



**Procurement**

**Operations**

**Request for Qualifications For**

**System Architectural Services**

**Project No. RFQ 13-22**

**Proposal Submittal Deadline: May 22, 2013, 3:00 p.m. (local time)**

# REQUEST FOR QUALIFICATIONS

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**Note: Attachments 1, 2, and 4 must be signed and notarized.**

## REQUEST FOR QUALIFICATIONS

April 25, 2013

Subject: Request for Qualifications (RFQ) for System Architectural Services

HCC Project No.: RFQ 13-22

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**ISSUED BY:**

Houston Community College  
Procurement Operations Department  
3100 Main Street (11<sup>th</sup> Floor)  
Houston, Texas 77002

**SUBMIT INQUIRES TO:**

Name: Kerry Doucette  
Title: Procurement Supervisor  
Telephone: (713) 718-5014  
Fax: (713) 718-2113  
Email: kerry.doucette@hccs.edu

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**PROPOSERS ARE CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFQ CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.**

**I. General Information**

Houston Community College and the Houston Community College System Public Facility Corporation, collectively, (HCC) or (College) is seeking the professional services of a qualified firm or firms to serve as System Architect(s) for providing architectural and engineering services on an "as needed" basis.

Projects will generally involve repairs, alterations, and improvements in connection with existing buildings or properties; while there will be no limit on size. The selected firm(s) will primarily provide project oversight of other HCC architectural project(s), provide design, construction administration, and estimating services, and may also be required to provide scope developments, planning, interior design, technical studies, feasibility studies, problem analysis, design review, building evaluation reports, and other architectural, engineering and technical services.

One of the principle services will be to provide an analysis of architectural products and proposals submitted to architectural firms and professionals for single buildings, renovations, or campus projects. A second primary service will be to assist HCC with quality control for all architectural and construction projects. It is also the intent of HCC to solicit individual requests for qualifications for individual projects, independent of the selected System Architect(s).

The position of System Architect(s) will require frequent involvement in HCC projects by a principal or a senior level representative of the firm. HCC anticipates awarding up to three (3) contracts for A&E services as defined in this RFQ.

The selected firm(s) will be expected to perform the services in accordance with the Scope of Services set forth in Section VII and in accordance with the requirements of this solicitation

The Request for Qualifications (RFQ) provides the information necessary to prepare and submit statements of qualifications (SOQ) for consideration by HCC based on the listed criteria. HCC may request additional clarification and oral interviews solely on the written responses to this request for qualifications.

HCC reserves the right to reject any or all qualification submittals or to accept any qualification submittals it considers most favorable to HCC, or to waive irregularities in the qualification and submittal process. HCC further reserves the right to reject all qualification submittals and terminate the solicitation process or seek new qualification submittals when such procedure is reasonably in the best interest of HCC.

This RFQ does not in any way obligate HCC to award a contract or pay any expense or cost incurred in the review and submission of qualification statements in response to this solicitation.

It is anticipated that the contract term for contract(s) awarded resulting from this solicitation, if any, will be three (3) years with the option to renew for two (2) one-year terms. Further, HCC reserves the right to extend the contract term on a month to month basis, not to exceed three (3) months upon the expirations of the initial term and any successive renewal term.

The successful architect(s) or architectural firm(s) are not eligible and shall not serve 2 consecutive 5 year contract terms.

All applicable attachments contained in the RFQ shall be completed. Failure to do so may result in the firm's Qualifications Submittal being declared non-responsive to the solicitation requirements.

**Note: Attachments 1, 2, and 4 must be signed and notarized.**

Information provided in response to the Request for Qualifications is subject to the Texas Public Information Act and may be subject to public disclosure.

By submitting its Statement of Qualifications in response to this RFQ, the respondent accepts the evaluation process and acknowledges and accepts that determination of "most-qualified" firm(s) will require subjective judgments by the Evaluation Committee.

**Qualifications shall not include any information regarding respondent's fees, pricing or other compensation. Such information will be solicited from the qualified firms who are selected by HCC in accordance with the published evaluation criteria.**

**II. Pre-Proposal Meeting: Mandatory  Not mandatory  Not Applicable**

**III. Document Submission:**

Interested firms shall submit **one (1) original** and **nine (9) printed** copies of their statement of qualifications documents to the below address no later than **May 22, 2013 @ 3:00 p.m.** (local time). Original and copies of the submission should be accompanied by **one (1) CD or flash drive** with electronic copies of the submission. The electronic copies should be in non-editable .PDF format and should include the entire submission.

**HCC - Procurement Operations  
Attn: Kerry Doucette, Procurement Supervisor  
3100 Main Street (11th Floor, Room No. 11A06)  
Houston, Texas 77002  
System Architectural Services  
Ref: Project No. RFQ 13-22**

**Please complete and return the following documents in your statement of qualifications package:**

Section V	Response to Document Format & Content
Attachment No. 1	Proposer/Contract Award
Attachment No. 2	Proposer Certifications
Attachment No. 3	Conflict of Interest Questionnaire
Attachment No. 4	Financial Interests & Potential Conflicts of Interests
Attachment No. 5	Determination of Good Faith Effort
Attachment No. 6	Small Business Unavailability Certificate
Attachment No. 7	Contractor & Subcontractor Participation Form
Attachment No. 8	Small Business Development Questionnaire

#### IV. Inquiries

Interested firms may make **written inquiries** only concerning this Request for Qualifications to obtain clarification of the requirements. Written inquiries shall be submitted no later than **1:00 P.M. (local time) on May 8, 2013**, and must be addressed to:

**Houston Community College**  
**Procurement Operations**  
**Attn: Kerry Doucette, Procurement Supervisor**  
**3100 Main Street (11th Floor)**  
**Houston, Texas 77002**  
**System Architect Services, Ref: Project No. RFQ 13-22**  
**E-mail: kerry.doucette@hccs.edu**

#### V. Document Format and Content

A. Responses shall be submitted in 8 ½" x 11" sizes. Responses must be typed and should not include any unnecessarily elaborate or promotional material. The form, content and sequence of the response should follow the outline presented below.

##### B. Document Content:

1. **Transmittal Letter/Introduction (1 Page maximum):** The letter of transmittal shall be addressed to HCC's Procurement Staff Member listed above, and must, at a minimum, contain the following:

- Identification of the offering firm(s), including name, mailing address, e-mail address, telephone number and fax number of each firm;
- Acknowledgement of receipt of RFQ amendments, if any;
- Name, title, address and telephone number and fax number of a contact person for the firm(s);
- Identification of any information contained in the response documents which the respondent deems to be, and establishes as, confidential or proprietary and wishes to be withheld from disclosure to others under the Texas Open Records Act (a blanket statement that all contents of the response document are confidential or proprietary will not be honored by HCC); and
- Signature of a person authorized to bind the offering firm to the terms of the response documents.

2. **Table of Contents:** Immediately following the transmittal letter and introduction, include a complete table of contents for material included in the response documents.

3. **Tab 1 - Firm's Financial Status:**

- a. Provide evidence of the firm's financial stability including but not limited, any one or more of the following: the firm's audited financial statement for the last two (2) years; a statement from at least one financial institution with validation of at least six (6) months working capital; recent annual reports or equivalent information and your short and long-term credit rating; a letter from the company's CPA attesting to the company's financial stability.
  - b. Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If yes, specify date(s), details, circumstances, and prospects for resolution.
4. **TAB 2 - Company Profile, Qualification and Experience:** Briefly furnish background information about your firm, including date of founding, legal form (sole proprietorship, partnership, corporation/state of incorporation), number and location of offices, location of company headquarters/main office, total number of employees company wide and total number of employees in the State of Texas, and principal lines of business. Certify that the firm is legally permitted or licensed to conduct business in the State of Texas for the services offered. **Only individual firms or lawfully formed business organizations may apply (This does not preclude a respondent from using consultants.) HCC will contract only with the individual firm or formal organization that submits a Qualification.**
5. **TAB 3 - Overview of the Firm:** Provide a brief description of your firm, including the total number licensed architects and engineers and supporting personal related to providing the services described in this solicitation, and the number of years the firm has been engaged in providing similar services in Texas.

Explain how your firm is organized and how its resources will be applied to HCC's work.

- a. Provide firm's principal(s) and staff commitment in providing Architectural and Engineering Services.
  - b. Firm's design philosophy, and design methodology.
  - c. Provide firm's overall ability in providing design services and describe the projects your team has been associated with in providing design services.
  - d. Provide firm's ability to manage consultants and describe and demonstrate your team's experience with the proposed consultants.
  - e. Demonstrate firm's understanding, knowledge and experience of the project/program requirements
  - f. Provide examples of your firm civic activities including awards and recognitions.
6. **TAB 4 - Demonstrated Qualifications of Firm:** This section should establish the ability of the firm (and its sub-consultant), if any, to satisfactorily perform the required work. Provide examples of similar project experience; public institutions or public entities, preferred. HCC may verify all information furnished. As a minimum, include the following per project experience:
- a. Project Name, Location – Year Completed;
  - b. Brief project description describing your experience, work performed by your firm and work subcontracted.
  - c. Owner's Name, title, and current phone number.
  - d. Identify firm's role; construction cost; completion date; and contract name(s)
  - e. Process for integrating institutional standards into design.
  - f. The methods used and how the firm maintains quality control.

- g. Firm's experience where firm was contracted by a community college, junior college or higher education client to provide Architectural and Engineering Services. Provide project name; firm's role (prime or subcontractor); date completed; construction cost; project size (SF); and client/contact name(s).
- h. Provide documented experience in providing the types of services described herein especially related college project experience or higher education facilities experience and with regard to accomplishment of past projects involving repair and alteration work. List if firm was prime or subcontractor.

**7. TAB 5- Demonstrated Qualifications of Personnel:** This section should discuss the staff of the responding firm who would provide the System Architect Services.

- a. Key Personnel: Identify the Key personnel that would be assigned to HCC and will provide the Work described in Section VII, Scope of Services. Please include the following:
  - i. a brief description of their unique qualifications as it pertains to this Work,
  - ii. availability and commitment of the respondent, its principal(s) and assigned professionals to undertake the project,
  - iii. Respondent's job functions and office location.
  - iv. Designate the individual who is authorized to sign and enter into any resulting contract.
  - v. Provide brief resumes (not more than one (1) page) for each key personnel. The resumes must clearly specify the number of years the architect & engineer has been licensed to conduct architect & engineering services in Texas, and/or other jurisdiction, and the number of years' of experience in providing architect & engineering services.
- b. Include and organizational chart, which identifies key personnel and their particular roles in furnishing the services required under this RFQ
- c. Provide documented expertise and educational level of individuals employed by the firm, who will be directly involved in providing the required services as described herein, and their philosophy concerning the design of repair and alteration work.

