

**SECOND AMENDMENT
TO CONTRACT NUMBER 2014-05-Q-016-002**

THIS SECOND AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-05-Q-016-002 is entered into and effective as of January 1, 2019, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-05-Q-016-002, dated January 20, 2015, ("Contract") wherein Service Provider agreed to provide or perform energy consumption provider services pursuant to RFQ 2014-05. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. The initial term of the Contract was for three years, beginning January 20, 2015, and ending December 31, 2017.
- C. Section C. of the Contract provides that the Contract may be renewed for two, one-year terms and was amended, effective January 1, 2018, to extend for the first one-year renewal term.
- D. Florida Housing and Service Provider wish to renew the Contract for the second one-year renewal term, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of the Effective Date. The above recitals are true and correct and form a part of this Amendment.

B. Renewal. The Contract is hereby renewed for the second one-year renewal term, beginning January 1, 2019, and ending December 31, 2019. Subject to any previous amendments or modifications and except as otherwise provided in this Amendment, the Contract shall stand renewed upon its same terms and conditions.

C. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

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IN WITNESS WHEREOF, the Parties have executed this SECOND AMENDMENT to Contract Number 2014-05-Q-016-002, by a duly authorized representative, effective as of January 1, 2019.

UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES

By: Mindy Solivan

Name/Title: Mindy Solivan, Assistant Director

Date: July 9, 2018

FEIN: 59-292-4021

FLORIDA HOUSING FINANCE CORPORATION

By: Hugh R. Brown

Name/Title: Hugh R. Brown / General Counsel

Date: July 9, 2018

**FIRST AMENDMENT
TO CONTRACT NUMBER 2014-05-Q-016-002**

THIS FIRST AMENDMENT (“Amendment”) to CONTRACT NUMBER 2014-05-Q-016-002 is entered into and effective as of January 1, 2018, (“Effective Date”) by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic (“Florida Housing”), and UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES (“Service Provider”).

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-05-Q-016-002, dated January 20, 2015, (“Contract”) wherein Service Provider agreed to provide or perform energy consumption provider services pursuant to RFQ 2014-05. As used herein, “Contract” shall include within its meaning any modification or amendment to the Contract.
- B. The initial term of the Contract was for three years, beginning January 20, 2015, and ending December 31, 2017.
- C. Section C. of the Contract provides that the Contract may be renewed for two, one-year terms.
- D. Florida Housing and Service Provider wish to renew the Contract for the first one-year renewal term, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of the Effective Date. The above recitals are true and correct and form a part of this Amendment.

B. Renewal. The Contract is hereby renewed for the first one-year renewal term, beginning January 1, 2018, and ending December 31, 2018. Subject to any previous amendments or modifications and except as otherwise provided in this Amendment, the Contract shall stand renewed upon its same terms and conditions.

C. Amendments.

- 1. The Contract is amended by deleting subsection J.1. thereof in its entirety and substituting in its place the following:

Files Subject to Florida's Public Records Law: Any file, report, record, document, paper, letter, or other material received, generated, maintained or sent by the Service Provider in connection with this Contract is subject to the provisions of Section 119.01-.15, Fla. Stat., as may be amended from time to time (Florida's Public Records Law). The Service Provider represents and acknowledges that it has read and understands Florida's Public Records Law and agrees to comply with Florida's Public Records Law.

Pursuant to Section 119.0701(2)(b), Fla. Stat., the Service Provider will be required to comply with public records laws, specifically to:

- a. Keep and maintain public records required by the public agency to perform the service.
- b. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when the Service Provider is acting on behalf of Florida Housing.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the Corporation Clerk at:

**Corporation Clerk
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197**

E-mail: Corporation.Clerk@floridahousing.org

2. The Contract is amended further by adding sub-item 5 to Section K, Other Provisions:

5. The Service Provider understands and agrees to cooperate with any audits conducted in accordance with the provisions set forth in Section 20.055(5), Fla. Stat.

3. The Contract is amended further by deleting Section R, State Agencies in its entirety and replacing it with the following:

R. STATE AGENCIES

Where the Provider is an agent of the State of Florida, the terms of this Agreement apply only to the extent not prohibited by law. Additionally, any hold harmless obligations by Provider are subject to the liability caps set forth in Section 768.28, Florida Statutes.

D. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have executed this FIRST AMENDMENT to Contract Number 2014-05-Q-016-002, by a duly authorized representative, effective as of January 1, 2018.

UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES

By: ***Mindy Solivan***

Signed: Tuesday, August 1, 2017

Name/Title: Mindy Solivan, Assistant Director

Date: _____

FEIN: 59-292-4021

FLORIDA HOUSING FINANCE CORPORATION

By: ***Hugh R. Brown***

Signed: Tuesday, August 1, 2017

Name/Title: Hugh Brown, General Counsel

Date: _____

**AGREEMENT TO PARTICIPATE IN A
POOL OF ENERGY CONSUMPTION PROVIDERS BETWEEN
FLORIDA HOUSING FINANCE CORPORATION
AND
THE FLORIDA SOLAR ENERGY CENTER**

This Agreement to Participate in a Pool of Energy Consumption Providers, 2014-05-Q-016-002 (Agreement) is entered into by and between the FLORIDA HOUSING FINANCE CORPORATION (Florida Housing), a public corporation and a public body corporate and politic, with headquarters located at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301, and the UNIVERSITY OF CENTRAL FLORIDA BY AND ON BEHALF OF ITS BOARD OF TRUSTEES, FOR THE BENEFIT OF THE FLORIDA SOLAR ENERGY CENTER (Provider), whose address for purposes of this Agreement is Office of Research and Commercialization, 12201 Research Parkway, Suite 501, Orlando, FL 32826-3246. Upon execution by both parties, this Contract shall become effective as of the date the last party signs (Effective Date).

RECITALS

- A. Florida Housing selected the Provider for inclusion in a pool of Energy Consumption Providers approved by Florida Housing to calculate utility allowance estimates using the Energy Consumption Model for owners of Housing Credit Program developments monitored by Florida Housing pursuant to Request for Qualifications (RFQ) 2014-05.
- B. The Provider agrees to participate in the pool of Energy Consumption Providers.
- C. Florida Housing and the Provider wish to memorialize the Provider's selection by Florida Housing for inclusion in the pool and the Provider's agreement to participate in the pool.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. ATTACHMENTS

This Contract has the following attachments, which are incorporated herein:

- 1. Exhibit A, RFQ 2014-05
- 2. Exhibit B, Utility Allowance Energy Consumption Model Estimate

B. PARTICIPATION IN THE POOL

1. The Provider agrees to participate in the pool of Energy Consumption Providers and be available to contract directly with owners of Housing Credit Developments monitored by Florida Housing to calculate utility allowance estimates for such developments using the Energy Consumption Model in accordance with RFQ 2014-05.

