
| 2 | | % | % | % |
| 3 | | % | % | % |
| 4 | | % | % | % |
| 5 | | % | % | % |
| 6 | | % | % | % |
| 7 | | % | % | % |
| 8 | | % | % | % |
| 9 | | % | % | % |
| 10 | | % | % | % |
| 11 | | % | % | % |
| 12 | | % | % | % |
| 13 | | % | % | % |
| 14 | | % | % | % |
| 15 | | % | % | % |
| Aggregate percentages of the contract expected to be subcontracted: | | % | % | % |

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

- **No** (If **No**, continue to Item d, of this SECTION.)

Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you have had contracts in place with for five (5) years or less meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

- **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

SECTION 3 SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains an explanation demonstrating how your company will fulfill the entire contract with its own resources.

- Yes (If *Yes*, in the space provided below **list the specific page(s)/section(s)** of your proposal which explains how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)
- No (If *No*, in the space provided below **explain how** your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

Provide explanation:

SECTION 4 AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

 Signature Printed Name Title Date

- REMINDER:**
- If you responded "*Yes*" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
 - If you responded "*No*" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

(Rev. 10/11)

| | |
|---------------------------------------|----------------------|
| Enter your company's name here: _____ | Requisition #: _____ |
|---------------------------------------|----------------------|

IMPORTANT: If you responded "*No*" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-B.doc>

SECTION B-1 SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing this attachment.

Item #: _____ Description: _____

SECTION B-2 MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If *Yes*, to continue to SECTION B-4.)
- No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3.)

SECTION B-3 NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and minority or women trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person.

When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and minority or women trade organizations or development centers.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://www.window.state.tx.us/procurement/cmbll/cmbllhub.html>. HUB Status code "**A**" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

| Company Name | VID # | Date Notice Sent (mm/dd/yyyy) | Did the HUB Respond? |
|--------------|-------|----------------------------------|----------------------|
| | | / / | - Yes - No |
| | | / / | - Yes - No |
| | | / / | - Yes - No |

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to minority or women trade organizations or development centers to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to minority or women trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency.

A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>

- d. Enter the name of the minority or women trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

| Minority/Women Trade Organizations or Development Centers | Date Notice Sent (mm/dd/yyyy) | Was the Notice Accepted? |
|---|----------------------------------|--------------------------|
| | / / | - Yes - No |
| | / / | - Yes - No |

HSP Good Faith Effort - Method B (Attachment B) *Cont.*

| | |
|---------------------------------------|----------------------|
| Enter your company's name here: _____ | Requisition #: _____ |
|---------------------------------------|----------------------|

SECTION B-4 SUBCONTRACTOR SELECTION

a. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas Certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

| Company Name | Texas Certified HUB | VID # <small>(Required if Texas Certified HUB)</small> | Approximate Dollar Amount | Expected Percentage of Contract |
|--------------|---------------------|---|---------------------------|---------------------------------|
| | - Yes - No | | \$ | % |
| | - Yes - No | | \$ | % |
| | - Yes - No | | \$ | % |
| | - Yes - No | | \$ | % |
| | - Yes - No | | \$ | % |
| | - Yes - No | | \$ | % |
| | - Yes - No | | \$ | % |

b. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded

HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, the respondent must provide notice of each of its subcontracting opportunities to minority/women trade organizations or development centers at least seven (7) working days prior to submitting its bid response to the contracting agency.

We respectfully request that vendors interested in bidding on the subcontracting opportunity identified in **Section C** reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

| | | |
|-------------------|---------------------------------------|-----------------------------|
| Section A | PRIME CONTRACTOR'S INFORMATION | |
| Company Name: | _____ | State of Texas VID #: _____ |
| Point-of-Contact: | _____ | Phone #: _____ |
| E-mail Address: | _____ | Fax #: _____ |

| | | |
|-------------------|---|----------------------|
| Section B | CONTRACTING STATE AGENCY AND REQUISITION INFORMATION | |
| Agency Name: | _____ | |
| Point-of-Contact: | _____ | Phone #: _____ |
| Requisition #: | _____ | Bid Open Date: _____ |