**8. TAB 6 - Past Performance and References:**

- a. This section should establish the ability of the respondent to satisfactorily perform the required System Architect Services. Provide the names, addresses, and phone numbers and email of at least three (3) references. Select the three transactions from the list provided in Section 6 above and explain how these transaction best demonstrates the abilities of your firm to serve as HCC's System Architect(s).
- b. This section should demonstrate the capability and successful past performance of the firm with respect to mobilizing, producing high quality designs, maintaining good working relations, working with small repair and alteration projects, meeting schedules, providing accurate cost estimates, tracking and controlling costs, and successful monitoring of construction processes.
- c. Provide examples of projects that highlight the firm's creative and innovative skills.
- d. Demonstrate the capability and successful past performance of the firm with respect to mobilizing, producing high quality designs, maintaining good working relations, working with small repair and alteration projects, meeting schedules, providing accurate cost estimates, tracking and controlling costs, and successful monitoring of construction processes.
- e. Project images; (not to exceed 5 examples)
- f. Related to total Quality and Cost Containment, demonstrate proven history of recognizing and adhering to clients approved standards for building and infrastructure and demonstrated ability to bring projects in on time and within the budget.

- g. Provide a list of all contracts that may have ended during the past 3 years; including contracts that may have been terminated or not renewed when a renewal was available. Include a detailed explanation of the circumstances related therein for any such contracts noted.
- h. Provide a list of any work that your firm may have completed for Houston Community College during the past 3 years, including a detailed description of the work effort, performance and define if the work was completed as a contractor directly with HCC or as a subcontractor under a project.

**9. TAB 7 - Small Business Practices:**

- a. Describe your previous experience and involvement working with Small Business certified firms (if your firm is not HUB certified) or as a HUB certified firm in an architect & engineering services relationship. Please describe your firm's approach to working with Small Business certified architect & engineering or related firms, including level of effort, division of duties and providing opinions. Provide a statement detailing small business participation commitment.
- b. For this Project HCC has a small business participation goal of **Thirty Percent (30%)**. At a minimum, your response must include: (a) Firm's commitment to meeting the small business participation goal of **Thirty Percent (30%)** for the project(s) (b) a description of previous projects where your firm has successfully subcontracted work to small businesses, minority/women owned businesses, and/ or disadvantaged businesses including the percentage (%) of work subcontracted to these firms under each project; (c) a narrative outlining your overall approach to subcontracting and how you will solicit and select small businesses, minority/women owned businesses, and/ or disadvantaged businesses for participation as part of this Project; and (d) indicate what challenges you anticipate in attaining HCC's goal.
- c. Describe what opportunities you foresee to utilize sub-consultants/subcontractors to perform portions of the work contemplated under this RFQ.
- d. Describe your company's process for the selection sub-consultants/subcontractors and process for evaluating sub-consultants/subcontractors performance.
- e. Student Internship Program - Demonstrate firm's ability and commitment to develop, and provide paid student internship opportunities in related fields of study.

**10. TAB 8 - Business Relationship Strength:** "Business Relationship Strength" for the purpose of this RFQ shall mean the definition and commitment of the respondent towards a mutually successful "relationship" between the selected contractor and HCC for the duration of the Project. Respondent's Qualification Statement must include their definition, proposal and commitment to forge, foster and maintain a mutually successful "relationship" with HCC. At a minimum, your response must include: (a) your definition of a mutually successful "relationship" between your firm and HCC; and (b) your firm's commitment to a mutually successful "relationship" in the form of at least three, and not more than five, specific, obtainable criteria, activities, agreements or requirements that shall, subject to negotiation and mutual consent, become features of the awarded contract and shall guide the HCC-Contractor relationship for the duration of the Project

Attachments and other forms may be placed under a separate tab labeled "Attachments" immediately following Tab 8.

Provide any other details regarding special services, products, advantages or other benefits offered to HCC by the Respondent. (Tab 9)



## **VI. Evaluation Criteria**

Selection of the most qualified firm(s) will be made on the basis of demonstrated competence and qualifications to perform architect & engineering services. An Evaluation Committee will review the statement of qualifications submitted in response to the solicitation. Evaluation factors for the selection of the firm(s) are as follows:

<b>Evaluation Criteria</b>	<b>Available Points</b>
Firm's Financial Status (See description at Section V.B.3)	10
Demonstrated Qualifications of the Firm (See description at Section V.B.4, 5 & 6)	35
Demonstrated Qualifications of Personnel (See description at Section V.B.7)	35
Past Performance and References (See description at Section V.B.8)	20
Small Business Practices (See description at Section V.B.9)	Acceptable/Unacceptable
Business Relationship Strength (See description at Section V.B.10)	Acceptable/Unacceptable
Total Points	100

HCC may request additional clarification and oral interviews from a short-list of the top rated firms solely on the written responses to this request for qualifications.

## **VII. Scope of Services**

Houston Community College (HCC) is seeks the professional services of a qualified Architectural and Engineering firm or firms to provide System Architectural Services and serve as System Architect for providing architectural and engineering services on an "as needed" basis. System Architect will NOT be eligible to participate as the Prime Contractor on Bond projects. System Architects are eligible to serve as a sub-contractor on the on Bond projects.

HCC anticipates awarding up to three (3) contracts for A&E services as defined in this RFQ. In the interest of transparency, and to limit potential conflicts of interests, the selected A&E firms awarded a Contract and any subsidiaries (under this solicitation), will not be eligible for award of the following bond related projects: Program or Project Management Services RFPs, any Architect & Engineering (A&E) Services RFQs for bond related work, or other Construction based solicitations related to the 2013 Bond.

NOTE: In an attempt to eliminate any potential, OR even the appearance of a conflict of interest, HCC will award separate firms to be used for each of the following: Program Management Services, Project Management Services, Architect & Engineering Services and Construction projects as related to the 2013 Bond.

Projects will generally involve repairs, alterations, and improvements in connection with existing buildings or properties; while there will be no limit on size. The selected firm(s) will primarily provide project oversight of other HCC architectural project(s), provide design, construction administration, and estimating services, and may also be required to provide scope developments, planning, interior design, technical studies, feasibility studies, problem analysis, design review, building evaluation reports, and other architectural, engineering and technical services.

The System Architect will generally perform the following functions on behalf of Houston Community College (HCC) on an "as needed" basis:

- A. Provide design, construction administration, estimating services, scope development, planning, interior design, technical studies, feasibility studies, problem analysis, design reviews, building evaluation reports, and other architectural, engineering and technical services, on an "as needed" basis.
- B. Assist HCC in developing a maintenance and operation program for its facilities, which includes maintenance and operating budgeting, scope preparation, scheduling, and oversight.
- C. Assist HCC in implementing an ongoing program of life safety corrections to ensure adherence to current code requirements.
- D. Develop construction design standards for HCC programs, which may include space allocation, fixed equipment, finish schemes, quality standards, and square footage allocation for amenities.
- E. The Architect/Contractor shall use the Internet web based project management communications tool, e-Builder® ASP software and protocols included in that software during any HCCS project. The Architect/Contractor is required to purchase the appropriate number of e-Builder® ASP software licenses.
- F. The use of project management communications as herein described does not replace or change any contractual responsibilities of the participants:
  1. Project management communications is available through e-Builder® as provided by "e-Builder®" in the form and manner required by HCC.
  2. The project communications database is on-line and fully functional. User registration, electronic and computer equipment, and Internet connections are the responsibility of each project participant. The sharing of user accounts is prohibited.
- G. Staffing: Contractor shall maintain a sufficient level of staff by job type to service requirements. Subcontracting is allowed for professional services but must be disclosed as required herein prior to subcontracting and is subject to prior approval by HCC. Staffing and/or subcontracting may include but is not limited to:
  1. Professionals;
  2. Managerial; and
  3. Administrative and clerical.
- H. Primary Contact: The successful firm(s) shall designate a single point of contact within the firm's organization to which HCC can look for timely resolutions of any issues which may arise related to Contractor's work in performance of assigned projects.
- I. Timeliness: The successful firm(s) shall generally be on an aggressive schedule to produce documents after project assignment. Time is of the essence for performance because projects may affect building and construction projects with specific timeframes.
- J. Meeting with HCC: The successful firm(s) shall meet with HCC periodically, as agreed to by HCC and Contractor and may change dependent upon the number and type of open projects assigned, to address concerns or issues, if any and to review status of assigned projects.
- K. Assignments: The successful firm(s) shall accept no assigned projects in which, either principals and/or employees of the Contractor, as well as family of principals and/or employees, directly or indirectly, has any financial or personal interest in or to any project requiring A&E services.

- L. The successful firm(s) shall accept assigned projects from HCC, regardless of scope, size or value and provide expeditious service to meet HCC's requirements and timelines.
- M. The successful firm(s) shall be able to provide both electronic and hardcopy documents, files and reports.
- N. The successful firm(s) shall provide assistance on general requests such as affidavit forms, clarifications on commitments, etc.
- O. The successful firm(s) shall provide HCC with updated CAD drawings and records as required.
- P. The successful firm(s) shall provide bilingual services as may be required by HCC on any assigned project.
- Q. Consideration for this project will be limited to firms having an active design production office in operation in the Houston, Texas metro area.

#### **VIII. Eligibility for Award**

- a. In order for a respondent to this solicitation to be eligible for selection for Step 2 of the selection process and subsequently to be eligible to be awarded the contract, the Qualification submittal must be responsive to the solicitation and HCC must be able to determine that the respondent is responsible and has the resources and capacity to perform the resulting contract satisfactorily.
- b. Responsive Statement of Qualifications submittals are those that comply with all material aspects of the solicitation, conform to the solicitation documents and meet the requirements set forth in this solicitation. Statement of Qualifications submittals, which do not comply with all the terms and conditions of this solicitation, will be rejected as non-responsive.
- c. Responsible respondents, at a minimum, must meet the following requirements:
  - Have adequate financial resources, or the ability to obtain such resources as required during the performance of any resulting contract;
  - Be able to comply with the required performance schedule, taking into consideration all existing business commitments;
  - Have a satisfactory record of past performance;
  - Have necessary personnel and management capability to perform any resulting contract;
  - Be qualified as an established firm regularly engaged in the type of business necessary to fulfill the contract requirements;
  - Certify that the firm is not delinquent in any tax owed the State of Texas under Chapter 171, Tax Code; and is not delinquent in taxes owed to the Houston Community College System; signing and submitting the proposal is so certifying to such non-delinquency; and
  - Be otherwise qualified and eligible to receive an award under applicable laws and regulations.
- d. Respondents(s) may be requested to submit additional written evidence verifying that the firm meets the minimum requirements described in Section VIII. (c) and as necessary to perform the requirements of the solicitation and be determined a responsible proposer. Failure to provide any requested additional information may result in the proposer being declared non-responsive and the proposal being rejected.
- e. A person is not eligible to be considered for award of this solicitation or any resulting contract or to be a subcontractor of the proposer or prime contractor if the person assisted in the development of this solicitation or any part of this solicitation or if the person participated in a project related to this solicitation when such participation would give the person special knowledge that would give that person or a prime contractor an unfair advantage over other bidders.
- f. A person or proposer shall not be eligible to be considered for this solicitation if the person or proposer engaged in or attempted to engage in prohibited communications as described in Section XI of this solicitation.