2. The Provider acknowledges that Florida Housing shall not be a party to any contract or agreement between the owner of the Housing Credit Development and the Provider, and shall have no obligation to the owner of the development or to the Provider under any such contract or agreement. Payment or compensation due the Provider shall be the sole responsibility of the Housing Credit Development owner who contracts with the Provider and must be based on the service provided, but may not include a fee or percentage based on the savings the Housing Credit development owner gains from a lower utility allowance. If the Provider and/or the Housing Credit development owner is found to be in non-compliance with this provision, without written consent from Florida Housing's Executive Director, any compensation received in connection with the contracts that result from Agreements awarded under this RFQ shall be subject to forfeiture to Florida Housing.

3. The Provider represents and warrants that it is now, and will remain so at all times during the term of this Agreement, fully qualified and possessed of the requisite skills, knowledge, qualifications (including licenses or certifications) and experience to provide the services identified herein and in RFQ 2014-05.

4. The Provider agrees to maintain in full force and effect at all times during the term of this Agreement the licenses or certificates, as applicable, required in RFQ 2014-05, and will make such licenses or certificates (or acceptable evidence thereof) available to Florida Housing upon request.

5. The Provider acknowledges that its selection by Florida Housing for inclusion, and the opportunity to participate, in the pool of Energy Consumption Providers represents full, adequate and the sole consideration due the Provider for its agreement to participate in the pool and all of its undertakings under this Agreement. The Provider further understands and agrees that no other compensation or payment is due the Provider under this Agreement for its participation in the pool of Energy Consumption Providers.

6. During the term hereof, the Provider authorizes Florida Housing to publish on its website and in other media as may be selected by Florida Housing, public notice that the Provider is a participant in the in the pool of Energy Consumption Providers and is available to contract directly with owners of Housing Credit Developments monitored by Florida Housing to calculate utility allowance estimates for such developments using the Energy Consumption Model in accordance with RFQ 2014-05.

C. TERM OF CONTRACT

The initial term of this Agreement shall be effective from January 1, 2015, or the date of the Agreement's execution, whichever is later, through December 31, 2017. If the parties mutually agree in writing, the Contract may be renewed twice. Each renewal shall be for an additional one (1) year period. Renewals are at the discretion of Florida Housing, and shall be contingent upon satisfactory performance evaluations by Florida Housing.

D. MODIFICATION OF CONTRACT

Either party may request a modification of the provisions of this Contract. Modifications that are mutually agreed upon shall be valid only when reduced to writing, signed by the parties and attached to this Contract.

E. AGREEMENT WITH THE DEVELOPMENT OWNER; FEES

The Provider understands and agrees:

1. That the amount of fees or other compensation due the Provider for its services in calculating the utility allowance estimates contemplated by RFQ 2014-05 shall be determined by agreement between the Provider and the owner of the Housing Credit Program development for whom such services are provided;
2. That the payment of all fees or other compensation due the Provider for its services in calculating the utility allowance estimates contemplated by RFQ 2014-05 shall be the sole responsibility of the owner of the Housing Credit Program development for whom such services are provided;
3. That the amount, and payment of, the fees or other compensation due the Provider, and all other terms and conditions in connection with its services in calculating the utility allowance estimates contemplated by RFQ 2014-05 for a Housing Credit Program development shall be a matter of contract between the Provider and the owner of the Housing Credit Program development;
4. That Florida Housing shall not be a party to any agreement between the Provider and the owner;
5. That the Provider will be expected to execute such forms and certifications or join with the owner of the Housing Credit Program development in executing such forms and certifications, including Exhibit B as amended from time to time, as Florida Housing may require of the owner of the Housing Credit Program development in connection with any utility allowance estimate prepared by the Provider for such development utilizing the Energy Consumption Model.

6. That Florida Housing is not responsible for establishing the amount of any such fees and that Florida Housing shall have no responsibility or obligation for the payment of any such fees or compensation that may be due the Provider in rendering such services;

7. That no compensation or payment is due the Provider under this Agreement for its participation in the pool of Energy Consumption Providers; and

8. That the Provider's participation in the pool of Energy Consumption Providers does not assure the Provider that an owner of a Housing Credit development will select or contract with the Provider to provide any services.

F. LIABILITY; INDEPENDENT CONTRACTOR; COMPLIANCE WITH LAWS

1. Florida Housing shall not be deemed to have assumed any liability for the acts, omissions, or negligence of the Provider, its agents, its servants, or employees, and the Provider specifically accepts responsibility for its acts, omissions or negligence and for the acts, omissions or negligence of its agents, servants or employees, and shall defend and hold Florida Housing harmless from and against the claims of any party arising out of or claimed to arise out of any such acts, omissions, or negligence.

2. This Agreement is executed on behalf of Florida Housing by the signatory only in his or her designated capacity as representative and on behalf of Florida Housing. Such individual shall neither have nor incur any individual or personal responsibility or liability under this Agreement as a result of such execution.

3. Nothing herein shall be construed as a waiver of sovereign immunity by Florida Housing; it being the intent to reserve all such rights and immunities to the fullest extent of the law.

4. The Provider, together with its agents, suppliers, subcontractors, officers, and employees, shall have and always retain under this Agreement the legal status of an independent contractor, and in no manner shall they be deemed employees of Florida Housing or deemed to be entitled to any benefits associated with such employment. During the term of this Agreement, the Provider shall maintain at its sole expense those benefits to which its employees would otherwise be entitled to by law. The Provider remains responsible for all applicable federal, state, and local taxes, and all FICA contributions.

5. The Provider shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State and local agencies having jurisdiction and authority. In addition, and by way of non-exhaustive example, the Provider shall comply with Florida Housing policies while on Florida Housing premises and in the conduct of its business with Florida Housing personnel.

6. The Provider specifically accepts responsibility for payment of all taxes, assessments, or contributions that may be required to be paid to any unit of government as a result of the payments being paid to or by the Provider, if any, in conjunction with the services rendered pursuant to this Agreement. At no time shall the Provider make any commitments for or incur any charges or expenses for, or in the name of, Florida Housing.