| | | |
|---|--|--|
| Section C | SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION | |
| 1. Potential Subcontractor's Bid Response Due Date: | <p>Our firm must receive your bid response to this subcontracting opportunity no later than 5:00 P.M., Central Daylight Standard Time on: _____</p> <p style="text-align: right;">(Date)</p> <p>(Note: In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to <u>at least three (3)</u> Texas certified HUBs, and allow the HUBs <u>at least seven (7) working days</u> to respond to the notice prior to <u>submitting our bid response</u> to the contracting agency. In addition, we must provide the same notice to minority/women trade organizations or development centers <u>at least seven (7) working days</u> prior to submitting our bid response to the contracting agency.)</p> | |
| 2. Scope of Work: | _____ | |
| 3. Required Qualifications: - Not Applicable | _____ | |
| 4. Bonding/Insurance Requirements: - Not Applicable | _____ | |
| 5. Location to review plans/specifications: - Not Applicable | _____ | |

Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|---|--|-----------|-------|--------------|--------------|--|
| <i>The following organizations have agreed to accept subcontracting opportunities per agreement with the Texas Statewide HUB Program. Please contact the following organizations and at least one organization from the region where the project is located.</i> | | | | | | |
| American Indian Chamber of Commerce of Texas | 11245 Indian Trail, 2 nd Floor | Dallas | 75229 | 972-241-6450 | 972-241-6454 | tmarshall@aicct.com |
| Dallas Fort Worth Minority Supplier Development Council | 2710 North Stemmons Freeway, North Tower, Ste. 900 | Dallas | 75207 | 214-630-0747 | 214-637-2241 | admin@dfwmsdc.com |
| Houston Minority Supplier Development Council | Three Riverway, Ste. 555 | Houston | 77056 | 713-271-7805 | 713-271-9770 | info@hmhc.org |
| Southwest Minority Supplier Development Center | 912 Bastrop Hwy., Ste. 101 | Austin | 78741 | 512-386-8766 | 512-386-8988 | smsdc@smsdc.org |
| Texas Association of Historically Underutilized Businesses | PO Box 684726 | Austin | 78768 | 512-220-4293 | 915-585-7751 | rmata@tgsaustin.com |
| Tri-County Black Chamber of Commerce | PO Box 88376 | Houston | 77288 | 832-875-3977 | 713-839-7329 | leondria@tricountyblackchamber.org |
| Women Contractors Association | PO Box 6757 | Houston | 77265 | 713-807-9977 | 713-807-9917 | director@womencontractors.org |
| Women's Business Council Southwest | 2201 N. Collins, Ste. 158 | Arlington | 76011 | 817-299-0566 | 817-299-0949 | ementhe@wbcsouthwest.org |
| Women's Business Enterprise Alliance | 9800 Northwest Freeway, Ste. 120 | Houston | 77092 | 713-681-9232 | 713-681-9242 | bids@wbea-texas.org |
| <i>Austin Area Minority Organizations</i> | | | | | | |
| Austin Asian American Chamber of Commerce | 10901 N. Lamar Blvd. Ste. B206 | Austin | 78753 | 512-407-8240 | 512-407-8233 | aaacc@austinacc.org |
| Austin Black Contractors | 6448 Hwy. 290 E. Ste. E-107 | Austin | 78723 | 512-467-6894 | 512-467-9808 | brc-pro@swcbell.net |

Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|---|------------------------------|---------|-------|--------------|--------------|--|
| Capitol City African American Chamber of Commerce | 5407 N. IH 35, Ste. 304 | Austin | 78723 | 512-459-1181 | 512-459-1183 | admin@capcitychamber.org |
| National Association of Women in Construction | | Austin | | 512-608-8388 | | membership@nawicaustin.org |
| Southwest Minority Supplier Development Council | 912 Bastrop Hwy., Ste. 101 | Austin | 78741 | 512-386-8766 | 512-386-8988 | Karen@smsdc.org |
| US Hispanic Contractors de Austin | 319 Congress Ave., Ste. 250 | Austin | 78723 | 512-922-0507 | 512-374-1421 | info@ushcs-austin.com |
| Women's Chamber of Commerce of Texas | PO Box 26051 | Austin | 78755 | 512-338-0839 | | Austin@womenschambertexas.com |
| West Texas Minority Organizations | | | | | | |
| El Paso Hispanic Chamber of Commerce | 2401 E. Missouri | El Paso | 79903 | 915-566-4066 | 915-566-9714 | Ephcc02@whc.net |
| Lubbock Hispanic Chamber of commerce | PO Box 886 | Lubbock | 79401 | 806-762-5059 | 806-763-2124 | lhcc@worldnet.att.net |
| Midland Hispanic Chamber of Commerce | 208 S. Marienfield, Ste. 100 | Midland | 79701 | 432-682-2960 | 432-687-3972 | rls@midlandhcc.com |
| Odessa Black Chamber of Commerce | PO Box 1006 | Odessa | 79760 | 432-332-5812 | | Odel.crawford@sbcglobal.net |
| El Paso Black Chamber of Commerce | 109 N. Oregon, Ste. 212 | El Paso | 79901 | 915-534-0570 | 915-534-0561 | contactus@elpasoblackchamber.com |
| Lubbock African American Chamber of Commerce | 1220 Broadway, Ste. 1308 | Lubbock | 79401 | 806-771-1815 | 806-795-9164 | |
| El Paso Community College Contract Opportunities Center | 1359 Lomaland, Room 521 | El Paso | 79935 | 915-831-7747 | 915-831-7755 | pabloa@epcc.edu |

Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|---|--------------------------------------|----------------|-------|--------------|--------------|--|
| San Antonio & South Texas Minority Organizations | | | | | | |
| Edinburg Hispanic Chamber of Commerce | PO Box 85 | Edinburg | 78540 | 956-383-4974 | 956-383-6942 | chamber@edinburg.com |
| Harlingen Hispanic Chamber of Commerce | 2309 N. Ed Carey Dr. | Harlingen | 78550 | 956-421-2400 | 956-364-1879 | hhcoc@harlingenchamber.com |
| Kleberg County Hispanic Chamber of Commerce | PO Box 5824 | Kingsville | 78364 | 512-516-0552 | 512-592-3315 | |
| Laredo Chamber of Commerce | 2310 San Bernardo | Laredo | 78040 | 956-722-9895 | 956-791-4503 | chamber@laredochamber.com |
| Greater Pleasanton-Atascosa Hispanic Chamber of Commerce | 307 North Main St. | Pleasanton | 78064 | 830-569-5211 | | |
| San Antonio Hispanic Chamber of Commerce | 200 E. Grayson, Ste. 203 | San Antonio | 78215 | 210-225-0462 | 210-225-2485 | www.sahcc.org |
| African American Chamber of Commerce of San Antonio | 1717 N. 1604 East, Ste. 220 | San Antonio | 78232 | 210-490-1624 | 210-490-5294 | blackchamber@aol.com |
| Alamo City Black Chamber of Commerce | 600 Hemisfair Plaza Way Bldg. 406-10 | San Antonio | 78205 | 210-226-9055 | 210-226-0524 | Info@alamocitychamber.org |
| Greater Victoria Chamber of Commerce | 3434 N. Ben Wilson | Victoria | 77901 | 361-573-5277 | 361-573-5911 | www.victoriachamber.org |
| African American Chamber of Commerce of Victoria | PO Box 3594 | Victoria | 77903 | 361-575-2061 | 361-570-3696 | info@aaccv.com |
| Corpus Christi Black Chamber of Commerce | PO Box 60574 | Corpus Christi | 78466 | 361-698-2166 | 361-698-2112 | www.blackchambercc.org |

Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|--|---|---------------|-------|--------------|--------------|--|
| South Texas Minority Business Opportunity Committee | 2412 S. Clossner | Edinburg | 78539 | 956-292-7555 | 956-292-7561 | |
| Texas Center for Border Economic & Enterprise Development (CEED) | 301 Mexico Blvd. Room F6A | Brownsville | 78520 | 956-548-8741 | 956-548-8750 | |
| Rio Grande Valley Associated General Contractors | 6918 W. Expressway 83 | Harlingen | 78552 | 956-423-4091 | 956-423-0174 | www.rgvagc.org |
| Rio Grande Valley Hispanic Chamber of Commerce | 3313 N. McColl Rd. | McAllen | 78501 | 956-928-0060 | 956-928-0073 | lisa@rgvhcc.com |
| Hispanic Contractors Association de San Antonio | Alamo Colleges, 8300 Pat Booker Rd., Ste. 233 – <i>Mailing Address</i> PO Box 33425, San Antonio, TX 78265 | Live Oak | 78233 | 210-444-1100 | 210-444-1101 | admin@hca-sa.org |
| Greater Hispanic Chamber of Commerce of Comal County | 1115 Mahan Circle | New Braunfels | 78183 | | | |
| Seguin-Guadalupe County Hispanic Chamber of Commerce | PO Box 1154 | Seguin | 78155 | 830-372-3151 | 830-372-9499 | hcoc@sbcglobal.net |
| San Marcos Hispanic Chamber of Commerce | 174 S. Guadalupe St., Ste. 101 | San Marcos | 78666 | 512-353-1103 | 512-353-2175 | |
| City of San Antonio Small Business Outreach | 100 W. Houston | San Antonio | 78205 | 210-207-3900 | 210-207-8151 | |
| San Antonio Associated General Contractors | 10806 Gulfdale | San Antonio | 78216 | 210-349-4921 | 210-349-4017 | mcmurry@sanantonioagc.org |

Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|---|--|-------------|-------|--------------|--------------|--|
| Builders Exchange of Texas, Inc. | 4047 Naco Perrin | San Antonio | 78217 | 210-564-6900 | 210-564-6901 | |
| North Texas Minority Organizations | | | | | | |
| American Indian Chamber of Commerce of Texas | 11245 Indian Trail, 2 nd floor | Dallas | 75229 | 972-241-6450 | 972-241-6454 | tmarshall@aicct.com |
| Dallas Fort Worth Minority Supplier Development Council | 2710 North Stemmons Freeway, North Tower, Ste. 900 | Dallas | 75207 | 214-630-0747 | 214-637-2241 | admin@dfwmsdc.com |
| Women's Business Council of the Southwest | 2201 N. Collins, Ste. 158 | Arlington | 76011 | 817-299-0566 | 817-299-0949 | ementhe@wbcsouthwest.org |
| Black Contractors Association | 1409 S. Lamar St., Ste. 251 | Dallas | 75215 | 214-485-0483 | 214-485-0467 | info@blackcontractors.org |
| Greater Dallas Asian American Chamber of Commerce | 11171 Harry Hines Blvd., Ste. 115 | Dallas | 75229 | 972-241-8250 | 972-241-8270 | info@gdaacc.com |
| Dallas Black Chamber of Commerce | 2838 Martin Luther King Jr. Blvd. | Dallas | 75215 | 214-421-5200 | 214-421-5510 | cro@dbcc.org |
| Greater Dallas Hispanic Chamber of Commerce | 4622 Maple, Ste. 207 | Dallas | 75219 | 214-521-6007 | 214-520-1687 | gdhcc@gdhcc.com |
| Fort Worth Hispanic Chamber of Commerce | 1327 N. Main St. | Fort Worth | 76164 | 817-625-5411 | 817-625-1405 | Rosa.navejar@fwhcc.org |
| Fort Worth Metropolitan Black Chamber of Commerce | 1150 S. Freeway, Ste. 211 | Fort Worth | 76104 | 817-871-6538 | 817-332-6438 | info@fwmbcc.org |
| Regional Hispanic Contractors Asso. | 2210 W. Illinois | Dallas | 75224 | 972-786-0909 | 972-786-0910 | john@hcadfw.org |
| | | | | | | |
| Fort Worth Business Assistance Center | 1150 S. Freeway, Ste. 211 | Fort Worth | 76104 | 817-871-6025 | 817-871-6031 | info@fwbac.com |
| Greater Arlington Hispanic Chamber of Commerce | 202 E. Border St., Ste. 146 | Arlington | 76010 | 682-367-1415 | 682-367-1417 | office@arlingtonhispanic.com |

