

**FIRST AMENDMENT
TO CONTRACT NUMBER 026-2019**

THIS FIRST AMENDMENT (“Amendment”) to CONTRACT NUMBER 026-2019 is entered into and effective as of January 1, 2023, (“Effective Date”) by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic (“Florida Housing”), and MATERN PROFESSIONAL ENGINEERING, INC (“Service Provider”).

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 026-2019, dated August 9, 2019, (“Contract”) wherein Service Provider agreed to participate in a pool of Energy Consumption Model Utility Allowance Estimate Providers pursuant to RFQ 2019-04. 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 1, 2020, and ending December 31, 2022.
- C. Section C., of the Contract provides that the Contract may be renewed for a three-year term.
- D. Florida Housing and Service Provider wish to renew the Contract for a three-year 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 a three-year term, beginning January 1, 2023, and ending December 31, 2025. 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 hereby amended by adding sub-item 6 to Section L, Other Provisions:

6. The Service Provider understands and agrees to comply with the provisions of section 448.095, Fla. Stat.

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.

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IN WITNESS WHEREOF, the Parties have executed this FIRST AMENDMENT to Contract Number 026-2019, by a duly authorized representative, effective as of the Effective Date.

MATERN PROFESSIONAL ENGINEERING, INC.

By:  _____

Name/Title: Ryan B. Strandquest, President

Date: 08/08/2022

FEIN: 59-2888618

FLORIDA HOUSING FINANCE CORPORATION

By:  _____

Name/Title: Hugh R. Brown/General Counsel

Date: 8/9/22

**AGREEMENT TO PARTICIPATE IN A POOL OF ENERGY CONSUMPTION
MODEL UTILITY ALLOWANCE ESTIMATE PROVIDERS BETWEEN
FLORIDA HOUSING FINANCE CORPORATION
AND
MATERN PROFESSIONAL ENGINEERING, INC.**

This Agreement to Participate in a Pool of Energy Consumption Model Utility Allowance Estimate Providers, 026-2019 (Contract) 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 MATERN PROFESSIONAL ENGINEERING, INC. (Provider), located at 130 Candace Drive, Maitland, FL 32751-3331. Upon execution by both parties, this Contract shall become effective January 1, 2020 or as of the date the last party signs, whichever is later (Effective Date).

RECITALS

- A. Florida Housing selected the Provider for inclusion in a pool of Energy Consumption Model Utility Allowance Estimate Providers approved by Florida Housing to calculate utility allowance estimates using the Energy Consumption Model for owners of developments monitored by Florida Housing pursuant to Request for Qualifications (RFQ) 2019-04.
- 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:

Exhibit A, RFQ 2019-04

B. PARTICIPATION IN THE POOL

1. The Provider agrees to participate in the pool of providers and be available to contract directly with owners of developments monitored by Florida Housing to calculate utility allowance estimates for such developments using the Energy Consumption Model in accordance with RFQ 2019-04.

2. The Provider acknowledges that Florida Housing shall not be a party to any contract or agreement between the owner of the 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 development owner who contracts with the Provider, must be based on the service provided, and may not include a fee or percentage based on the savings the development owner gains from a lower utility allowance. If the Provider and/or the 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 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 2019-04.

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 2019-05, 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 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 Providers.

6. During the term hereof, the Provider authorizes Florida Housing to publish public notice that the Provider is a participant in the in the pool of Providers and is available to contract directly with owners of developments monitored by Florida Housing to calculate utility allowance estimates for such developments using the Energy Consumption Model in accordance with RFQ 2019-04.

C. TERM OF AGREEMENT

The initial term of this Agreement shall be from the Effective Date through December 31, 2022. If the parties mutually agree in writing, the Agreement may be renewed once for an additional three-year period. Renewals are at the discretion of Florida Housing, and shall be contingent upon satisfactory performance evaluations by Florida Housing.

D. MODIFICATION OF AGREEMENT

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

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 2019-04 shall be determined by agreement between the Provider and the owner of the 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 2019-04 shall be the sole responsibility of the owner of the 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 2019-04 for a 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 development in executing such forms and certifications, as Florida Housing may require of the owner of the 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.

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 happening 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 J, 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 10 days written notice delivered by courier service or electronic mail to the Provider at the address set forth in Section J, Administration of Agreement, herein.

2. The Provider may terminate this Agreement, without cause, at any time upon 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 J, 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. Florida Housing's contract administrator for this Agreement is:

Contract Administrator
Florida Housing Finance Corporation
227 North Bronough St., Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
E-mail: Contract.Admin@floridahousing.org

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

David Hines
Compliance Monitoring Administrator
Florida Housing Finance Corporation
227 North Bronough St., Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
E-mail: David.Hines@floridahousing.org
or the designated successor.