7. The Provider shall not be relieved of liability to Florida Housing for damages sustained by Florida Housing by virtue of any termination or breach of this Agreement by the Provider.

G. DEFAULT AND REMEDIES

1. If any of the events listed in subparagraph 2. of this section occur, all obligations on the part of Florida Housing to continue doing business with the Provider or assign any future transaction to the Provider shall, if Florida Housing so elects, terminate and Florida Housing may, at its option, exercise any of its remedies set forth herein, or as otherwise provided by law. However, Florida Housing may continue doing business with the Provider as a participant after the occurrence of any event listed in subparagraph 2. of this section without waiving the right to exercise such remedies, without constituting a course of dealing, and without becoming liable to include the Provider in the transaction or any future transaction.

2. The Events of Default shall include, but not be limited to, the following:

a. If any report, information or representation provided by the Provider in this Agreement is inaccurate, false or misleading in any respect;

b. If any warranty or representation made by the Provider in this Agreement or any other outstanding agreement with Florida Housing is deemed by Florida Housing to be inaccurate, false or misleading in any respect;

c. If the Provider fails to keep, observe, or perform any of the terms or covenants contained in this Agreement, or is unable or unwilling to meet its obligations as defined in this Agreement;

d. If, in the sole discretion of Florida Housing, the Provider has failed to perform or complete any of the services identified in the attachments;

e. If the Provider has not complied with all Florida laws, federal laws, Florida Housing rules or Florida Housing policies applicable to the work;

f. If the Provider has discriminated on the grounds of race, color, religion, sex, national origin, or disability in performing any service identified in the attachments;

g. If the Provider does not comply with the terms and conditions set forth in Section 420.512(5), Fla. Stat.;

h. If the Provider commits fraud in the performance of its obligations under this Agreement; or

i. If the Provider refuses to permit public access to any document, paper, letter, computer files, or other material subject to disclosure under Florida's Public Records Law.

Upon the occurrence of any Event of Default listed in subparagraph 2. above, Florida Housing will provide written notice of the Default detailing the grounds that constitute the Event of Default (Notice of Default), delivered by courier service or electronic mail to the address set forth in Section I., Administration of Agreement, herein.

3. Upon the occurrence of any Event of Default listed in subparagraph 2. above, Florida Housing may provide the Provider a reasonable period of time to cure the Event of Default (Cure Period). If Florida Housing provides a Cure Period, Florida Housing will notify the Provider of the length of the Cure Period in the Notice of Default.

4. If Florida Housing provides a Cure Period and if the Provider is unable or unwilling to cure the Event of Default within the Cure Period, Florida Housing may exercise any remedy permitted by law. The pursuit of any one of the following remedies shall not preclude Florida Housing from pursuing any other remedies contained herein or otherwise provided at law or in equity. The remedies include, but are not limited to the following:

a. Florida Housing may terminate the Agreement on the tenth (10th) day after the Provider receives the Notice of Default or upon the conclusion of any applicable Cure Period, whichever is later;

b. Florida Housing may commence an appropriate legal or equitable action to enforce performance of the terms and conditions of this Agreement;

c. Florida Housing may exercise any corrective or remedial actions including, but not limited to, requesting additional information from the Provider to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Provider to suspend, discontinue or refrain from incurring fees or costs for any activities in question or requiring the Provider to reimburse Florida Housing for the amount of costs incurred; or

d. Florida Housing may exercise any other rights or remedies that may be

otherwise available under law.

H. TERMINATION

1. Florida Housing may terminate the Agreement, without cause, at any time upon ten (10) days written notice delivered by courier service or electronic mail to the Provider at the address set forth in Section I, Administration of Agreement, herein.

2. The Provider may terminate this Agreement, without cause, at any time upon ninety (90) days written notice delivered by courier service or electronic mail to Florida Housing at the physical or electronic address, as applicable, set forth in Section I, Administration of Agreement, herein. The Provider shall be responsible for all costs arising from the resignation of the Provider and the costs associated with the appointment of and transition to a successor Provider.

I. ADMINISTRATION OF AGREEMENT

1. The Florida Housing contract manager for this Agreement is:

Contracts Manager
Florida Housing Finance Corporation
227 North Bronough St., Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
Fax: 850.414.6548
E-mail: Contracts.Manager@floridahousing.org

2. The Florida Housing program contact for this Agreement is:

Assistant Director of Asset Management & Compliance
Florida Housing Finance Corporation
227 North Bronough St., Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
or the designated successor.

3. The Provider's contract manager for this Agreement is:

Joel Kennedy
Office of Research & Commercialization
12201 Research Parkway, Suite 501
Orlando, Florida 32826
Office: 407.823.1779
Fax: 407.823.3299
Email: joel.kennedy@ucf.edu

4. The Provider's point of contact for this Agreement is:

Dave Chasar, PE
Senior Research Engineer
Florida Solar Energy Center
1679 Clearlake Road
Cocoa, Florida 32922
Office: 321.638.1453
Cell: 321.506.8205
E-mail: dchasar@fsec.ucf.edu
or the designated successor.

5. All written approvals referenced in this Agreement shall be obtained from the parties' contract manager or their respective designees.

6. All notices shall be given to the parties' contract manager.

J. PUBLIC RECORDS; CONFIDENTIALITY; COPYRIGHT, PATENT, TRADEMARK; FILES

1. Public Records

Files Subject to Florida's Public Records Law: Any file, report, record, document, paper, letter, or other material received, generated, maintained or sent by the Provider in connection with this Agreement is subject to the provisions of Section 119.01-.15, Fla. Stat., as may be amended from time to time (Florida's Public Records Law). The Provider represents and acknowledges that it has read and understands Florida's Public Records Law and agrees to comply with Florida's Public Records Law.

Pursuant to Section 119.0701(2), Fla. Stat., the Provider is required "to comply with public records laws, specifically to:

- (i) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- (ii) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (iv) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon

termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.”

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when the Provider is acting on behalf of Florida Housing.