- g. Firm shall maintain in effect for the full contract term Professional Liability Insurance at an amount of no less than \$1,000,000 and Per Occurrence/Aggregate \$2,000,000.

## **IX. Indemnification**

Consultant shall indemnify, pay for the defense of, and hold harmless the College and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of Consultant's negligence, recklessness, or willful acts and/or omission in rendering any services hereunder. Consultant shall assume

full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, Workers' Compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning Consultant or any employee and shall further indemnify, pay for the defense of, and hold harmless the College of and from any such payment or liability arising out of or in any manner connected with Consultant's performance under this Agreement.

## **X. Small Business Development Program (SBDP)**

a. HCC has adopted a Small Business Development Program for small businesses attempting to provide goods and/or services as prime contractors or as subcontractors to other prime contractors to HCC. The program is designed to prevent discrimination by ensuring that small, underutilized and disadvantaged businesses are informed and prepared to compete for HCC procurements. HCC will neither discriminate nor select vendors on the basis of race, color, national origin, religion, gender, age, veteran status, sexual orientation or disability in its procurement selection process.

b. Small businesses whose gross annual income averaged over the past three (3) years does not exceed the Small Business Administration's size standard as specified in 13 CFR Part 121 are eligible to apply for participation in the program.

c. For this solicitation, HCC has established a **Thirty Percent (30%)** as its goal for Small Business participation.

d. Good Faith Efforts- HCC will make a good faith effort to utilize small businesses in all contracts. The annual program goals may be met by contracting directly with small businesses or indirectly through subcontracting opportunities. Therefore, any business that contracts with HCC will be required to make a good faith effort to award subcontracts to small businesses. The subcontracting goal applies to all vendors regardless of their status by implementing the following procedures, a contractor shall be presumed to have made a good faith effort:

- e. To the extent consistent with industry practices, divide the contract work into reasonable lots.
- f. Give notice to SBDP eligible firms of subcontract opportunities or post notices of such opportunities in newspapers and other circulars.
- g. Document reasons for rejecting a firm that submitted a proposal for subcontracting opportunities.

To the extent required by the solicitation, the contract shall require the selected contractor to agree to attain small business participation goal or target set forth in the solicitation.

## **XI. Prohibited Communications and Political Contributions**

Except as provided in exceptions below, political contributions and the following communications regarding this solicitation or any other invitation for bids, requests for proposal, requests for qualifications, or other solicitation are prohibited:

- [1] Between a potential vendor, subcontractor to vendor, service provider, proposer, Offeror, lobbyist or consultant and any Trustee;
- [2] Between any Trustee and any member of a selection or evaluation committee; and
- [3] Between any Trustee and administrator or employee.

The communications prohibition shall be imposed from the day the solicitation is first advertised through thirty (30) days after the contract is executed by the Chancellor or his/her designee, or when a

determination is made that the contract will not be awarded. During this period, no HCC Trustee and no vendor shall communicate in any way concerning any pending Solicitation involving the Vendor, subject to the penalties stated herein.

In the event the Board refers the recommendation back to the staff for reconsideration, the communication prohibition shall be re-imposed.

The communications prohibition shall not apply to the following:

- [1] Duly noted pre-bid or pre-proposal conferences.
- [2] Communications with the HCC General Counsel.
- [3] Emergency contracts.
- [4] Presentations made to the Board during any duly-noticed public meeting.
- [5] Unless otherwise prohibited in the solicitation documents, any written communications between any parties, provided that the originator shall immediately file a copy of any written communication with the Board Services Office. The Board Services Office shall make copies available to any person upon request.
- [6] Nothing contained herein shall prohibit any person or entity from publicly addressing the Board during any duly-noticed public meeting, in accordance with applicable Board policies, regarding action on the contract.

Any potential vendor, subcontractor vendor, service provider, bidder, offeror, lobbyist or consultant who engages or attempts to engage in prohibited communications shall not be eligible for the award of any resulting contract under this solicitation. Any other direct or indirect actions taken to unduly influence competitive purposes, to circumvent equal consideration for competitive bidders, or to disregard ethical and legal trade practices will disqualify bidders, vendors, service providers, lobbyist, consultants, and contractors from both this current and any future consideration for participation in HCC orders and contracts.

## **XII. Drug Policy**

HCC is a drug-free workforce and workplace. The manufacture, sale, distribution, dispensation, possession or use of illegal drugs (except legally prescribed medications under physician's prescription and in the original container) or alcohol by vendors or contractors while on HCC's premises is strictly prohibited.

## **XIII. Conflict of Interest**

If a firm, proposer, contractor or other person responding to this solicitation knows of any material personal interest, direct or indirect, that any member, official or employee of HCC would have in any contract resulting from this solicitation, the firm must disclose this information to HCC. Persons submitting a proposal or response to this solicitation must comply with all applicable laws, ordinances, and regulations of the State of Texas Government Code, including, without limitation, Chapter 171 and 176 of the Local Government Code. The person /proposer submitting a response to this solicitation must complete (as applicable), sign and submit the attached Conflict of Interest Questionnaire Form, and Disclosures – Financial Interest and Potential Conflict of Interests with the proposal package. HCC expects the selected contractor to comply with Chapter 176 of the Local Government Code and that failure to comply will be grounds for termination of the contract.

Note: The attached Conflict of Interest Questionnaire Form, and Disclosures – Financial Interest and Potential Conflict of Interests forms shall be completed signed and returned to HCC. Enter N/A in those areas on the Attachments that are not applicable to your company. Failure to complete, sign and notarize (if applicable) these Attachments shall render your proposal non-responsive.

## **XIV. Ethics Conduct**

Any direct or indirect actions taken to unduly influence competitive purposes, to circumvent equal consideration for competitive bidders, or to disregard ethical and legal trade practices will disqualify vendors and contractors from current and future consideration for participation in HCC orders and contracts.

#### **XV. Submission Waiver**

By submitting a response to this Solicitation, the Offeror or respondent agrees to waive any claim it has or may have against Houston Community College System and its trustees, employees or agents arising out of or in connection with (1) the Administration, evaluation or recommendation of any offer or response; (2) any requirements under the solicitation, the solicitation or response package or related documents; (3) the rejection of any offer or any response or any part of any offer or response; and/or (4) the award of a contract, if any.

#### **XVI. Vendor Registration**

**A PROPERLY COMPLETED VENDOR APPLICATION IS REQUIRED AND IS A CONDITION OF CONTRACT AWARD.** The website address to access the vendor registration form is: <https://hccs.sbcompliance.com/FrontEnd/StartRegistry.asp?TN=hccs&XID=4636>

#### **XVII. Terms and Conditions**

The General Terms and Conditions of Contracts (ref. Attachment No. 9) shall govern any Purchase Order/Contract issued as a result of this solicitation (RFQ).

Proposers may offer for HCC's consideration alternate provisions to the Terms and Conditions. Alternates proposed must refer to the specific article(s) or section(s) concerned. General exceptions such as "company standard sales terms apply" or "will negotiate" are not acceptable. Proposer's silence as to the terms and conditions shall be construed as an indication of complete acceptance of these conditions as written.

There is no guaranteed amount of business, expressed or implied, to be purchased, or contracted for by HCC. However, the successful firm(s) shall furnish all required services to the College, when and if required.

HCC reserves the right to procure any services from other sources or by other means.

#### **XVIII. Delegation**

HCC Board of Trustees must approve all contracts valued at over \$50,000. The Board has granted the Chancellor authority to initiate and execute contracts valued up to \$50,000. The procurement of goods and services, including professional services and construction services shall be completed as per any applicable HCC policy and procedure and shall be in accordance with Section 44.031 of the Texas Education Code for the purchase of goods and services, Section 2254 of the Texas Government Code for the purchase of Professional and Consulting Services, and Section 2267 of the Texas Government Code for the purchase of construction services. This includes the evaluation of all bids, proposals, or statements of qualification under procurement, regardless of contract amount, including the final ranking and selection which shall be made on the evaluation and scoring as per the published selection criteria and the final evaluation ranking.

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**ATTACHMENT NO.: 1  
HOUSTON COMMUNITY COLLEGE  
REQUEST FOR QUALIFICATIONS  
PROPOSAL/CONTRACT AWARD FORM**

**PROJECT TITLE:**            **System Architect Services**  
**PROJECT NO.:**            **RFQ 13-22**

**Name of Proposer/Contractor:** \_\_\_\_\_

**Federal Employer Identification Number** \_\_\_\_\_  
**(Note: please refer to RFQ- Summary, Section XVI: Vendor Registration)**

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

In compliance with the requirements of this Request for Qualifications for providing \_\_\_\_\_, the undersigned hereby proposes to furnish all necessary resources required to perform the services in accordance with our Statement of Qualifications dated \_\_\_\_\_ and as mutually agreed upon by subsequent negotiations, if any.

The undersigned certifies that he/she has read, understands and agrees to be bound by the requirements and terms and conditions set forth in this Solicitation and any and all amendments issued by HCC and made a part of this Request for Qualifications. The undersigned further certifies that he/she is legally authorized to make the statements and representations in the Solicitation and that said statements and representations are true and accurate to the best of his/her knowledge. The undersigned understands and agrees that when evaluating proposals and making an award decision, HCC relies on the truth and accuracy of the statements and representations presented in the proposal response. Accordingly, HCC has the right to suspend or debar the undersigned from its procurement process and/or terminate any contract award that may have resulted from this solicitation if HCC determines that any statements or representations made were not true and accurate.

Signed By: \_\_\_\_\_ Name: \_\_\_\_\_  
(Type or Print)

Title: \_\_\_\_\_  
(Type or Print)

State of \_\_\_\_\_

Sworn to and subscribed before me at \_\_\_\_\_, \_\_\_\_\_,  
(City) (State)

this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public for the State of: \_\_\_\_\_

**ACCEPTANCE AND CONTRACT AWARD FORM**

(Note: This page will be completed by HCC.)

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Purchase Order No. \_\_\_\_\_ (for payment purposes only)

Project No. \_\_\_\_\_

Effective Date: \_\_\_\_\_

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Contractor to perform the work required herein in accordance with Purchase Order(s) issued by HCC, the Terms and Conditions incorporated herein by reference, and the prices, scope of services and any terms, specifications and requirement attached hereto and made a part hereof.

In the event of an inconsistency between this Contract, the RFQ, and/or the Contractor's Proposal, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence first to this Contract, then the RFQ and finally, the Contractor's Proposal.

HOUSTON COMMUNITY COLLEGE

Executed for and on behalf of the Houston Community College pursuant to approval by the Board of Trustees on \_\_\_\_\_, 2013.