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

Todd Stoltz, CEM, CPMP, EMP, CxA, CBCP
Sr. Project Manager
Matern Professional Engineering, Inc.
130 Candace Drive
Maitland, Florida 32751
Cell: 813.380.0319
E-mail: TStoltz@matern.net
or the designated successor.

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

5. All notices shall be given to the parties' contract administrator.

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)(b), Fla. Stat., the 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 Provider is acting on behalf of Florida Housing.

If the Provider has questions regarding the application of Chapter 119, Florida Statutes, to the Provider's duty to provide public records relating to this Agreement, 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. 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 writing to Florida Housing's Contracts Administrator upon 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. If the Provider brings to the performance of this Agreement a pre-existing copyright, patent or trademark, the Provider shall retain all rights and entitlements to that pre-existing copyright, patent or trademark unless the Agreement provides otherwise.

b. If any discovery or invention arises or is developed in the course of or as a direct result of work or services performed under this Agreement, the Provider shall refer the discovery or invention to Florida Housing for a determination whether patent protection will be sought in the name of Florida Housing. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to Florida Housing. In the event that any books, manuals, films, or other copyrightable material are produced, the Provider shall notify Florida Housing in writing. Any and all copyrights or trademarks created by or in direct connection with the performance under this Agreement are hereby reserved to Florida Housing.

c. All subcontracts or other arrangements entered into, by the Provider, with prior written approval and consent of Florida Housing, for the purpose of developing or procuring copyrightable materials (e.g. audiovisuals, computer programs, software, publications, curricula, research materials or training materials, etc.) shall specifically reference and reserve Florida Housing's exclusive rights to use and exploit copyrights and licenses to the extent permitted by copyright law and Florida Statutes.

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 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-year period and extends beyond the expiration of the five-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 15 days of such termination at the expense of the Provider.

K. PERSONALLY IDENTIFIABLE INFORMATION (PII); SECURITY

1. If the Provider or any of its subcontractors may or will create, receive, store or transmit PII under the terms of this Agreement, the Provider shall provide for the security of such PII, in a form acceptable to Florida Housing, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. The Provider shall take full responsibility for the security of all data in its possession or in the possession of its subcontractors, and shall hold Florida

Housing harmless for any damages or liabilities resulting from the unauthorized disclosure of loss thereof.

2. If the Provider or any of its subcontractors may or will create, receive, store or transmit PII under the terms of this Agreement, the Provider shall provide Florida Housing with insurance information for stand-alone cyber liability coverage, including the limits available and retention levels. If the Provider does not carry stand-alone cyber liability coverage, the Provider agrees to indemnify costs related to notification, legal fees, judgments, settlements, forensic experts, public relations efforts, and loss of any business income related to this Agreement.

3. The Provider agrees to maintain written policies and procedures for PII and/or data classification. This plan must include disciplinary processes for employees that violate these guidelines.

4. The Provider agrees at all times to maintain reasonable network security that, at a minimum, includes a network firewall.

5. The Provider agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up-to-date with all appropriate security updates as designated by a relevant authority (e.g. Microsoft notifications, Common Vulnerabilities and Exposures (CVE) database, etc.) The Provider agrees that PII shall be appropriately destroyed based on the format stored upon the expiration of any applicable retention schedules.

6. The Provider agrees that any and all transmission or exchange of system application data with Florida Housing and/or any other parties shall take place via secure Advanced Encryption Standards (AES), e.g. HTTPS, FTPS, SFTP or equivalent means. All data stored as a part of backup and recovery processes shall be encrypted, using AES.

7. If the Provider reasonably suspects that a cybersecurity event or breach of security has occurred, they must notify Florida Housing's Contract Administrator within 48 hours.

8. In the event of a breach of PII or other sensitive data, the Provider must abide by provisions set forth in section 501.171, Fla. Stat. Additionally, the Provider must immediately notify Florida Housing in writing of the breach and any actions taken in response to such a breach. As the information becomes available the statement must include, at a minimum, the date(s) and number of records affected by unauthorized access, distribution, use, modification or disclosure of PII; the Provider's corrective action plan; and the timelines associated with the corrective action plan.

L. 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.

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

M. 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.

N. 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.

O. 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.

P. CONFLICTS OF INTEREST

1. Section 420.503(33), 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 Agreement, 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 J, 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.

Q. 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.

R. 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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Contract Number 026-2019, each through a duly authorized representative, effective on the Effective Date.

MATERN PROFESSIONAL ENGINEERING, INC.