2. Confidentiality

a. If the Provider asserts that any information or materials intended to be delivered or provided under this Agreement constitute a trade secret, or are otherwise confidential or exempt from the public records disclosure requirements of Florida’s Public Records Law, such assertion must be made prior to submitting them to Florida Housing.

b. It is the Provider’s obligation and responsibility to maintain the secrecy of trade secrets and the confidentiality of other confidential information by adequately marking such materials as confidential or exempt before forwarding such information or materials to Florida Housing.

c. In the case of work product furnished to Florida Housing pursuant to this Agreement that is confidential, the Provider will treat such materials as confidential and will not reveal or discuss such materials or any other information learned as a result of this Agreement with any other person or entity, except as authorized or directed by Florida Housing.

d. Working papers, copies, internal documents, procedures, methods and related materials considered confidential and/or proprietary shall be treated as confidential and/or proprietary and shall not be revealed or discussed with any other person or entity, except as authorized or directed by Florida Housing. All such records and materials will remain the property of Florida Housing.

e. If the Provider is required to disclose or publish the existence or terms of transactions under this Agreement pursuant to Florida’s Public Records Law, then the Provider shall notify Florida Housing in writing of such disclosure within two (2) days after receipt of the Public Records request.

3. Copyright, Patent and Trademark

a. The term “Intellectual Property” means individually and collectively all inventions, improvements and/or discoveries, patentable or unpatentable, copyrightable or uncopyrightable, including but not limited to mask works,

computer software, both object and source code, data, data bases and works of authorship.

b. Intellectual Property developed solely by Provider shall be solely and exclusively owned by Provider. Intellectual Property developed solely by Florida Housing shall be solely and exclusively owned by Florida Housing. "Joint Intellectual Property" means any Intellectual Property developed jointly by Provider and Florida Housing under this Agreement. Joint Intellectual Property will be owned jointly by Provider and Florida Housing, who agree to jointly determine proper inventorship and authorship subject to Title 35 of the United States Code for inventions and Title 17 of the United States Code for works of authorship, and ownership shall follow according to such inventorship and authorship, and to jointly determine filing and licensing.

c. "Background Intellectual Property" means Intellectual Property which was in existence, prior to the Effective Date of this Agreement, or which is subsequently created or developed by a party so long as such creation or development was not in the course of this project. The parties agree that Background Intellectual Property of Provider and Florida Housing is their separate property, respectively, and are not affected by this Agreement. Neither party shall acquire any claims to or rights in the Background Intellectual Property of the other party.

d. Nothing in the Agreement shall circumvent or restrict either party's pre-existing obligations with the U.S. government pertaining to any Intellectual Property, including but not limited to such pre-existing obligations contained in grants, contracts and other types of agreements or arrangements between either parties, and the U.S. government. These obligations may include granting licenses to the U.S. government for certain Intellectual Property which is being developed.

e. Notwithstanding any provision to the contrary in the Agreement, Provider shall retain the right to practice any Intellectual Property developed hereunder for its own academic, non-commercial research and teaching purposes.

4. Files

a. Contents of the Files: The Provider shall maintain files containing documentation to verify all compensation to the Provider in connection with this Agreement, as well as reports, records, documents, papers, letters, computer files, or other material received, generated, maintained or filed by the Provider in connection with this Agreement. The Provider shall also keep files, records, computer files, and reports that reflect any compensation it receives or will receive in connection with this Agreement.

b. Retaining the Files: The Provider shall maintain these files for five (5) years after the fiscal year in which the files become inactive, except that, if any litigation, claim or audit is commenced with respect to the transactions documented by such files before the end of the aforementioned five (5) year period and extends beyond the expiration of the five (5) year period, these files will be retained until all litigation, claims, or audit findings involving the files have been resolved.

c. Access to the Files: Upon reasonable notice, the Provider and its employees shall allow Florida Housing or its agent(s) access to its files during normal business hours, 9:00 a.m. to 5:00 p.m., Monday through Friday, provided such day is not a holiday.

d. Return of the Files: In the event this Agreement is terminated, all finished or unfinished documents, data, studies, computer files, correspondence, and other products prepared by or for the Provider under this Agreement shall be submitted to Florida Housing within fifteen (15) days of such termination at the expense of the Provider. The Provider shall be permitted to retain one (1) legal and archival copy of all such documents.

K. OTHER PROVISIONS

1. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County.

2. No waiver by Florida Housing of any right or remedy granted hereunder or failure to insist on strict performance by the Provider shall affect or extend or act as a waiver of any other right or remedy of Florida Housing hereunder, or affect the subsequent exercise of the same right or remedy by Florida Housing for any further or subsequent default by the Provider. A waiver or release with reference to any one event shall not be construed as continuing or as constituting a course of dealing.

3. Any power of approval or disapproval granted to Florida Housing under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

4. The Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

L. LOBBYING PROHIBITION

No funds compensation or other resources received in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida or Federal Legislature or any state or Federal agency. The Provider further acknowledges that it has not retained the services of any lobbyist or consultant to assist in the procurement and negotiation of this Agreement.

M. LEGAL AUTHORIZATION

The Provider certifies with respect to this Agreement that it possesses the legal authority to enter into this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The Provider also certifies that the undersigned possesses the authority to legally execute and bind the Provider to the terms of this Agreement.

N. PUBLIC ENTITY CRIME

Pursuant to Section 287.133(2)(a), Fla. Stat.: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

Any Agreement in violation of this provision shall be null and void.

O. CONFLICTS OF INTEREST

1. Section 420.503(32), Fla. Stat., states:

Prohibited business solicitation communication' means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

- (a) A verbal communication made on the record during a public meeting;
- (b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;
- (c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.
- (d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as

a result of a competitive selection process, so long as the communication does not relate to solicitation of business.

(e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.

2. By executing this contract, the Provider certifies that it shall comply with, and is currently in compliance with, Section 420.512(5), Fla. Stat., as amended.

3. In addition to the conflict of interest rules imposed by the Florida Statutes, should the Provider become aware of any actual, apparent, or potential conflict of interest or should any such actual, apparent, or potential conflict of interest come into being subsequent to the effective date of this Agreement and prior to the conclusion of the Agreement, the Provider will provide notification to Florida Housing, through first class certified mail, return receipt requested (Notice of Conflict of Interest), to the address and individual set forth in Section I, Administration of Agreement herein, within ten (10) working days. If Florida Housing, in its sole discretion, finds the Provider to be in non-compliance with this provision, without prior written consent from Florida Housing's Executive Director, any compensation received in connection with this Agreement shall be subject to forfeiture to Florida Housing and all obligations on the part of Florida Housing to continue doing business with the Provider or assign any future transaction to the Provider shall, if Florida Housing so elects, terminate.

P. ENTIRE AGREEMENT

This Agreement, including any and all attachments, embodies the entire agreement of the parties. There are no other provisions, terms, conditions or obligations between the parties. This Agreement supersedes all previous oral or written communications, representations or agreements on this subject.