Signed By: \_\_\_\_\_

Title: \_\_\_\_\_

*Balance of page intentionally left blank.*



**ATTACHMENT NO. 2  
PROPOSER'S CERTIFICATIONS  
HCC PROJECT NO.: RFQ 13-22**

**1. NON-DISCRIMINATION STATEMENT:**

The undersigned certifies that he/she will not discriminate against any employee or applicant for employment or in the selection of subcontractors because of race, color, age, religion, gender, national origin or disability. The undersigned shall also take action to ensure that applicants are employed, and treated during employment, without regard to their race, color, religion, gender, age, national origin or disability. Such action shall include, but shall not be limited to, the following: non-discriminatory employment practices: employment, upgrading or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other compensation and selection for training, including apprenticeship.

**2. BLACKOUT PERIOD COMPLIANCE:**

The undersigned certifies that he/she has read, understands and agrees to be bound by the Prohibited Communications provision set forth in the RFQ. The undersigned further understands that the Bidder shall not communicate with a HCC Trustee, employee, or any member of the selection/evaluation committee in any way concerning this Solicitation from the day it is first advertised through thirty (30) days after the contract is executed by the Chancellor or his/her designee, or when a determination is made that the contract will not be awarded.

This period is known as the "Blackout Period," as further defined in Section 1.7.10 and 3.3 of the Procurement Operations Manual. Violation of the Blackout Period is considered unethical conduct and will be handled as such with regard to a Trustee and all applicable federal and state laws and regulations, local ordinances, board policies and procurement procedures with respect to their conduct as public officials involved in the procurement process.

With regard to a Bidder, violation of the Blackout Period may result in the cancellation of the referenced transaction, debarment, disqualification from future procurement solicitations and prosecution in accordance with the Laws of the State of Texas.

**3. ASSURANCE OF SBDP GOAL:**

The undersigned certifies that he/she has read, understands and agrees to be bound by the small business provisions set forth in this Solicitation. The undersigned further certifies that he/she is legally authorized to make the statements and representations in the Solicitation and that said statements and representations are true and accurate to the best of his/her knowledge. The undersigned will enter into formal agreement(s) for work identified on the CONTRACTOR AND SUBCONTRACTOR PARTICIPATION form conditioned upon execution of a contract with HCC. The undersigned agrees to attain the small business utilization percentages of the total offer amount as set forth below:

Small Business Participation Goal = \_\_\_\_\_

The undersigned certifies that the firm shown below has not discriminated against any small business or other potential subcontractor because of race, color, religion, gender, age, veteran's status, disability or national origin, but has provided full and equal opportunity to all potential subcontractors irrespective of race, color, religion, gender, age, disability, national origin or veteran status.

The undersigned understands that if any of the statements and representations are made knowing them to be false or there is a failure to implement any of the stated commitments set forth herein without prior approval of HCC's Chancellor or the duly authorized representative, the Proposer may be subject to the loss of the contract or the termination thereof.

**4. CERTIFICATION AND DISCLOSURE STATEMENT:**

A person or business entity entering into a contract with HCC is required by Texas Law to disclose, in advance of the contract award, if the person or an owner or operator of the business entity has been convicted of a felony. The disclosure should include a general description of the conduct resulting in the conviction of a felony as provided in section 44.034 of the Texas Education Code. The requested information is being collected in accordance with applicable law. This requirement does not apply to a publicly held corporation.

If an individual:

Have you been convicted of a felony? YES or NO

If a business entity: YES or NO

Has any owner of your business entity been convicted of a felony? \_\_\_\_\_

Has any operator of your business entity been convicted of a felony? \_\_\_\_\_

If you answered yes to any of the above questions, please provide a general description of the conduct resulting in the conviction of the felony, including the Case Number, the applicable dates, the State and County where the conviction occurred, and the sentence.

**5. DISCLOSURE OF OWNERSHIP INTERESTS:**

The undersigned certifies that he/she has accurately completed the attached Exhibit 1 "Ownership Interest Disclosure List." For the purposes of this section, in accordance with Board Bylaws, the term "Contractors" shall include any member of the potential vendor's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of 10% or more. This requirement shall also apply to any Subcontractor listed on the "Contractor and Subcontractor Participation Form."

*Balance of page intentionally left blank.*

**6. PROHIBITED CONTRACTS/PURCHASES:**

The undersigned certifies that he/she has read, understands and is eligible to receive a contract in accordance with HCC Board of Trustees Bylaw regarding Prohibited Contracts/Purchases as further defined in the attached Exhibit 2.

I attest that I have answered the questions truthfully and to the best of my knowledge.

Signed: \_\_\_\_\_

Name of Company: \_\_\_\_\_

Address of Company: \_\_\_\_\_

State of \_\_\_\_\_

Sworn to and subscribed before me at \_\_\_\_\_, \_\_\_\_\_,  
(City) (State)

this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_

Notary Public for the State of: \_\_\_\_\_

*Balance of page intentionally left blank.*

**EXHIBIT 1 - TO ATTACHMENT NO.: 2  
OWNERSHIP INTEREST DISCLOSURE LIST  
PROJECT NO. RFQ 13-22**

Instruction: Using the following table, please fill in the names of any member of the Respondent's company who is a "Contractor" (as defined in Section 5 above); any person with an ownership interest of 10% or more; and any Subcontractor listed on the "Contractor and Subcontractor Participation Form."

<b>Name</b>	<b>Title</b>	<b>Company Name</b>

*Balance of page intentionally left blank.*

**EXHIBIT 2 - TO ATTACHMENT NO.: 2  
PROHIBITED CONTRACTS/PURCHASES  
PROJECT NO. RFQ 13-22**

The College shall not contract with a business entity in which a Board Member, Senior Staff Member, or a relative of a Board member or Senior Staff Member within the first degree of consanguinity or affinity, has any pecuniary interest. All such contracts executed prior to June 21, 2012 shall continue to be in full force and effect.

Further, the College shall not contract with a business entity that employs, hires, or contracts with, in any capacity, including but not limited to, a subcontractor, employee, consultant, advisor or independent contractor, a Board Member or a Senior Staff Member.

Further, the College shall not contract with a business entity that employs an officer or director who is a relative of a Board member or a Senior Staff Member within the first degree of consanguinity or affinity.

Definitions:

"Business entity" shall not include a corporation or a subsidiary or division of a corporation whose shares are listed on a national or regional stock exchange or traded in the over-the-counter market. "Business entity" shall not include non-profit corporations or religious, educational, and governmental institutions, except that private, for-profit educational institutions are included in the definition of Business entity.

"Director" is defined as an appointed or elected member of the board of directors of a company who, with other directors, has the responsibility for determining and implementing the company's policy, and as the company's agent, can bind the company with valid contracts.

"Officer" is defined as a person appointed by the board of directors of a company to manage the day-to-day business of the company and carry out the policies set by the board. An officer includes, but is not limited to, a chief executive officer (CEO), president, chief operating officer (COO), chief financial officer (CFO), vice-president, or other senior company official, as determined by the Board.

"Senior Staff Member" shall have the meaning as defined in Article A, Section 3 of the Board Bylaws which includes:

- a. Any member of the Chancellor's Advisory Council;
- b. HCC employees classified as E-10 and above;
- c. All procurement and purchasing personnel;
- d. Any employee who participates on an evaluation or selection committee for any HCC solicitation for goods or services; and
- e. Any employee who participates in the evaluation of goods or services provided by a vendor or contractor.

Absent other legal requirements, all contracts entered into by the College in violation of this policy shall be voided within 30 days of notice of the violation.

I attest that I have answered the questions truthfully and to the best of my knowledge.

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
For vendor or other person doing business with local governmental entity		
<p>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>	<b>OFFICE USE ONLY</b>  Date Received	
<b>1</b> Name of person who has a business relationship with local governmental entity.		
<b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)		
<b>3</b> Name of local government officer with whom filer has employment or business relationship. <div style="text-align: center; margin: 10px 0;"> <hr style="width: 30%; margin: 0 auto;"/>                     Name of Officer                 </div> <p>This section (item 3 including subparts A, B, C &amp; D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p> <p>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p> <p>D. Describe each employment or business relationship with the local government officer named in this section.</p>		
<b>4</b> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%;"> <hr style="width: 80%; margin: 0 auto;"/>                     Signature of person doing business with the governmental entity                 </div> <div style="width: 30%;"> <hr style="width: 80%; margin: 0 auto;"/>                     Date                 </div> </div>		

Adopted 06/29/2007

**Note: When completing this Questionnaire, please be certain to answer each and every question; indicate "Not Applicable", if appropriate**

**ATTACHMENT NO. 4**  
**FINANCIAL INTERESTS AND POTENTIAL CONFLICTS OF INTERESTS**  
**HCC PROJECT NO.: RFQ 13-22**

Texas Local Government Code Chapter 176 requires that vendors desiring to enter into certain contracts with a local governmental entity must disclose the financial and potential conflict of interest information as specified below.

Vendor shall disclose the financial interest and potential conflict of interest information identified in Sections 1 through 3 below as a condition of receiving an award or contract. Submit this information along with your bid, proposal, or offer. **This form must be completed, signed and notarized. The Completed form must be submitted along with your proposal**

This requirement applies to contracts with a value exceeding \$50,000.

**Section 1 - Disclosure of Financial Interest in the Vendor**

a. If any officers or employees of HCC ("individuals") have one of the following financial interests in the vendor (or its principal) or its subcontractor(s), please show their name and address and check all that apply and (include additional documents if needed):

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

- Ownership interest of at least 10% ( \_\_\_\_\_ )
- Ownership interest of at least \$15,000 or more of the fair market value of vendor ( \_\_\_\_\_ )
- Distributive Income Share from Vendor exceeding 10% of individual's gross income ( \_\_\_\_\_ )
- Real property interest with fair market value of at least \$2,500 ( \_\_\_\_\_ )
- Person related within first degree of affinity to individual has the following ownership or real property interest in Vendor: ( \_\_\_\_\_ )
  - 1. Ownership interest of at least 10%
  - 2. Ownership interest of at least \$15,000 or more of the fair market value of vendor
  - 3. Distributive Income Share from Vendor exceeding 10% of the individual's gross income
  - 4. Real property interest with fair market value of at least \$2,500 ( \_\_\_\_\_ )
- No individuals have any of the above financial interests (If none go to Section 4) ( \_\_\_\_\_ )

c. For each individual named above, show the **dollar value or proportionate share** of the ownership interest in the vendor (or its principal) or its subcontractor (s) as follows:  
 If the proportionate share of the named individual(s) in the ownership of the vendor (or its principal) or subcontractor of vendor is 10% or less, and if the value of the ownership interest of the named individual(s) is \$15,000 or less of the fair market value of vendor, check here (\_\_\_\_).