By: 

Name/Title: Judy D'Angelo, Sr. Vice President

Date: August 9, 2019

FEIN: 59-2888618

FLORIDA HOUSING FINANCE CORPORATION

By: 

Name/Title: Hugh R. Brown / General Counsel

Date: 8-9-19

EXHIBIT A

REQUEST FOR QUALIFICATIONS (RFQ) 2019-04

**FOR INCLUSION IN A POOL OF ENERGY CONSUMPTION MODEL
UTILITY ALLOWANCE ESTIMATE PROVIDERS**

for

FLORIDA HOUSING FINANCE CORPORATION

May 10, 2019

SECTION ONE INTRODUCTION

Florida Housing Finance Corporation ("Florida Housing") is soliciting competitive, sealed responses from qualified firms to establish a pool of qualified Energy Consumption Model Utility Allowance Estimate Providers (Provider) to calculate utility allowance estimates using an Energy Consumption Model for the owners of affordable housing developments participating in Florida Housing programs, in accordance with the terms and conditions set forth in this Request for Qualifications (RFQ) and any other term and condition in any contract subsequently awarded. Respondents will be selected and determined through Florida Housing's review of each response, considering the factors identified in this RFQ. Florida Housing expects to select one or more Respondents that propose to provide all of the services specified in this RFQ.

SECTION TWO DEFINITIONS

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

"Board"	The Board of Directors of Florida Housing Finance Corporation.
"Committee"	The review committee composed only of employees of Florida Housing established pursuant to Rule 67-49.007, Fla. Admin. Code.
"Contractor"	A person or entity providing the professional services described in Section Four of this RFQ.
"Days"	Calendar days, unless otherwise specified.
"Energy Consumption Model" Or "ECM"	The model used to calculate utility allowance estimates as contemplated and permitted by 26 CFR § 1.42-10(b)(4)(ii)(E).
"Energy Consumption Model Utility Allowance Estimate Provider"	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 within the meaning of 26 USC § 42 (h)(8)(A) and Rule chapters 67-21 and 67-48, Fla. Admin. Code.
“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 certified through one of the following programs: Certified Energy Manager®, RESNET®, or the Building Performance Institute, Inc.
“Respondent”	Any person or entity who has the capability in all respects to perform fully the requirements contained in this RFQ, and submits a response to this RFQ.
“Response”	The written submission by a Respondent to this RFQ.
“RFQ”	This RFQ, including all exhibits referenced in this document and all other documents incorporated by reference.
“Website”	The Florida Housing Finance Corporation website, the URL of which is www.floridahousing.org .

SECTION THREE PROCEDURES AND PROVISIONS

A. The Respondent must submit an original and three copies of the Response to the Contract Administrator in a sealed envelope marked “RFQ 2019-04.” Each envelope or package containing Responses must clearly state the name of the Respondent. The Response that is the original must be clearly indicated on that Response. An electronic copy of the Response must also be submitted on a CD or flash drive. Florida Housing will not accept a faxed or e-mailed Response. Florida Housing must receive any Responses on or before 2:00 p.m., Eastern Time, on June 12, 2019. Responses will be opened at that time.

Contract Administrator
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329
(850) 488-4197
Email: Contract.Admin@floridahousing.org

B. This RFQ does not commit Florida Housing to award a contract to any Respondent or to pay any costs incurred in the preparation or mailing of a Response.

C. All services under the contract awarded are to be performed solely by the Contractor, unless subcontracted or assigned with the prior written approval and consent of Florida Housing.

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 Respondents from any source;
4. Request an oral interview before the Board from any or all Respondents;
5. Select for contract negotiation or for award a Response other than (or in addition to) that with the highest score in order to serve the best interests of Florida Housing and the public; and
6. Negotiate with the successful Respondent with respect to any additional terms or conditions of the contract.

E. Any interested party may submit any question regarding this RFQ in writing via mail or e-mail to the Contract Administrator at the address given in Section Three, Item A. All questions must be submitted no later than 2:00 p.m., Eastern Time, on May 22, 2019. Phone calls will not be accepted. Florida Housing expects to respond to all questions in writing by 5:00 p.m., Eastern Time, on May 29, 2019. Florida Housing will post a copy of all questions received and the corresponding answers on Florida Housing's website at:

<http://www.floridahousing.org/legal/procurements/request-for-qualifications>.

Only written responses or statements from the Contract Administrator that are posted on our website will bind Florida Housing. No other means of communication, whether oral or written, may be construed as an official response or statement from Florida Housing.