Q. SEVERABILITY

If any provision of this Agreement is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict or unenforceability, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

R. STATE AGENCIES

Where the Provider is an agent of the State of Florida, the terms of this Agreement apply only to the extent not prohibited by law.

IN WITNESS WHEREOF, the parties have executed this Contract Number 2014-05-Q-016-002, each through a duly authorized representative, effective on the Effective Date.

UNIVERSITY OF CENTRAL FLORIDA, BY AND ON BEHALF OF ITS BOARD OF TRUSTEES, FOR THE BENEFIT OF THE FLORIDA SOLAR ENERGY CENTER

By: 

Name/Title: Joel Kennedy
Sr. Contract Manager

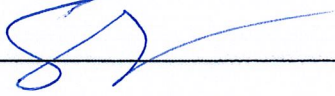
Date: 1-20-15

FEIN: 59-292-4021

Approved as to Form and Legality

W 1-20-15

FLORIDA HOUSING FINANCE CORPORATION

By: 

Stephen P. Auger, Executive Director

Date: 1/20/15

EXHIBIT A

REQUEST FOR QUALIFICATIONS (RFQ) 2014-05

FOR INCLUSION IN A POOL OF ENERGY CONSUMPTION PROVIDERS

for

FLORIDA HOUSING FINANCE CORPORATION

August 28, 2014

SECTION ONE INTRODUCTION

The Florida Housing Finance Corporation (“Florida Housing”) is soliciting Responses to this Request for Qualifications (RFQ) to establish a pool of qualified Energy Consumption Providers (Provider) to calculate utility estimates using an Energy Consumption Model for the owners of Housing Credit developments. Offerors selected will enter into an Agreement to participate in a pool of Providers. Payment or compensation due the Provider shall be the sole responsibility of the Housing Credit development owner who contracts with the Provider and must be based on the service provided but may not include a fee or percentage based on the savings the Housing Credit development owner gains from a lower utility allowance. Florida Housing shall not be a party to any such contract and, with the exception of questions about Energy Consumption Model standards and/or requirements, shall have no obligation to the owner of the Housing Credit development or to the Provider under any such contract.

Offerors shall be selected and determined through Florida Housing’s review of each response, considering the factors identified in the RFQ and any other factors that it considers relevant to serving the best interests of Florida Housing and its mission.

Florida Housing is designated the housing credit agency for the state of Florida. 26 CFR § 1.42-10(b)(4)(ii)(E), states that a building owner may use an Energy Consumption Model to calculate utility estimates. The Energy Consumption Model must, at a minimum, take into account specific factors including, but not limited to: unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The utility consumption estimates must be calculated by a properly licensed engineer or a qualified professional approved by Florida Housing and the qualified professional and the building owner must not be related within the meaning of 26 U.S. Code Section 267(b) or 707(b).

Florida Housing expects to select multiple Offerors to provide the Energy Consumption Model services specified in the RFQ.

SECTION TWO DEFINITIONS

For purposes of this document, the following terms shall be defined as follows:

“Agreement”	A document containing the terms and conditions of this RFQ and any other term and condition that is agreed to by the parties.
“Board”	The Board of Directors of Florida Housing Finance Corporation.
“Committee”	The review committee composed only of employees of Florida Housing that is established pursuant to Fla. Admin. Code, R. 67-49.007.

“Days”	Calendar days, unless otherwise specified.
“Effective Date”	The date the last party signs the Agreement that is signed as a result of this RFQ.
“Energy Consumption Model”	The model used to calculate utility allowance estimates as contemplated and permitted by 26 CFR § 1.42-10(b)(4)(ii)(E).
“Energy Consumption Provider”, “Provider”, or “Offeror”	A person or entity submitting a response to this RFQ, who is a Licensed Engineer or Qualified Professional approved by Florida Housing, who has the capability in all respects to perform fully the requirements contained in this RFQ as evidenced by the selection of such person or entity by Florida Housing for inclusion in the pool contemplated by this RFQ.
“Florida Housing”	Florida Housing Finance Corporation, a public corporation and public body corporate and politic created by Section 420.504, Fla. Stat.
“Housing Credit Program”	The housing credit program administered by Florida Housing pursuant to Section 42 of the Internal Revenue Code and Section 420.5099, Fla. Stat., under which Florida Housing is designated the Housing Credit agency for the state of Florida with the meaning of 26 CFR § 1-42(h)(7)(A) of the IRC and Rule chapters 67-21 and 67-48, Fla. Admin. Code.
“Interested Party”	A person or entity that obtains a copy of the RFQ from Florida Housing.
“Licensed Engineer”	A person who is licensed to engage in the practice of engineering under Chapter 471, Florida Statutes, or a business organization possessing a certificate of authorization to practice engineering under Chapter 471, Florida Statutes.
“Qualified Professional”	Any person or entity who is a Residential Energy Services Network (RESNET) certified energy rater or a Class 1 Energy Rater.
“Response”	The written submission by an Offeror to this RFQ.

“RFQ”	This Request for Qualifications, including all exhibits referenced in this document and all other documents incorporated by reference.
“Staff”	Any employee of Florida Housing, including the Executive Director.
“Threshold Item”	A mandatory requirement of the RFQ. Failure to meet any requirement in the RFQ designated as a “Threshold Item” shall result in rejection (no further action) of a Response.
“Website”	The Florida Housing Finance Corporation website, the (URL) of which is www.floridahousing.org .

SECTION THREE PROCEDURES AND PROVISIONS

A. An Offeror must submit an original and three (3) copies of the Response in a sealed envelope marked “RFQ 2014-05.” A copy of the entire Response must also be provided as an electronic version (either CD or a flash drive). E-mails will not be accepted for the electronic version. Each envelope or package, containing Responses, must clearly state the name of the Offeror. The Response that is the original must clearly indicate “Original” on that Response. Florida Housing shall not accept a faxed or e-mailed Response. Florida Housing must receive any Responses on or before 2:00 p.m., Eastern Time, on September 18, 2014. Responses shall be opened at that time. Responses must be addressed to:

Contracts Manager
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329
(850) 488-4197; Fax (850) 414-6548
Email: Contracts.Manager@floridahousing.org

B. This RFQ does not commit Florida Housing to select any Offeror or to pay any costs incurred in the preparation or mailing of a Response, or costs related to the Contract execution process.

C. All services under the Agreement awarded are to be performed solely by the Offeror, and may not be subcontracted or assigned without the prior written approval and consent of Florida Housing. Florida Housing shall be under no obligation to approve or consent to any such subcontract or assignment.