*Balance of page intentionally left blank.*

If the proportionate share of ownership exceeds 10%, or the value of the ownership interest exceeds \$15,000 of the fair market value of vendor, show either:

the percent of ownership \_\_\_\_\_ %, or  
the value of ownership interest \$ \_\_\_\_\_ .

**Section 2 - Disclosure of Potential Conflicts of Interest**

For each of the individuals having the level of financial interest identified in Section 1 above, and for any other HCC individual not identified in Section 1 above check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes," please describe (use space under applicable section-attach additional pages as necessary).

a. Employment, currently or in the previous 3 years, including but not limited to contractual employment for services for vendor.

Yes \_\_\_\_\_ No \_\_\_\_\_

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b. Employment of individual's spouse, father, mother, son, or daughter, including but not limited to contractual employment for services for vendor in the previous 2 years.

Yes \_\_\_\_\_ No \_\_\_\_\_

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**Section 3- Disclosure of Gifts**

For each of the individuals having the level of financial interest identified in Section 1 above, and for any other HCC individual not identified in Section 1 above check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes," please describe (use space under applicable section-attach additional pages as necessary).

a. Received a gift from vendor (or principal), or subcontractor of vendor, of \$250 or more within the preceding 12 months.

Yes \_\_\_\_\_ No \_\_\_\_\_

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b. Individual's spouse, father, mother, son, or daughter has received a gift from vendor (or principal), or subcontractor of vendor, of \$250 or more within the preceding 12 months.

Yes \_\_\_\_\_ No \_\_\_\_\_

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**Section 4- Other Contract and Procurement Related Information**

Vendor shall disclose the information identified below as a condition of receiving an award or contract.

This requirement is applicable to only those contracts with a value exceeding \$50,000. You must submit this information along with your bid, proposal, or offer.

a. Vendor shall identify whether vendor (or its principal), or its subcontractor(s), has current contracts (including leases) with other government agencies of the State of Texas by checking:

Yes \_\_\_\_\_ No \_\_\_\_\_

b. If "yes" is checked, identify each contract by showing agency name and other descriptive information such as purchase order or contract reference number (attach additional pages as necessary).

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c. Vendor shall identify whether vendor (or its principal) or its subcontractor(s) has pending contracts (including leases), bids, proposal, or other ongoing procurement relationships with other government agencies of the State of Texas by checking:

Yes \_\_\_\_\_ No \_\_\_\_\_

d. If "yes" is checked, identify each such relationship by showing agency name and other descriptive information such as bid or project number (attach additional pages as necessary).

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*Balance of page intentionally left blank.*

This disclosure is submitted on behalf of:

\_\_\_\_\_  
(Name of Vendor)

**Certification.** I hereby certify that to the best of my knowledge and belief the information provided by me in this disclosure statement is true and correct. I understand that failure to disclose the information requested may result in my bid, proposal, or offer, being rejected, and/or may result in prosecution for knowingly violating the requirements of **Texas Local Government Code Chapter 176**. I understand that it is my responsibility to comply with the requirements set forth by HCC as it relates to this disclosure. I also understand that I must submit an updated disclosure form within seven (7) days of discovering changes in the significant financial interests of the individuals I identified in Section 1 of this disclosure or if individuals that were not identified, later receive a financial interest in my company or is a subcontractor of my company.

Official authorized to sign on behalf of vendor:

Name (Printed or Typed) \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**"NOTE: BIDDER MUST COMPLETE THE ABOVE "FINANCIAL INTERESTS AND POTENTIAL CONFLICTS OF INTERESTS" FORM. FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR OFFER SHALL RESULT IN YOUR OFFER BEING CONSIDERED AS "NON-RESPONSIVE" TO THIS SOLICITATION."**

For assistance with completing this form, please contact the **Office of Systemwide Compliance** at (713) 718-2099

State of \_\_\_\_\_

Sworn to and subscribed before me at \_\_\_\_\_, \_\_\_\_\_,  
(City) (State)

this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public for the State of: \_\_\_\_\_

**ATTACHMENT NO.: 5 (SAMPLE)  
DETERMINATION OF GOOD FAITH EFFORT  
PROJECT NO. RFQ 13-22**

Proposer \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Fax Number \_\_\_\_\_

In making a determination that a good faith effort has been made, HCC requires the Proposer to complete this form as directed below:

**Section 1.**

After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the Proposer must determine what portion(s) of work, including goods or services, will be subcontracted. Check the appropriate box that identifies your subcontracting intentions:

Yes, I will be subcontracting portion(s) of the contract.

(If Yes, please complete Section 2, below and Attachments No.4 Contractor/Subcontractor Participation Form and No. 5 SBD Questionnaire)

No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources. (If No, complete Section 3, below.)

**Section 2.**

In making a determination that a good faith effort has been made, HCC requires the Proposer to complete this form Section and submit supporting documentation explaining in what ways the Proposer has made a good faith effort to attain the goal. The Proposer will respond by answering "yes" or "no" to the following and provide supporting documentation.

\_\_\_\_\_ (1) Whether the Proposer provided written notices and/or advertising to at least five (5) certified small businesses or advertised in general circulation, trade association and/or small businesses focus media concerning subcontracting opportunities.

\_\_\_\_\_ (2) Whether the Proposer divided the work into the reasonable portions in accordance with standard industry practices.

\_\_\_\_\_ (3) Whether the Proposer documented reasons for rejection or met with the rejected small business to discuss the rejection.

\_\_\_\_\_ (4) Whether the Proposer negotiated in good faith with small businesses, not rejecting qualified subcontractors who were also the lowest responsive bidder.

**NOTE:** If the Proposer is subcontracting a portion of the work and is unable to meet the solicitation goal or if any of the above items (1-4) are answered "no", the Proposer must submit a letter of justification.

**Section 3.**

**SELF PERFORMANCE JUSTIFICATION**

If you responded "No" in SECTION 1, please explain how your company will perform the entire contract with its own equipment, supplies, materials, and/or employees.

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(Signature of Proposer)

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(Title)

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(Date)

*Balance of page intentionally left blank.*

**ATTACHMENT NO.: 6 (SAMPLE)  
 SMALL BUSINESS UNAVAILABILITY CERTIFICATE  
 PROJECT NO. RFQ 13-22, SYSTEM ARCHITECT SERVICES**

I. \_\_\_\_\_ TITLE \_\_\_\_\_  
 OF \_\_\_\_\_ FIRM NAME \_\_\_\_\_ CERTIFY THAT ON \_\_\_\_\_ DATE \_\_\_\_\_

THE SMALL BUSINESSES LISTED HEREIN WERE CONTACTED TO SOLICIT PROPOSALS FOR MATERIALS OR SERVICES TO BE USED ON THE ABOVE STATED PROJECT.

DATE	SMALL BUSINESS	TELEPHONE #	CONTACT PERSON	MATERIALS OR SERVICES	RESULTS
1.					
2.					
3.					
4.					
5.					
6.					

TO THE BEST OF MY KNOWLEDGE AND BELIEF, SAID SMALL BUSINESS WAS UNAVAILABLE FOR THIS SOLICITATION, UNABLE TO PREPARE A PROPOSAL THAT WAS REJECTED FOR THE REASON(S) STATED IN THE ***RESULTS*** COLUMN ABOVE.

THE ABOVE STATEMENT IS A TRUE AND ACCURATE ACCOUNT OF WHY I AM UNABLE TO COMMIT TO AWARDING SUBCONTRACT(S) OR SUPPLY ORDER(S) TO THE SMALL BUSINESS LISTED ABOVE.

***NOTE: THIS FORM TO BE SUBMITTED WITH ALL PROPOSAL DOCUMENTS FOR WAIVER OF SMALL BUSINESS PARTICIPATION  
 (SEE PROPOSER INSTRUCTIONS)***

\_\_\_\_\_  
 PRINT NAME

\_\_\_\_\_  
 SIGNATURE

\_\_\_\_\_  
 TITLE

\_\_\_\_\_  
 DATE

**ATTACHMENT NO.: 7 (SAMPLE)**  
**HCC PROJECT NO. RFQ 13-22, SYSTEM ARCHITECTURAL SERVICES**  
**CONTRACTOR AND SUBCONTRACTOR PARTICIPATION FORM**

*PROPOSER/OFFERER PRESENTS THE FOLLOWING PARTICIPANTS IN THIS SOLICITATION AND ANY RESULTING CONTRACT. ALL PROPOSERS/OFFERORS, INCLUDING SMALL BUSINESSES SUBMITTING PROPSALS AS PRIME CONTRACTORS, ARE REQUIRED TO DEMONSTRATE GOOD FAITH EFFORTS TO INCLUDE SMALL BUSINESS IN THEIR PROPOSAL SUBMISSIONS.*

<b>CONTRACTOR</b>	<b>TYPE OF WORK TO BE DONE</b>	<b>TYPE OF SMALL BUSINESS CERTIFICATION</b>	<b>PERCENT OF CONTRACT EFFORT</b>	<b>PRICE \$</b>
BUSINESS NAME: _____ ADDRESS: _____ CONTACT NAME: _____ TELEPHONE #/E-MAIL ADDRESS: _____				
<b>SMALL BUSINESS SUBCONTRACTOR(S)/ATTACH SEPARATE SHEET IF NEEDED</b>				
BUSINESS NAME: _____ ADDRESS: _____ CONTACT NAME: _____ TELEPHONE #/E-MAIL ADDRESS: _____				
BUSINESS NAME: _____ ADDRESS: _____ CONTACT NAME: _____ TELEPHONE #/E-MAIL ADDRESS: _____				
<b>NON-SMALL BUSINESS SUBCONTRACTOR(S)/ATTACH SEPARATE SHEET IF NEEDED</b>				
BUSINESS NAME: _____ ADDRESS: _____ CONTACT NAME: _____ TELEPHONE #/E-MAIL ADDRESS: _____				
BUSINESS NAME: _____ ADDRESS: _____ CONTACT NAME: _____ TELEPHONE #/E-MAIL ADDRESS: _____				

BUSINESS NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
SUBMITTED BY: \_\_\_\_\_  
TELEPHONE/FAX: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_

DATE SUBMITTED \_\_\_\_\_

CONTRACTOR'S PRICE/TOTAL SMALL BUSINESS	\$	_____
SUBCONTRACTOR(S) PRICE/TOTAL NON- SMALL BUSINESS	\$	_____
SUB-CONTRACTOR'S PRICE/TOTAL	\$	_____
GRAND TOTAL	\$	_____

**ATTACHMENT NO.: 8  
 SMALL BUSINESS DEVELOPMENT QUESTIONNAIRE  
 PROJECT NO. RFQ 13-22**

**Note:** Vendors are to complete and submit this form in a separate envelope marked "*Small Business Development Questionnaire*" as part of the Statement of Qualification response.