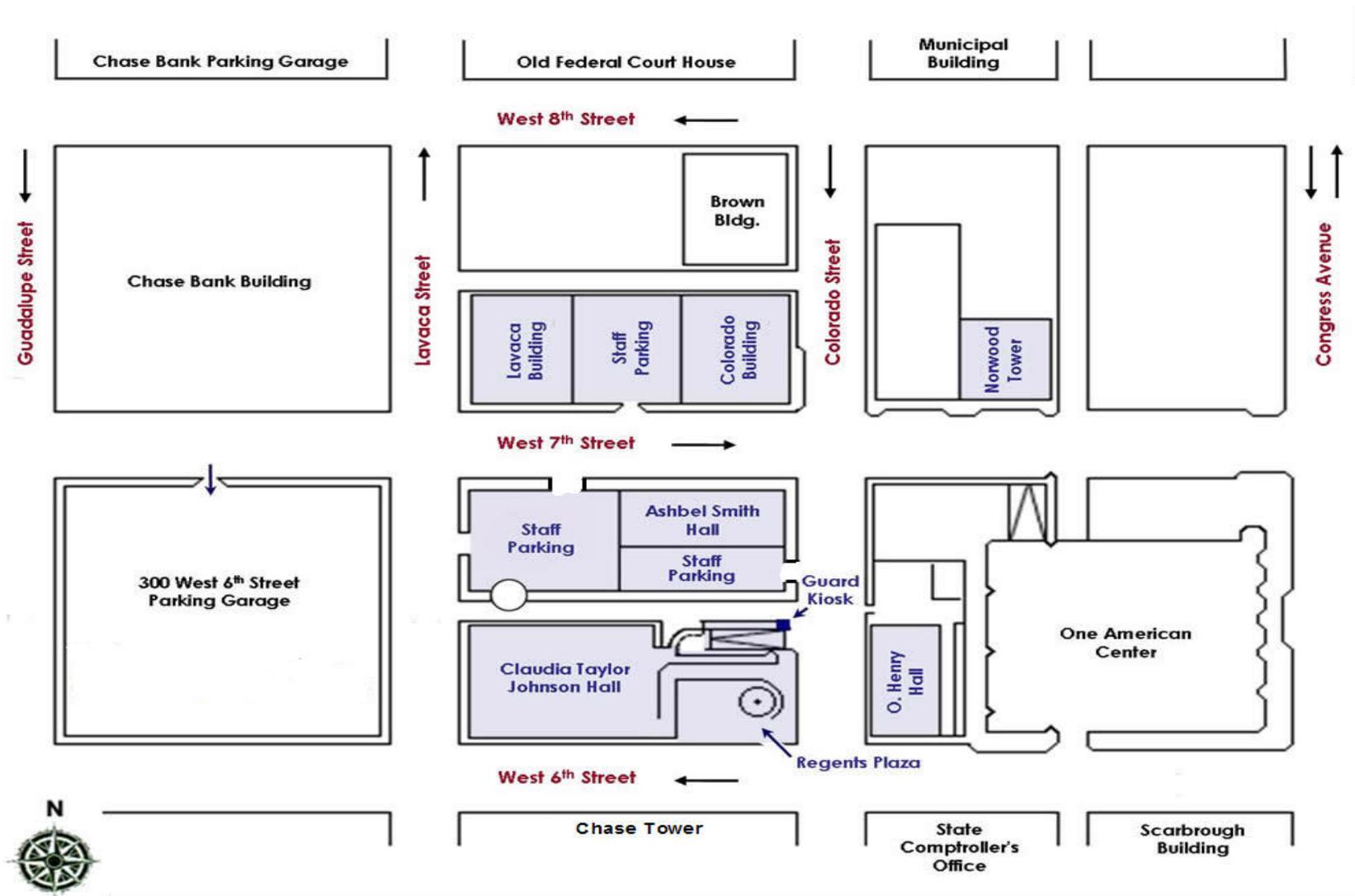
Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|---|-----------------------------|-----------|-------|--------------|--------------|--|
| US Pan Asian American Chamber of Commerce Southwest | 202 E. Border St., Ste. 144 | Arlington | 76010 | 682-367-1394 | | gmcdermott@uspaacc-sw.org |
| Tyler Area Chamber of Commerce | 315 N. Broadway | Tyler | 75702 | 903-592-1661 | 903-593-2746 | tmullins@tylertexas.com |
| Tyler Metropolitan Chamber of Commerce | 2000 W. Gentry Pkwy. | Tyler | 75702 | 903-593-6026 | | info@tylermetrochamber.org |
| African-American Chamber of Commerce of Arlington, Inc. | PO Box 202716 | Arlington | 76006 | 817-688-8225 | 817-472-6368 | Gil.whavers@aaacc.info |
| Houston & Gulf Coast Minority Organizations | | | | | | |
| Houston Minority Supplier Development Council | Three Riverway, Ste. 555 | Houston | 77056 | 713-271-7805 | 713-271-9770 | info@hmbc.org |
| Tri-County Black Chamber of Commerce | 4820 Caroline, Ste. 111 | Houston | 77004 | 832-875-3977 | 281-501-1043 | procurement@tcbcc.net |
| Women Contractors Association | PO Box 6757 | Houston | 77265 | 713-807-9977 | 713-807-9917 | director@womencontractors.org |
| Women's Business Enterprise Alliance | 4100 Westheimer, Ste. 260 | Houston | 77027 | 713-681-9232 | 713-681-9242 | srepka@wbea-texas.org |
| African American Chamber of Commerce of Greater Houston | 6112 Wheatley St. | Houston | 77091 | 713-692-7003 | 713-691-7131 | jhall@acreshome.org |
| Houston Citizen's Chamber of Commerce | 2808 Wheeler Ave. | Houston | 77004 | 713-522-9745 | 713-522-5965 | president@hccoc.org |
| National Association of Minority Contractors (NAMC) Greater Houston Chapter | 3835 Dacoma St. | Houston | 77092 | 713-843-3791 | 713-843-3701 | dmjohnson@namctexas.com |