F. Between the release of the solicitation and the end of the 72-hour period following the posting of the notice of intended award, respondents to this solicitation or persons acting on their behalf may not contact any member of Florida Housing's Board of Directors or any Florida Housing employee concerning any aspect of this solicitation, except in writing to the Contract Administrator. Violation of this provision may be grounds for rejecting a response.

G. 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., will constitute a waiver of proceedings under Chapter 120, Fla. Stat.

H. The term of the contract will be for three years, subject to satisfactory performance at the sole discretion of Florida Housing. If the parties mutually agree in writing, the contract may be renewed once for an additional three years.

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

J. Pursuant to Rule 67-49.004, Fla. Admin. Code, Florida Housing may modify the terms of the RFQ at any point prior to the due date for Responses. A notice of such modification will be posted on Florida Housing's Website and will be provided to potential Respondents who requested copies of the RFQ. Any Respondent will have at least seven days from the date of the posting of the notice of the modification to submit or modify its Response.

K. The terms of this RFQ, and any modifications thereto, will be incorporated into any contract offered as a result of this RFQ. Failure of a successful Respondent to accept these obligations in the final contract may result in cancellation of the award.

SECTION FOUR SCOPE OF SERVICES

Florida Housing is designated the housing credit agency for the state of Florida under 26 USC § 42 (h)(8)(A). When utilities for a residential rental unit are paid directly by the tenant, the inclusion of a utility allowance in the gross rent of rent-restricted units is required by 26 USC § 42(g)(2)(B)(ii). A building owner, in accordance with 26 CFR § 1.42-10(b)(4)(ii)(E), may calculate utility estimates using an energy and water and sewage consumption and analysis model (energy consumption model). 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. Florida Housing may approve or disapprove of the energy consumption model utility allowance estimate or require information before permitting its use.

The utility consumption estimates must be calculated by a properly licensed engineer

or other qualified professional approved by Florida Housing, which has jurisdiction over owners of developments in Florida that participate in the Housing Credit Program and other affordable housing programs financed by Florida Housing. The qualified professional and the building owner must not be related within the meaning of 26 USC §§ 267(b) or 707(b). 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.

Energy Consumption Model Utility Allowance Estimate Providers must:

A. Use an Energy Consumption Model (ECM) 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;

B. 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 26 USC §§ 267(b) or 707(b);

C. Otherwise comply in all respects with 26 CFR § 1.42-10(b)(4)(ii)(E), and any other applicable regulations;

D. Execute and submit to the owner the *Certification of Completeness and Accuracy for Energy Consumption Model (ECM) Utility Allowance Estimate* form, a sample of which is available at <https://www.floridahousing.org/legal/procurements/request-for-qualifications> under the listing for this RFQ;

E. Provide the owner with an ECM study that states the effective date of the utility rates and clearly delineates customer service charges, base rates, volume charges, volume discounts, taxes, surcharges and franchise fees, where applicable, to document the utility estimates calculated for each Building Identification Number (BIN); and

F. Provide the owner with a letter that explains how the specific factors in Section Four, Item A., 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 1, of this RFQ, each Respondent certifies that:

A. The Respondent 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 will 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, but only after Florida Housing provides a notice of decision pursuant to Section 120.57(3), Fla. Stat., or within 30 days after the Response is opened, whichever is earlier.

C. The Respondent, if awarded a contract under this RFQ, will comply with Section 420.512(5), Fla. Stat. For the purpose of Section 420.512(5), Fla. Stat., "Prohibited Business Solicitation Communications" is defined by Section 420.503(32), Fla. Stat.

D. The Respondent is in compliance with Section 287.133(2)(a), Fla. Stat.

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

F. Pursuant to Section 119.0701(2)(b), Fla. Stat., the Respondent, if awarded a contract under this RFQ, will be required to comply with public records laws, specifically to:

a. Keep and maintain public records required by Florida Housing to perform the service.

b. Upon request from Florida Housing's custodian of public records, provide Florida Housing 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 Florida Housing.

d. Upon completion of the contract, transfer, at no cost, to Florida Housing all public records in possession of the contractor or keep and maintain public records required by Florida Housing to perform the service. If the contractor transfers all public records to Florida Housing upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Florida Housing, upon request from Florida Housing' custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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**

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

G. The Respondent acknowledges that if awarded a contract it will be prohibited from engaging in activities in connection with services related to Florida Housing transactions that produce direct or indirect financial gain for the Respondent other than for the compensation agreed upon in the contract that results from this RFQ, unless that Respondent has Florida Housing's written consent after Florida Housing has been fully informed of such activities in writing.