FIRM NAME: \_\_\_\_\_

FIRM ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

CONTACT PERSON'S NAME AND PHONE NO. \_\_\_\_\_

SIGNATURE OF FIRM'S AUTHORIZED OFFICIAL: \_\_\_\_\_

NAME AND TITLE (Type or Print): \_\_\_\_\_

**COMPANY MAJORITY OWNERSHIP** (Check one in each column)

<u>ETHNICITY</u>	<u>GENDER</u>	<u>LOCATION</u>
<input type="checkbox"/> African American (AA)	<input type="checkbox"/> Male	<input type="checkbox"/> Houston (H)
<input type="checkbox"/> Asian Pacific American (APA)	<input type="checkbox"/> Female	<input type="checkbox"/> Texas (T)
<input type="checkbox"/> Caucasian (C)		<input type="checkbox"/> Out of State (O)
<input type="checkbox"/> Hispanic American (HA)		Specify State _____
<input type="checkbox"/> Native American (NA)	<input type="checkbox"/> Public Owned (PO)	
<input type="checkbox"/> Other (O) Specify _____		

**BUSINESS CLASSIFICATION**

**DBE** Disadvantaged Business Enterprise     **SB** Small Business  
 **WBE** Women Owned Business Enterprise     **MBE** Minority Business Enterprise  
 **HUB** Historically Underutilized Business     Other: \_\_\_\_\_

Please provide information regarding certifying agency (if any)

<b>Name of Agency</b>	<b>Certificate Number</b>	<b>Expiration Date</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**ATTACHMENT NO.: 9  
(SAMPLE)  
CONSULTING SERVICES CONTRACT  
System Architect Services  
PROJECT NO. RFQ 13-22**

This Contract ("Contract") is made by and between the Houston Community College ("HCC"), a public community college district organized under Chapter 130 of the Texas Education Code, whose main office address is at 3100 Main Street, Houston, Texas 77002, and \_\_\_\_\_ (the Contractor"), whose address is \_\_\_\_\_ (individually, "Party" and collectively, "Parties"), effective as of \_\_\_\_\_ ("Effective Date").

**RECITALS**

WHEREAS, HCC has need of System Architect Services to complete certain requirements related to design, architect and engineering services ("Project") that become necessary to HCC; and

WHEREAS, Contractor has demonstrated competence, based on past performance as System Architect, and to complete the Project as set forth and required under this Contract; and

WHEREAS, Contractor desires to and has agreed to perform such services; and

WHEREAS, HCC finds that it is within its mission and purpose to procure such services and enter this Contract.

NOW THEREFORE, for the mutual covenants and promises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, HCC and Contractor, agree to the following:

**TERMS AND CONDITIONS OF CONTRACT**

**SERVICES AND PROGRESS REPORTS**

1.1 The Contractor shall provide System Architect Services in accordance with the deliverables and Scope of Services attached hereto as Exhibit A ("Services"), within the timeline and milestones set forth therein, and under the terms and conditions set forth in this Contract.

1.2 The Contractor shall perform and complete the Services to the satisfaction of HCC on or before the dates set forth in the Timeline. The Contractor shall allocate adequate time, personnel, and resources as necessary to perform the Services. The Contractor shall diligently perform all Services under this Contract and shall strive to further the interest of HCC in accordance with HCC's Project requirements and procedures. The Contractor warrants and represents that qualified personnel shall perform the Services and all Services shall be of a professional quality.

1.3 The Contractor shall use its best professional efforts, skill, judgment, and abilities in performing the Services. The Contractor agrees and acknowledges that HCC is relying on its professional advice, opinion, efforts, skill, judgment, and abilities and but for such reliance, which is a material inducement for HCC engaging the Contractor to perform the Services, HCC would not have entered this Contract with the Contractor.

1.4 HCC designates \_\_\_\_\_, as the contact person for HCC ("HCC Representative"). Without limiting the Board's authority in Section 2, the HCC Representative shall have day-to-day



authority to make decisions and have oversight and approval of the Services delivered. The HCC Representative also shall have the authority to determine whether the Services rendered by the Contractor are satisfactory in accordance with Sections 2 and 5.

1.5 The Contractor designates \_\_\_\_\_, to serve as Project team leader ("Project Leader") to ensure timely and satisfactory delivery of the Services. The Contractor shall not change the Project Leader without receiving prior written approval from HCC.

1.6 The Project Leader shall provide to the HCC Representative written weekly progress reports outlining the Services performed and completed during the prior week. The progress reports shall include: (a) a description of the Services performed under the Scope of Work from Exhibit A; (b) a description of the task(s) within the Scope of Work that is being worked on; (c) task statuses (Completed, In-progress, On-hold, Not started); (d) task status dates; (e) task status comments; (f) milestone title with milestone status (Completed, In-progress, On-hold, Not started); (g) milestone status dates, (h) milestone comments; (i) project timelines in GANNT chart format; and (j) Project team meeting minutes.

### **EVALUATION OF SERVICES**

1.7 HCC shall have the right to determine, in its sole discretion, whether the Services rendered by the Contractor under this Contract are satisfactory and meet the standards expected by HCC. In the event that HCC is not satisfied that the Contractor has performed the Services in an acceptable manner and/or that such Services do not meet the standards required by HCC for the Project and/or that the Work Product (as hereinafter defined) does not meet the expectations of HCC, HCC shall have the right to reject such Services or such Work Product, in which case, either of the following shall occur: (a) the Contractor shall re-perform any unsatisfactory or non-conforming Services or redesign or reconstruct such Work Product at no cost to HCC; or (b) HCC shall terminate the Contract and shall not be obligated to pay any Fees (as hereinafter defined) attributable to the unsatisfactory or non-conforming Services or Work Product.

1.8 The Parties agree that the HCC shall have the right to have access to the area where and equipment on which Contractor is performing Services and to any Work Product resulting from the Services to evaluate Contractor's Services under this Contract, to ensure compliance with all Applicable Law (as hereinafter defined), to review documentation, and/or to obtain other pertinent information.

### **BOARD APPROVAL; CHANGE IN SERVICES**

1.9 The Board, by majority vote, is the only representative of HCC, having the authority to approve material changes in the Scope of Services, to authorize any change in this Contract that would result in an increase in the Fee of \$50,000.00 or more in a twelve (12) month period, or to agree to an extension of the date of completion of Services beyond the next fiscal year.

### **TERM; RENEWAL; TERMINATION**

1.10 Term. The term of this Contract shall be from \_\_\_\_\_ through \_\_\_\_\_ ("Term") unless renewed or earlier terminated as set forth herein. \_\_\_\_\_, Except for any change in the Scope of Services and/or the Fee, the terms and conditions of any renewal shall be as set forth herein.

1.11 Termination.

(a) This Contract may be terminated for convenience by either Party with or without cause upon ten (10) days prior written notice to the other Party. In the event of termination without

cause, HCC shall pay the Contractor any undisputed amounts not previously paid for Services actually and satisfactorily performed up to the date of termination.

(b) The term of this Contract is contingent upon the availability of appropriated funds. HCC shall have the right to cancel the Contract at the end of the current fiscal year if funds are not allotted for the next fiscal year to continue the Contract. If funds are withdrawn or do not become available, HCC reserves the right to terminate the Contract by giving the selected contractor a ten (10) day written notice of cancellation without penalty. Upon cancellation of the Contract, HCC shall not be responsible for any payment of any service or product received that occurs after the end of the current contract period. The HCC fiscal year begins on September 1 and ends on August 31<sup>st</sup>.

(c) This Contract may be terminated by either Party in the event of breach of this Contract. A breach occurs when either Party fails to perform its obligations under this Contract or fails to comply with the terms of this Contract. In the event of a breach, the Party claiming such breach shall provide the other Party with written notice of such breach setting forth the basis for such claim of breach. The breaching Party shall have thirty (30) days from the receipt of the notice of breach to cure such breach. If the breaching Party fails to cure the breach within thirty (30) days of receipt of the notice, the aggrieved Party shall have the right to terminate the Contract immediately and pursue any remedies available under law for breach of contract.

### **COMPENSATION; FEES**

1.12 As consideration for the Services satisfactorily provided and/or performed by the Contractor, HCC will pay the Contractor \_\_\_\_\_ (\$\_\_\_\_\_) per full \_\_\_\_\_ ("Fee") (any two or more month's Fees shall be referred to herein as "Fees") during the Term, which will result in a total compensation not to exceed \_\_\_\_\_] (\$\_\_\_\_\_) ("Anticipated Fee"); [and] the Anticipated Fee may otherwise be less than \_\_\_\_\_] in the event of certain conditions as set forth in this Contract such as early termination of this Contract or any other provision of this Contract that affects the Fee.

1.13 Maximum Contract Value: The amount contained herein is the maximum contract value. If additional funding is required, it will be processed pursuant to the prior written approval of HCC. The delivery of any goods or services undertaken by the Contractor, prior to receipt of any written approval by HCC, will be at the Contractors sole risk and expense.

1.14 On or before the 10<sup>th</sup> of each month during the Term, the Contractor shall send an Invoice (as hereinafter defined) for the Fee for the past month's Services to the HCC Representative for review. The invoice shall include (either on the invoice or as an attachment) a detailed description of Services performed and Work Product achieved during that Fee period. The Invoice also shall include a schedule showing progress toward dates set forth in the Timeline; any non-conforming work that needs to be re-performed; any necessary steps to be taken to correct any delays in delivering the Services or Work Product by the dates set forth in the Timeline; a statement of work/services performed by subcontractors and the amounts paid such subcontractors; any data substantiating the Services performed; and any other information requested by HCC (the invoice showing the Fee owed and all attachments and descriptions and other information to be included with the submittal of the invoice collectively shall be referred herein as "Invoice"). Additionally, to the extent that Contractor has employed any subcontractors in accordance with its obligation to comply with HCC's Small Business Development Program, Contractor shall obtain and submit to HCC waivers from any subcontractors so employed when that portion of the Services or Work Product assigned to that subcontractor has been completed. No final payment of the Fee or any portion thereof shall be paid to the Contractor without submission to HCC of waivers from each subcontractor who performed any work or furnished any equipment or supplies for the Project. The Contractor shall sign each Invoice stating that to Contractor's

knowledge, information, and belief, the Services has been completed in accordance with terms and conditions of the Contract.

1.15 Upon receipt of the Invoice, the HCC Representative shall review same and if he/she agrees that the Services have been performed in a satisfactory manner, and the Work Product thereof is acceptable, the Invoice shall be processed for payment. The Fee or applicable an undisputed portion thereof shall be paid within thirty (30) days from receipt of the Invoice. If Services or Work Product has not met the satisfactory approval of the HCC Representative, current and future payments of the Fee shall not be made until both Parties agree that Services have been completed in a satisfactory manner or the Work Product is acceptable. Notwithstanding anything contained herein, no payment of amounts owed hereunder shall be considered past due or not paid when due except in accordance with Section 2251.021 of the Texas Government Code.