Minority Organizations List

| Organization | Address | City | ZIP | Phone | FAX | Email |
|--------------------------------------|--------------------------|---------|-------|--------------|--------------|--|
| Houston Hispanic Chamber of Commerce | 1801 Main St., Ste. 1075 | Houston | 77002 | 713-644-7070 | 713-644-7377 | jmireles@houstonhispanicchamber.com |

APPENDIX
 FOUR
 UT
 SYSTEM
 ADMINISTRATION
 MAP



**APPENDIX FIVE
PRODUCTS & PRICE LIST**

The University of Texas System Administration
Facilities Management

| Item Name | Price | Item Name | Price |
|--|-------|--|-------|
| Coke 24 ct Case | | Soap Softsoap Pump 7.5 oz | |
| Cherry Coke 24 ct | | Dawn dish soap, 90 oz. | |
| Coke Zero - 24 ct | | Foil Wrap 2ct | |
| Diet Coke 24 ct Case | | Saran Wrap 1ct | |
| Diet Coke Plus 24 ct | | Cafe Blanco - ground medium roast - 40/2oz | |
| Diet Coke with Splenda 24 ct | | Austin Premier Regular 42/1.25 oz | |
| Diet CF Coke 24 ct | | Folgers Regular 42/.8oz | |
| Pepsi 24 ct | | Folgers Classic Decaf Can - 2 lb | |
| Pepsi Caf Free 24 ct | | Folgers Classic Can 3 lb | |
| Pepsi One 24 ct | | Folgers Decaf 42/.8oz | |
| Diet Pepsi 24 ct | | Ruta Maya Organic Chiapas medium - 2.2 lb | |
| Diet CF Pepsi 24 ct | | Starbucks Decaf House Blend 18/2.5oz | |
| Dr Pepper 24 ct | | Starbucks French Roast 18/2.5oz | |
| CF Dr Pepper - 24 ct | | Starbucks House Blend 18/2.5oz | |
| Dr Pepper Cherry Vanilla 24 ct | | Starbucks Verona 18/2.5oz | |
| Diet Dr Pepper 12 oz - 24 ct | | Flavia Columbian - 100 ct. | |
| Diet CF Dr Pepper 12 oz - 24 ct | | Flavia French Roast - 100 ct. | |
| Diet Lipton Brisk w/ Lemon 24 ct | | RC Bigelo Cinnamon Stick 28 ct | |
| Mountain Dew, 12 oz. cans | | RC Bigelo Cozy Chamomile Herbal 28 ct | |
| Diet Mountain Dew, 12 oz. | | RC Bigelo English Teatime Decaf 28 ct | |
| Sprite 24 ct | | RC Bigelo Earl Grey 28 ct | |
| Diet Sprite Zero 24 ct | | RC Bigelo English Teatime 28ct | |
| Diet A&W Rootbeer 24 ct | | RC Bigelo Green Tea 28 ct | |
| Aquafina 20 oz 24 ct | | RC Bigelo Decaf Green Tea 24 ct | |
| Dasani 12 oz 24 ct | | RC Bigelo I Love Lemon 28 ct | |
| Ozarka 16.9 oz - 24 ct | | RC Bigelo Lemon Lift 28 ct | |
| Sweet Leaf Orig Sweet Tea 16oz - 12 ct | | RC Bigelo Mint Medley 28 ct | |
| Sweet Leaf Green Mint Tea - 12 ct. | | RC Bigelo Raspberry Royal 28 ct | |
| Arizona Green Tea | | Lipton regular tea bags 100 ct | |
| Honey Bear - Texas blend 1ct | | Lipton decaf tea bags 72ct | |
| Pepper Shaker 12 Ct - 1ct | | Tazo Chai Tea Organi 24 ct | |
| Salt Shaker 12 ct - 1ct | | Tazo China Green Tea 24 ct | |
| Cascade powdered dish soap, 75 oz. | | Tazo Green Ginger Tea 24 ct | |
| Cascade Dish Detergent Liquid | | Tazo Passion Tea 24 ct | |
| Clorox Wipes 4 Ct | | Tazo Wild Orange Tea 24 ct | |
| Formula 409 | | Tazo Zen Tea 24 ct | |
| Palmolive Gel Dish Detergent 75 Oz | | Luzianne decaf tea bag | |
| Soap Palmolive Antibacterial 25 Oz | | Chinet Plate 10in | |
| Soap Softsoap Gallon | | | |

RFP No. FAC20120326

Stocking Services for Conference Rooms and Kitchens

Questions from Pre-Proposal Meeting

March 19, 2012

Question - Will they be evaluated on percentage of HUB?

Answer - No. Requirement is to submit HUB Sub Plan. Goal is 24.6% but not evaluated on meeting the goal or not.

Question - What is the evaluation requirements?

Answer - See Section 2.3 of the Request for Proposal.

Question - What is the term of this RFP?

Answer - 3 years with 2 one year rollovers.

Question - What is Fee Cap?

Answer - Amount spent during calendar year.

Question - How many deliveries per week are required?

Answer - 2

Question - How many burners are required?

Answer - 3

Question - Are they plumbed in or can they be air pot?

Answer - All of our machines are plumbed in.

Question - Is coffee equipment maintenance Vendor's responsibility?

Answer - Yes.

Question - Are coffee filters part of Vendor's expense or System's expense?

Answer - Vendor's expense.

Question - If a product is unavailable, like Ruta Maya, which is believed to be proprietary, what do we need to do?

Answer - See Section 5.3.4 where exceptions are set forth if Vendor cannot provide a specific product.

Question - Can we have a tour of the facility and equipment we currently have on site?

Answer - Yes. David Kruse will escort anyone interested to the staff lounge in the basement of the Colorado Building.

Question - Can we get a copy of the attendance log from this Pre-Proposal Conference?

Answer - Yes. It will be provided with a list of all the questions asked.

Statement - A Point of Contact for the Vendor needs to be provided to address any problems that arise.