D. Florida Housing reserves the right to:

1. Waive minor deficiencies and informalities;

2. Accept or reject any or all Responses received as a result of this RFQ;
3. Obtain information concerning any or all Offerors from any source;
4. Schedule an oral interview before the Review Committee or the full Board with any or all Offerors;
5. Select for inclusion in the pool of Providers, a Response other than that with the highest ranking if, in the judgment of Florida Housing, its and the public's interest shall be best served; and
6. Negotiate with successful Offeror(s) with respect to any additional terms or conditions of the Agreement.

E. Any Interested Party may submit any question regarding this RFQ in writing via mail, fax, or e-mail to the Contracts Manager at the address given in Section Three, paragraph A. All questions are due by 5:00 p.m., Eastern Time, on September 5, 2014. Phone calls shall not be accepted. Florida Housing expects to respond to all questions in writing by 5:00 p.m., Eastern Time, on September 11, 2014. Florida Housing shall post a copy of all questions received and their answers on Florida Housing's website at:

<http://www.floridahousing.org/BusinessAndLegal/Solicitations/RequestForQualifications/>

Only written responses or statements from the Contracts Manager that are posted on our Website shall bind Florida Housing. No other means of communication, whether oral or written, shall be construed as an official response or statement from Florida Housing.

F. Any person who wishes to protest the specifications of this RFQ must file a protest in compliance with Section 120.57(3), Fla. Stat., and Rule Chapter 28-110, Fla. Admin. Code. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

G. The term of the Agreement shall be effective from January 1, 2015, or the date of the Agreement's execution, whichever is later, through December 31, 2017, subject to satisfactory performance at the sole discretion of Florida Housing. If the parties mutually agree in writing, the Agreement may be renewed twice for an additional one (1) year term.

H. Florida Housing may terminate the Agreement of any selected Offeror and remove them from the pool of Providers without cause and without penalty.

I. Pursuant to Fla. Admin. Code R. 67-49.004, Florida Housing may modify the terms of the RFQ at any point prior to two (2) weeks of the due date for Responses. A notice of such modification shall be posted on Florida Housing's Website and shall be provided to potential Offerors who requested copies of the RFQ. The deadline for receipt of Responses may be extended as deemed necessary by Florida Housing.

J. The terms of this RFQ, and any modifications thereto, shall be incorporated into any Agreement offered as a result of this RFQ. Failure of a successful Offeror to accept these obligations in the final Agreement may result in cancellation of the award at Florida Housing's sole discretion.

SECTION FOUR PURPOSE AND SCOPE OF SERVICES

A. In the event that utilities for a residential rental unit are paid directly by the tenant, 26 CFR § 1.42(g)(2)(B)(ii) requires the inclusion in gross rent of a utility allowance for rent-restricted units. 26 CFR § 1.42-10(b)(4)(ii)(E) allows a building owner to calculate utility estimates using an energy and water and sewage consumption and analysis model (Energy Consumption Model) prepared by a properly licensed engineer or a qualified professional approved by Florida Housing, which has jurisdiction over developments in Florida who participate in the Housing Credit Program. 26 CFR § 1.42-10(c) provides that the building owner must pay for all costs incurred in obtaining the utility estimates and providing the estimates to Florida Housing and the tenants. Providers must:

1. Use an Energy Consumption Model that at a minimum, takes into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location.
2. Be either a properly Licensed Engineer or a Qualified Professional approved by Florida Housing (together, qualified professional) and the qualified professional and the building owner must not be related within the meaning of § 267(b) or 707(b).
3. Otherwise comply in all respects with 26 CFR § 1.42-10(b)(4)(ii)(E), and any other applicable regulations.
4. Execute and submit to the owner the Certification of Completeness and Accuracy for Utility Allowance Estimate Per Energy Consumption Model Form which is available at <http://www.floridahousing.org/PropertyOwnersAndManagers/EnergyConsumptionModelProceduresAndForms/> and included in this RFQ as Exhibit A.
5. Provide the owner with documentation that supports the utility estimates calculated by the Energy Consumption Model for each Building Identification Number (BIN).
6. Provide the owner with documentation that explains how the specific factors in Section Four, Item A.1. were accounted for in the Energy Consumption Model.

SECTION FIVE CERTIFICATION

Do not reproduce the language of Section Five in the Response. By inclusion and execution of the statement provided in Section Six, subsection G of this RFQ, each Offeror certifies that:

A. The Offeror submits this Response without prior understanding, agreement, or connection with any person or entity submitting a separate Response for the same services. However, any agreement with a person or entity with whom the Response is jointly filed and such joint filing is made clear on the face of the Response shall be an exception so long as the Response is in all respects fair and without collusion or fraud.

B. Any material submitted in response to this RFQ is a public record pursuant to Chapter 119, Fla. Stat., and subject to examination upon request, after Florida Housing provides a notice of decision pursuant to Section 120.57(3), Fla. Stat., or within ten (10) Days after the Response is opened, whichever is earlier.

C. The Offeror is in compliance with Section 420.512(5), Fla. Stat., which provides:

Service providers shall comply with the following standards of conduct as a condition of eligibility to be considered or retained to provide services. For purposes of paragraphs (a), (b), and (c) only, the term 'service provider' means and is limited to a law firm, an investment bank, or a credit underwriter, and the agents, officers, principals, and professional employees of the service provider.

(a) A service provider may not make contributions in any amounts, directly or indirectly, for or on behalf of candidates for Governor, nor shall any service provider make a contribution in excess of \$100 to any candidate for a member of the State Board of Administration other than the Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(b) The service provider shall not participate in fundraising activities for or on behalf of candidates for Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(c) Service providers shall provide to the corporation a statement that the service provider has not contributed to candidates for Governor or contributed in excess of the amounts allowed by this section for a member of the State Board of Administration or engaged in fundraising activities for or on behalf of candidates for Governor in Florida since the effective date of this section or during the 24 months preceding the service provider's

application to provide services to the corporation, whichever period is shorter.

(d) The service provider may not engage in prohibited business solicitation communications with officers, members, or covered employees of the corporation.

(e) If a service provider is in doubt as to whether its activities, or the activities of its principals, agents, or employees, violate the provisions of this section, it may request a declaratory statement in accordance with the applicable rule and Section 120.565, Fla. Stat.