1.16 In the event of termination, or if the Term of the Contract ends on a date that is not a full month after the end of the previous Fee period, or for any other reason for which the Services were rendered for only a part of a month, the Fee for that month shall be prorated for the period by dividing the Anticipated Fee by 264 and multiplying the result by the number of days in the month covered by the period for which the Contractor performed Services that month.

1.17 The acceptance of final payment of the Fee shall constitute a waiver of any claim the Contractor may have against HCC that the Contractor has not previously identified in a notice of claim or demand. HCC reserves the right to retain final payment for thirty (30) days pending successful completion of all assigned tasks, and approval from HCC Representative.

#### **APPLICABLE LAW**

1.18 The Contractor agrees to perform the Services in compliance with all applicable federal, state, and local laws, implementing regulations, executive orders, and interpreting authorities including, but not limited to, Title VI of the Civil Rights Act of 1964, as amended; Title VII of the Civil Rights Act; the Age Discrimination Act of 1975; the Americans with Disabilities Act; The Family Educational Rights and Privacy Act of 1974; the Texas Government Code; the Texas Local Government Code; and all applicable HCC policies and procedures ("Applicable Laws" or "Applicable Law").

#### **RECORDS AND RECORDKEEPING**

1.19 The Parties shall comply with all Applicable Laws regarding Project records including, but not limited to, the Family Educational and Privacy Rights Act ("FERPA"), the Freedom of Information Act ("FOIA"), the Texas Public Information Act ("TPIA"), and the Texas Records Retention laws ("RR laws").

1.20 All records and reports either generated, prepared, assembled, or maintained by the Contractor in relation to the Project will be available for review, inspection, and audit by the HCC and its auditors. Copies will be made available upon request and in conformity with FERPA, the FOIA, the TPIA, and the RR laws.

#### **CONFIDENTIALITY**

1.21 As used herein, Confidential Information shall mean all information that is disclosed by either Party ("disclosing Party") to the other Party ("receiving Party"), including without limitation, trade secrets; know how; business and product plans; student information; marketing information and other confidential or proprietary business information, including without limitation all such information relating to either Party's governing board, and their respective clients, customers, and employees. Confidential Information shall not include information which: (a) is information already known by or in the possession of the receiving Party and which was acquired in a lawful manner other than subject to any ongoing

obligation of confidentiality already in the recipient Party's possession at the time of disclosure thereof; (b) is information which is now or hereafter becomes a part of the public domain through no wrongful act or omission of the receiving Party or those acting in concert with the receiving Party or later becomes part of the public domain through no fault of the recipient Party; (c) is information lawfully received, without ongoing obligation of confidentiality, from a third party who is free to disclose it received from a third party having no obligations of confidentiality to the disclosing Party; (d) is information which the receiving Party can show predates disclosure thereof by the disclosing Party or had been independently developed entirely without reference to confidential information received from the disclosing Party independently developed by the recipient Party; or (e) is disclosed pursuant to any judicial or governmental order, required by law or regulation to be disclosed, including, but not limited to, the PIA, provided that, to the extent permitted by law, the receiving Party gives the disclosing Party sufficient prior notice to contest such order.

1.22 Each Party will use reasonable efforts to prevent the disclosure of any of the other Party's Confidential Information to third parties, but in no event shall those efforts be less than those employed by that Party to protect its own confidential information of like kind. Except as may be required by law, the recipient Party's obligation shall be for a period of three (3) years from receipt of the Confidential Information.

1.23 The provisions of this Section 8 survive the expiration or earlier termination of this Contract.

#### **DISCLOSURE OF CERTAIN INFORMATION**

1.24 To the extent that the Contractor comes into possession of student educational records and/or any personally identifiable information of a student incidental to its Services under this Contract, Contractor agrees to comply with all requirements of the FERPA and shall not disclose any such information to a third party.

1.25 In the event that HCC is required to furnish information or records pursuant to the PIA, Contractor shall furnish all such information and records to HCC and HCC shall have the right to disclose such information and records.

1.26 The provisions of this Section 9 survive the expiration or earlier termination of this Contract.

#### **INTELLECTUAL PROPERTY**

1.27 This Contract is a work-for-hire in which Contractor provides Services to HCC. Any documents, data, work product(s), deliverables, designs, implementation, know how, or any other tangibles and intangibles prepared, designed, or produced by the Contractor in performing the Services under this Contract ("Work Product") are HCC's Property. Neither the Contractor nor any subcontractor, consultant, or employee of the Contractor shall own or claim a copyright or any other form of intellectual property right in the Work Product, and HCC will own them and have all common law, statutory, and other reserved rights, in addition to the copyright, upon creation of the Work Product. To this end, Contractor agrees and does hereby assign, grant, transfer, and convey to HCC, its successors and assigns, Contractor's entire right, title, interest and ownership in and to such Work Product, including, without limitation, the right to secure copyright registration. Contractor confirms that HCC shall own Contractor's right, title, interest in and to, including the right to use and reproduce, to perform publicly, and to display, all such Work Product, whether or not such Work Product constitutes a "Work Made for Hire" as defined in 17 U.S.C. § 201(b). Contractor shall obtain a similar grant of rights in favor of HCC from any subcontractor performing Services on this Project.

1.28 The provisions of this Section 10 survive the expiration or earlier termination of this Contract.

### **INDEMNIFICATION**

1.29 General Indemnification. **CONTRACTOR AGREES TO INDEMNIFY, RELEASE, AND HOLD HCC AND HCC'S TRUSTEES, OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, AND STUDENTS HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, AND LIABILITIES (each as used herein shall be referred to as "Claim") OF ANY TYPE OR ANY NATURE WHATSOEVER (INCLUDING COSTS AND REASONABLE LEGAL AND EXPERT FEES), INCLUDING FOR DAMAGE TO, LOSS OF, OR DESTRUCTION OF ANY PROPERTY OR HARM TO ANY PERSON, ARISING FROM, IN CONNECTION WITH, OR ANY WAY INCIDENT TO THIS CONTRACT, WHETHER BY ANY BREACH OR OTHER FAILURE OR AN ACT OR OMISSION OF CONTRACTOR.**

1.30 Intellectual Property Indemnification. Contractor warrants, represents, and covenants that HCC shall have all rights to the Work Product delivered to HCC and that the Work Product will not infringe upon and is not a misappropriation of the rights of any third party. **IN THE EVENT A CLAIM IS MADE AGAINST HCC FOR INFRINGEMENT OR MISAPPROPRIATION, CONTRACTOR WILL INDEMNIFY, DEFEND, AND HOLD HCC HARMLESS FROM SUCH CLAIM.** Additionally, if HCC cannot use the Work Product as a result of the infringement or misappropriation, Contractor, at its sole expense, will either:

- (a) obtain a license for HCC to use the infringing item;
- (b) provide a non-infringing work-around or an original replacement of Work Product, free of any alleged misappropriation; or
- (c) refund to HCC all Fees paid.

1.31 Contractor's liability under this Section 11 shall not be limited by the amount of Contractor's insurance coverage.

1.32 The provisions of this Section 11 survive the expiration or earlier termination of this Contract.

### **DISPUTES: MEDIATION**

a. To the extent that Chapter 2260 of the Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by HCC and Contractor to attempt to resolve any claim for breach of contract made by Contractor:

- (1) Contractor's claims for breach of this Contract that the parties cannot resolve pursuant to other provisions of this Contract or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by subchapter B of Chapter 2260, to HCC in accordance with the notice provisions in this Contract. Contractor's notice shall 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 HCC 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 HCC Office of General Counsel, or such other officer of HCC as may be designated from time to time by HCC by written notice thereof to Contractor, shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims.

(2) If the parties are unable to resolve their disputes under subparagraph (1) of this section, 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 Contract by HCC.

(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 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Contract by HCC nor any other conduct, action or inaction of any representative of HCC relating to this Contract constitutes or is intended to constitute a waiver of HCC's or the state's sovereign immunity to suit and (ii) HCC has not waived its right to seek redress in the courts.

b. 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, hereafter enacted or subsequently amended.

c. Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor, in whole or in part. HCC and Contractor agree that any periods set forth in this Contract for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.

d. It is agreed that such process is not invoked if HCC initiates the dispute by first bringing a claim against Contractor. If HCC makes a claim against Contractor and Contractor then makes a counterclaim against HCC as a claim under Chapter 2260 and in compliance therewith, the HCC's original claim against Contractor does not become a counterclaim and is not subject to the mandatory counterclaim provisions of Chapter 2260 of the Texas Government Code.

#### **NOTIFICATION OF CRIMINAL HISTORY**

1.33 Contractor must give prior written notice to HCC if the Contractor, or any owner, or operator of Contractor, or any employee who will be performing Services under this Contract has been convicted of a felony. The notice required hereunder shall include a general description of the criminal offense.

1.34 HCC has the right to terminate this Contract immediately if it determines that Contractor has failed to give the notice required under Section 13.1.

#### **TAXES; INDEBTEDNESS**

1.35 In accordance with Texas Government Code Section 2155.004, Contractor must not be delinquent in any taxes owed i.e. (Franchise Tax, Property Tax, or other indebtedness owed to HCC). Delinquent taxes or other indebtedness shall be considered a breach of this Contract.

#### **CHILD SUPPORT**

15.1 In accordance with Texas Family Code Section 231.006 , a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which obligor is a

sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five percent (25%) is not eligible to receive payments from state funds under a contract to provide property, material, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. By executing this Contract, Contractor certifies that the individual business or entity named in this Contract is not ineligible to receive payment from the state and acknowledges that this Contract may be terminated any payment may be withheld if this certification is inaccurate.

### **INSURANCE REQUIREMENTS**

1.36 Contractor shall provide insurance in the types and amounts and in accordance with the requirements set forth on the attached Exhibit B.

1.37 Contractor's failure to comply with the requirements of this Section 16 shall be considered a breach of this Contract.

### **RELATIONSHIP OF THE PARTIES**

1.38 Nothing herein will be construed to create a partnership or joint venture by or between HCC and the Contractor. Neither party will be the agent of another except to the extent otherwise specifically provided by this Contract. The Contractor does not have either the express or implied authority, will in any case represent to third parties, and will whenever needed disclaim to such parties, any ability to bind the HCC to any duty imposed by contract, unless the Board has specifically authorized such action at a Board meeting held in accordance with the Texas Open Meetings Act (appearing in minutes of such meeting).

1.39 The Contractor shall be solely responsible for the benefits and entire compensation of its personnel, including the withholding and payment employment taxes (income tax and social security), worker's compensation, disability, and any similar taxes, benefits, and expenses associated with employment. The Contractor agrees to indemnify HCC against any Claim asserted against or incurred by HCC in defending the Claim made against HCC for the benefits, compensation, taxes, or any other costs of or related to Contractor's personnel.

1.40 The provisions of this Section 17 shall survive expiration or earlier termination of this Contract.

### **CONFLICTS OF INTEREST**

1.41 The Contractor warrants, represents, and covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the Project, which would conflict in any manner or degree with the performance of its Services hereunder. The Contractor further warrants, represents, and covenants that, in performing this Contract, it will employ no person who has any such interest.