(f) If the corporation determines that a service provider has failed to meet the provisions of this section, it shall consider the magnitude of the violation and whether there has been a pattern of violations in determining whether to terminate or decline to enter into Contracts with the service provider.

D. For the purpose of Section 420.512(5), Fla. Stat., "Prohibited Business Solicitation Communications" is defined by Section 420.503(32), Fla. Stat., which provides:

Prohibited business solicitation communication' means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

(a) A verbal communication made on the record during a public meeting;

(b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;

(c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.

(d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as a result of a competitive selection process, so long as the communication does not relate to solicitation of business.

(e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.

E. The Offeror is in compliance with Section 287.133(2)(a), Fla. Stat., which provides in pertinent part:

A person or affiliate who has been placed on the convicted vendor list, following a conviction for a public entity crime, may not:

- a. Submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity;
- b. Submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work;
- c. Submit bids, proposals or replies on leases of real property to a public entity;
- d. Be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and;
- e. Transact business with any public entity in excess of the threshold amount provided in Section 287.017, Fla. Stat., for CATEGORY TWO: \$35,000.00, for a period of 36 months from the date of being placed on the convicted vendor list.

F. Pursuant to Section 119.0701(2), Fla. Stat., the Service Provider is required "to comply with public records laws, specifically to:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency."

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when Service Provider is acting on behalf of Florida Housing.

G. The Offeror acknowledges that any Offeror selected shall be prohibited from engaging in activities in connection with services related to Florida Housing transactions that produce direct or indirect financial gain for the Offeror other than for the compensation agreed upon in the contracts that result from Agreements awarded under this RFQ, unless that Offeror

has Florida Housing's written consent after Florida Housing has been fully informed of such activities in writing.

In addition to the conflict of interest rules imposed by the Florida Statutes, the Offeror(s) that is (are) selected may not engage in any actual, apparent, or potential conflict of interest. Should any such actual, apparent, or potential conflict of interest come into being subsequent to the effective date of the Agreement and prior to the conclusion of the Agreement, the Offeror shall provide notification (Notice of Conflict of Interest) to Florida Housing, through first class certified mail, return receipt requested, within ten (10) working days, seeking consent from Florida Housing's Executive Director.

H. Payment or compensation due the Provider shall be the sole responsibility of the Housing Credit development owner who contracts with the Provider and must be based on the service provided, but may not include a fee or percentage based on the savings the Housing Credit development owner gains from a lower utility allowance. If the Provider and/or the Housing Credit development owner is found to be in non-compliance with this provision, without written consent from Florida Housing's Executive Director, any compensation received in connection with the contracts that result from Agreements awarded under this RFQ shall be subject to forfeiture to Florida Housing.

The Offeror, in submitting this Response, acknowledges and agrees that the terms and conditions of this RFQ, as well as any modifications thereto, shall be incorporated into any Contract offered as a result of this RFQ.

I. Certification Statement

THE FOLLOWING SHALL BE REPEATED IN THE APPLICANT'S RESPONSE AND SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND THE APPLICANT. FAILURE TO INCLUDE THE CERTIFICATION STATEMENT BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.

"I agree to abide by all conditions of RFQ 2014-05 and certify that all information provided in this Response is true and correct, that I am authorized to sign this Response as the Applicant and that I am in compliance with all requirements of the RFQ, including but not limited to, the certification requirements stated in Section Five of this RFQ."

Authorized Signature (Original)

Print Name and Title

SECTION SIX INFORMATION TO BE PROVIDED IN RESPONSE

In providing the following information, restate each item and sub-item (with its letter and number), limit your Response to one (1) bound volume. Responses to the items must be included immediately after the restated items without any reference to any appendix.

A. COVER LETTER

Each Response must be accompanied by a cover letter that contains a general statement of the purpose of submission and includes the following information. **NOTE:** Failure to provide this information may result in rejection of the Response.

1. The name, job title, address, office and cellular telephone numbers, fax number, and e-mail address of a primary contact person, who will be responsible for day-to-day contact with Florida Housing, and any backup personnel who would be accessible if the primary contact cannot be reached.

2. Legal business status (individual, partnership, corporation, etc.) and address and telephone number of the Offeror.

B. GENERAL INFORMATION

1. If the Offeror is a legal entity (e.g., a corporation, limited liability company or limited partnership), provide evidence from the Florida Department of State that the Offeror is qualified to do business in the State of Florida. If the Offeror is not a legal entity (e.g., an individual or sole proprietorship), provide a copy of the Offeror's business license issued by the local jurisdiction in Florida in which the Offeror conducts business.

2. Describe the Offeror's methodology in developing an Energy Consumption Model. Provide a sample Energy Consumption model for a proposed rental housing tax credit development.

3. **(THRESHOLD ITEM)** Provide copies of the certificate(s) or license(s), as applicable, evidencing that the Offeror and/or staff who will be performing the Energy Consumption Provider services is a ResNet certified energy rater, a Class I Energy Rater or is a Licensed Engineer.

C. EXPERIENCE

1. Describe the Offeror's experience in conducting affordable housing utility allowance estimates.

2. Provide a list of at least three (3) affordable housing utility allowance clients as references that includes:

- Client name and address;
- Contact person;
- Title of contact person;
- Telephone number and e-mail address of the contact person;
- Dates services provided; and
- Brief description of work performed for the client.

3. Provide information on any contract entered into by the Offeror to provide services similar to those described in Section Four of this RFQ.

4. Provide information on any contract entered into by the Offeror to provide services similar to those described in Section Four of this RFQ that was terminated prior to completion in the last five years. Provide details of such circumstances.

D. QUALIFICATIONS OF PERSONNEL

Provide individual resumes [no more than five (5) pages] of staff who will be performing the Energy Consumption Provider services.

E. DRUG-FREE WORKPLACE

If the Offeror has implemented a drug-free workplace program pursuant to Section 287.087, Fla. Stat., the Offeror must submit the following signed certification as a part of their response:

“I hereby certify on behalf of the Offeror, under the terms of RFP 2014-05 that the Offeror has implemented a drug-free workplace program pursuant to Section 287.087, Fla. Stat., which include the following requirements:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are

under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.

5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section."