1.42 The Contractor shall comply with the obligations of Texas Local Government Code Chapter 176.

### **DEBARMENT**

1.43 The Contractor warrants, represents, and covenants that it is not listed on the General Services Administration's List of Parties Excluded from Federal Procurement and is not otherwise debarred, suspended, or excluded by state or federal agencies or declared ineligible for government contracting under statutory or regulatory authority.

**SMALL BUSINESS DEVELOPMENT PROGRAM**

1.44 To the extent applicable, Contractor shall comply with HCC's Small Business Development Program and will utilize small businesses (as that term is defined in the attached Exhibit C) for Services comprising \_\_\_\_\_ of the total of all Fees.

1.45 Contractor shall take affirmative steps to assure that small businesses are used when possible as sources of services under this Contract. Additionally, the Contractor will document all affirmative steps taken to solicit small businesses and will forward this documentation along with the names of such subcontractors to the HCC Representative.

**NOTICE**

1.46 All notices and other communications required by the terms of this Contract will be in writing and sent to the Parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees in the manner as set forth herein). Unless otherwise agreed in writing by the receiving party, notice may be given by: (i) certified or registered mail, postage prepaid, return receipt requested; (ii) reputable overnight carrier, postage prepaid; (iii) facsimile (with confirmation of transmission by sender's facsimile machine); or (iv) personal delivery (with written receipt confirming such delivery). Notice will be deemed to have been given (i) two business or school days (any date on which HCC is officially open for business) after mailing; (ii) on the date of personal delivery; or (iii) on the date of transmission of a facsimile if on a business or school day during normal business hours (or, if not, the next succeeding business day). Unless otherwise agreed in writing by the receiving party, electronic mail does not constitute official notice under this Contract. The addresses of the Parties for such notices shall be:

To: \_\_\_\_\_

Attn.:

Address:

To: **Houston Community College**  
Procurement Operations Department  
Attn.: Executive Director of Procurement Operations  
3100 Main Street  
Houston, Texas 77002

With a copy to:

**Houston Community College**  
ATTN: HCC Project Manager  
3100 Main Street  
Houston, Texas 77002

**NO ASSIGNMENT**

1.47 Neither this Contract nor any duties or obligations hereunder shall be assignable by either Party without the prior written consent of the other Party.



**NO WAIVER OF IMMUNITY**

1.48 Nothing contained in this Contract nor the execution of this Contract, or the performance of any obligation hereunder shall operate to or be deemed to waive any immunity or defense HCC trustee, officer, employee, volunteer, representative, or agent may be entitled under law.

**NO WAIVER OF BREACH**

1.49 No waiver of a breach of any provision of this Contract shall be construed to be a waiver of any breach of any other provision or be deemed to constitute a continuing waiver of same. No delay in acting with regard to any breach and any provision shall be construed to be a waiver of such breach or requirement that such obligation be performed.

**SEVERABILITY OF PROVISIONS**

1.50 If any term or provision of this Contract is deemed invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

**GOVERNING LAW**

1.51 This Contract and the rights and obligations arising hereunder shall be governed by, construed and enforced in accordance with the laws of the State of Texas without regard to the conflicts or choice of law principles thereof.

**JURISDICTION; VENUE**

1.52 The Parties irrevocably and unconditionally consent to the jurisdiction of the State of Texas, and agree that any court of competent jurisdiction located in Houston, Harris County, Texas, shall be an appropriate and convenient place of venue, and shall be the sole and exclusive place of venue, to resolve any dispute with respect to this Contract.

**AUTHORIZATION**

1.53 Each Party represents and warrants to the other that the execution of this Contract has been duly authorized, and that this Contract constitutes a valid and enforceable obligation of such Party according to its terms.

**NO THIRD-PARTY RIGHTS**

1.54 This Contract is made for the sole benefit of HCC and Contractor and their respective successors and permitted assigns. Nothing in this Contract shall create or be deemed to create a relationship between the Parties to this Contract and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

**HEADINGS AND CAPTIONS**

1.55 The headings and captions appearing in this Contract have been included only for convenience and shall not affect or be taken into account in the interpretation of this Contract.

**COUNTERPARTS**

1.56 It is understood and agreed that this Contract may be executed in identical counterparts, each of which shall be deemed an original for all purposes, but all of which shall constitute one document

**AMENDMENTS**

1.57 Any amendment to the Contract must be in writing and signed by both Parties. No waiver, alteration or modification of any of the provisions of this Contract shall be binding on any Party unless in writing and signed by the Party against whom enforcement of such waiver, alteration, or modification is sought.

**EXHIBITS**

1.58 The attached exhibits are incorporated herein for all purposes:

- Exhibit A        Scope of Services
- Exhibit B        Insurance Requirements
- Exhibit C        HCC's Small Business Development Program

**ENTIRE AGREEMENT**

1.59 This Contract supersedes all prior contracts, agreements, and discussions, whether verbal or written, relating to the subject matter contemplated under this Contract and constitutes the entire agreement between the HCC and the Contractor with regard to these matters.

IN WITNESS WHEREOF, the Parties have executed this Contract effective as of the Effective Date:

**HOUSTON COMMUNITY COLLEGE**

By: \_\_\_\_\_ Date \_\_\_\_\_  
       Dr. Mary S. Spangler  
       Chancellor

**CONTRACTOR-CONSULTANT**

By: \_\_\_\_\_ Date \_\_\_\_\_  
       Name:  
       Title:

*Balance of page intentionally left blank.*

**Exhibit A**  
**Scope of Services**

(As noted in the Solicitation Document)

*Balance of page intentionally left blank.*

## **Exhibit B**

### **Insurance Requirements**

#### **Insurance; Bonds.**

Contractor shall maintain, for the full term of the Contract:

Errors and omissions insurance to be carried by technology professionals and consultants for the project with limits of at least one million dollars (\$1,000,000) single occurrence, with a deductible in an amount not to exceed the sum of twenty-five thousand Dollars (\$25,000). The project-specific insurance shall be maintained for a period of not less than one (1) year after the completion of the Services to be performed under the Contract.

Comprehensive or commercial general liability insurance, with limits not less than \$2,000,000 per each occurrence, combined single limit, for bodily injury and property damage. Such policy/ies shall include within its scope coverage for claims including, but not limited to:

damages because of bodily injury (including emotional distress), sickness, disease, or death of any person other than Contractor's employees, or

damages arising from personal or advertising injury

applicable to the Contractor's obligations under the Contract, including liability assumed by and the indemnity and defense obligations of the Contractor and subcontractors.

Comprehensive or business automobile liability insurance, with limits not less than \$1,000,000 per each occurrence, combined single limit, for bodily injury and property damage, including coverage for owned, non-owned, and hired automobiles.

Workers' Compensation, including employers' liability insurance, with limits not less than \$1,000,000 each accident, occurrence or disease. Notwithstanding the foregoing, Contractor shall carry Worker's Compensation in the amounts and as required under Texas law.

General liability insurance shall be on an occurrence basis. The coverage afforded thereby shall be primary and non-contributory to any other existing valid and collectable insurance to the full limit of liability stated in the declaration, and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

Insurance companies shall be legally licensed and admitted through the Texas Department of Insurance to engage in the business of furnishing insurance in the State of Texas. All insurance companies shall have an "A-VIII" in Bests Rating Guide and shall be satisfactory to HCC.

Before commencement of the Services under this Contract, certificates of insurance shall be furnished to HCC, with complete copies of policies to be furnished to HCC promptly upon request.

Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices. Certificates and insurance policies shall include the following clause: "This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to HCC. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice." Each policy except worker's compensation and professional liability shall add HCC, HCC's employees, and all authorized agents and representatives, and members, directors, officers, trustees, agents and employees of any of them as additional insured's.

Should any of the required insurance be provided under a form of coverage that includes an annual general aggregate limit or provides that claims investigation or legal defense costs be included in such annual general aggregate limit, such annual general aggregate limit shall apply separately to the Project (with the insurer's endorsement provided to HCC) or shall be two times the occurrence limits stipulated.

If Contractor fails to maintain any required insurance, HCC, at its sole option and without incurring any further obligation to provide insurance, may take out insurance in such type and amount and to deduct the amount of the premium for such insurance from any Fees due the Contractor.

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## **Exhibit C**

### **Small Business Development Program**

#### **Overview**

HCC has adopted a Small Business Development Program for small businesses attempting to provide goods and/or services as prime contractors or as subcontractors to other prime contractors to HCC. The program is designed to prevent discrimination in contracting and to ensure that small, underutilized, and disadvantaged businesses are informed and prepared to compete for HCC procurements. HCC will neither discriminate nor select vendors on the basis of race, color, national origin, religion, gender, age, or disability in its procurement selection process. The subcontracting goal applies to all vendors regardless of their status.

If not otherwise defined in this Exhibit C, any capitalized terms used herein shall have the same meaning as set forth in the Contract with an effective date of \_\_\_\_\_ ("Contract").

#### **Small Business Compliance**

The Contractor hereby agrees to attain small business participation in the amount of 35% of the total Contract amount. The Contractor agrees to enter into agreements for the Services and with the mutually agreed upon Milestones established in Exhibit A. To ensure compliance with any stated small business participation goal, the Contractor shall be required to provide reports as may be required by the Contract and meet with the HCC Representative at the 50% and 75% completion phases/dates of the Project, to verify small business participation activity and to ensure compliance with the stated small business goal. Additionally, the Contractor agrees to enter into subcontractor agreements for the Services that are identified on the form entitled Contractor and Subcontractor/Supplier Participation. The Contractor's failure to comply with the aforementioned small business participation requirements may result in:

- Withholding of payment until such compliance is achieved or a waiver of the provisions is provided by HCC; and/or.
- Revocation of any benefits and incentives under the program or suspension or termination of the Contract in whole or in part.

#### **Prime Contractor/Contracts for Services**

The Contractor must perform a minimum of 30% of any contract for services with its labor force and or demonstrate management of the Contract for services to the satisfaction of HCC.

#### **Internship Program**

The Contractor is encouraged to make a commitment to utilize certain HCC student(s) in an internship capacity for the provision of Services under the Contract. The Contractor shall be expected to pay the student(s) at least the minimum wage required by law. HCC shall provide the Contractor with the name(s) of student(s) eligible to participate in the internship program. For additional information regarding the internship program, please contact Dr. Freddie Wade, Director of Workforce Program Initiatives at (713) 718-7596.

Attached to this Exhibit C are the following forms, which shall be used for reporting purposes:

- |            |   |
|------------|---|
| Appendix 1 | Contractor and Sub-Contractor/Supplier Participation Form |
| Appendix 2 | Progress Assessment Report for Work Sub-Contracted Form   |
| Appendix 3 | Subcontractor Payment Certification Form                  |