Authorized Signature

Print Name and Title: _____

F. MINORITY BUSINESS ENTERPRISE

If the Offeror is a minority business enterprise as defined in Section 288.703, Fla. Stat., the Offeror must submit the following signed certification as a part of their response:

"I hereby certify on behalf of the Offeror, under the terms of RFP 2014-05 that the Offeror is a "minority business enterprise" as defined in Section 288.703(3), Fla. Stat., to wit:

(3) "Minority business enterprise" means any small business concern as defined in subsection (6) which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least 51-percent-owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin, which has been subjected historically to disparate treatment due to identification in and with that group resulting in an underrepresentation of commercial enterprises under the group's control, and whose management and daily operations are controlled by such persons. A minority business enterprise may primarily involve the practice of a profession. Ownership by a minority person does not include ownership which is the result of a transfer from a nonminority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subsection, the term "related immediate family group" means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

(6) "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments."

Authorized Signature

Print Name and Title: _____

G. CERTIFICATION STATEMENT (THRESHOLD ITEM)

FAILURE TO INCLUDE THE CERTIFICATION STATEMENT LOCATED IN SECTION FIVE OF THIS RFP BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.

**SECTION SEVEN
EVALUATION PROCESS**

Individual Committee members shall evaluate the Responses independently. As indicated in this section, points shall be assigned to certain items presented in Section Six of this RFQ. The individual Committee members shall evaluate the Responses by reviewing the answers to each of the items and assigning points up to the maximum points allowed for each item. The Committee shall not use those items without points assigned in computing the numerical score, but shall use them as part of their evaluation and recommendation process, for informational purposes, as a basis for possible disqualification, and to break any tie. The Committee shall also use the various scored items as a part of its evaluation and recommendation process. The Committee may conduct one or more public meetings during which members may discuss their evaluations, make any adjustments deemed necessary to best serve the interests of Florida Housing's mission, interview Offerors, observe a software demonstration, and develop a recommendation or series of recommendations to the Board. The Committee and/or Staff may make a recommendation, in addition to providing the scoring information and the information from the non-scored items to the Board for the Board to use in making the final selection. The Committee and/or Staff may also give the Board a written and/or verbal narrative describing the reasons for any recommendation. In the event of a tie, Florida Housing shall give preference in the award process to the Response certifying a drug-free workplace has been implemented in accordance with Section 287.087, Fla. Stat. If a tie continues to exist, Florida Housing shall give preference to minority business enterprises as defined in Section 288.703, Fla. Stat. Staff may recommend that the Board conduct oral interviews as part of the evaluation process to select the Offeror. The Board may use the Responses, the Committee's scoring, the non-scored items in the Responses, any other information or recommendation provided by the Committee or Staff, any oral presentations of Offerors and any other information the Board deems relevant in its selection of Offerors to whom to award a Contract. The points available for each of the items to be evaluated are as follows:

<u>Item Reference</u>	<u>Maximum Points</u>
B. General Information.....	5
C.1 Experience.....	15
D. Qualifications of Personnel.....	15
 Total Points Available.....	 35

Threshold Item Reference

- B.3 Appropriate license/certification
- G. Certification Statement

**SECTION EIGHT
AWARD PROCESS**

Florida Housing shall provide notice of its decision, or intended decision, for this RFQ on Florida Housing’s Website the next business day after the applicable Board vote. After posting, an unsuccessful applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., et al. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., et al. or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

Certification of Completeness and Accuracy for Utility Allowance Estimate Per Energy Consumption Model

Development Information		Tenant Paid Utilities	Provider
Development Name		<input type="text"/> Electric	
Development Address		<input type="text"/> Gas	
Key Number		<input type="text"/> Water	
Date of Study		<input type="text"/> Sewer	
Effective Date		<input type="text"/> Trash	
		<input type="text"/> Other	

Unit Type	# of Units	Square Feet	Electric	Gas	Water	Sewer	Trash	Other	Total Per Month
<input type="text"/>									\$0
<input type="text"/>									\$0
<input type="text"/>									\$0
<input type="text"/>									\$0
<input type="text"/>									\$0
<input type="text"/>									\$0
Total Units	0								

The undersigned hereby certifies as follows:

1. Only utility costs paid directly by the resident(s) and not by or through the owner are included in the utility allowance calculation;
2. Cable television, telephone and internet costs are excluded from utility allowance calculation;
3. This estimate is based on the most recent 12-month period;
4. In the case of new buildings with less than 12 months of consumption data, 12 months of data for units of similar size and construction in the properties geographic area was used;
5. Utility rates are based on local rates and utility supplier(s) for the above-named property and data is no older than 60 days at the time of this submission;
6. The owner and Engineer/Qualified Professional are not related, as defined in IRC Section 267(b) or 707(b);
7. The Energy Consumption Model, at a minimum, takes into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, characteristics of the building location.

The following supporting documentation is included:

1. A letter from the Engineer/Qualified Professional explaining their analysis and findings for each Building Identification Number (BIN). The letter must explain how the specific factors in item #7 above were addressed.
2. Copy of the 90-day notice to residents.

Engineer/Qualified Professional:

Owner:

Signature Date

Signature Date

Printed Name

Printed Name

Entity Name

Entity Name

License # if applicable

Florida Housing Finance Corporation:

Signature - FHFC Asset Management & Compliance Dept. Date

EXHIBIT B

UTILITY ALLOWANCE ENERGY CONSUMPTION MODEL ESTIMATE

**CERTIFICATION OF COMPLETENESS AND ACCURACY FOR
UTILITY ALLOWANCE ENERGY CONSUMPTION MODEL ESTIMATE**

Development Name: _____

The undersigned hereby certifies as follows:

1. Only utility costs paid directly by the resident(s) and not by or through the owner are included in the utility allowance calculation;
2. Cable television, telephone and internet costs are excluded from utility allowance calculation;
3. This estimate is based on the most recent 12-month period;
4. In the case of new buildings with less than 12 months of consumption data, 12 months of data for units of similar size and construction in property's geographic area was used;
5. Utility rates are based on local rates and utility supplier(s) for the above-named property and data is no older than 60 days at the time of this submission;
6. The owner and Engineer/Qualified Professional are not related, as defined in IRC Section 267(b) or 707(b); and
7. The Energy Consumption Model, at a minimum, takes into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, characteristics of the building location.

The following supporting documentation is included:

1. A letter from the Provider explaining their analysis and findings for each Building Identification Number (BIN). The letter must explain how the specific factors in item #7 above were addressed.
2. Copy of 90-day notice to residents.

Engineer/Qualified Professional:

Printed Name

Signature

Date

License # if applicable

Entity Name

Owner:

Printed Name

Signature

Date

Owner Entity Name

E-mail or fax completed executed form, including supporting documentation, to:
energy.consumption@floridahousing.org; Fax: (850) 410-2510