H. The Respondent acknowledges that if awarded a contract it will be prohibited from engaging 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 contract and prior to the conclusion of the contract, the Respondent will provide written notification (Notice of Conflict of Interest) to Florida Housing's Contract Administrator within 10 working days for review by Florida Housing's Executive Director in consultation with their Ethics Officer. If the Respondent is found to be in non-compliance with this provision, any compensation received in connection with this contract will be subject to forfeiture to Florida Housing.

I. The Respondent, in submitting this Response, acknowledges and agrees that the terms and conditions of this RFQ, as well as any modifications thereto, will be incorporated into any contract offered as a result of this RFQ.

J. Payment or compensation due the Energy Consumption Utility Allowance Estimate Provider shall be the sole responsibility of the 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 development owner gains from a lower utility allowance. If the Energy Consumption Utility Allowance Estimate Provider and/or the development owner is found to be in noncompliance 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.

K. CERTIFICATION STATEMENT:

THE FOLLOWING WILL BE REPEATED IN THE RESPONDENT'S RESPONSE AND SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND THE RESPONDENT. THIS IS A MANDATORY ITEM AND FAILURE TO INCLUDE THE CERTIFICATION STATEMENT BEARING AN ORIGINAL SIGNATURE WILL RESULT IN REJECTION OF THE RESPONSE.

"I agree to abide by all conditions of RFQ 2019-04 and certify that all information provided in this Response is true and correct, that I am authorized to sign this Response as the Respondent 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 bound volume. Responses to the items must be included immediately after the restated items without any reference to any appendix.

A. COVER LETTER

Each proposal must be accompanied by a cover letter that contains a general statement of the purpose of submission and includes the following information.

1. The name, job title, address, office and cellular telephone numbers, 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.), address, and telephone number of the Respondent.
3. Describe the Respondent's ability to provide the described services and why Respondent is qualified to act as an Energy Consumption Model Utility Allowance Estimate Provider to owners of developments funded by Florida Housing.

B. GENERAL INFORMATION

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

2. Describe the Respondent's methodology in developing an Energy Consumption Model Utility Allowance Estimate. Provide a sample Energy Consumption Model Utility Allowance Estimate for a proposed rental housing development and a description of the platform(s) used as the basis for your energy consumption model (i.e., Excel model, whole building simulations). Identify the factors considered in your analysis, such as unit size, building orientation, design and materials, mechanical systems, control systems, appliances, interaction effects between building systems, building location characteristics, weather, occupancy, metering characteristics, comparison to similar buildings or building codes, and utility rate schedules. Note: This may not be a comprehensive list of relevant factors or variables, so please identify any additional factors or variables that may be considered in your analysis.

3. **(Mandatory 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 Model Utility Allowance Estimate Provider services is a Qualified Professional or is a Licensed Engineer. Note: Failure to include these items will result in rejection of the response.

C. EXPERIENCE

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

2. Provide information on any contract entered into within the last 10 years by the Respondent to provide services similar to those described in Section Four of this RFQ.

3. Provide information on any contract entered into by the Respondent 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 describing relevant degrees, certifications, or experience, no more than five pages in length each, of staff who will be performing the Energy Consumption Model Utility Company Estimate Provider services.

E. FEES

1. Where indicated in Table 1 below, provide the proposed fees for each item. **Note:** Florida Housing will not accept caveat language. Responses that include caveat language will receive a total score of zero for this section.

2. Fees proposed must include all charges relating to the services required under the contract and all out-of-pocket expenses, such as telephone, postage and shipping, printing and/or copy costs, and travel, if any.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

TABLE 1 FEES	
Service	Fee
Item #1 – Initial Verification of Data for Electric Allowance Modeling	\$
1 Bedroom	\$
2 Bedroom	\$
2 Bedroom Townhome	\$
3 Bedroom	\$
Subtotal – Item #1 (A)	\$
Item #2 – Initial Verification of Data for Water/Sewer Allowance Modeling	\$
1 Bedroom	\$
2 Bedroom	\$
2 Bedroom Townhome	\$
3 Bedroom	\$
Subtotal – Item #2 (B)	\$
Item #3 – Annual Allowance Update (Electric)*	\$
1 Bedroom	\$
2 Bedroom	\$
2 Bedroom Townhome	\$
3 Bedroom	\$
Subtotal – Item #3 (C)	\$
Item #4 – Annual Allowance Update (Water/Sewer)*	\$
1 Bedroom	\$
2 Bedroom	\$
2 Bedroom Townhome	\$
3 Bedroom	\$
Subtotal – Item #4 (D)	\$
TOTAL (A+B+C+D) =	\$

*Fees for Items #3 and 4 assume no changes from initial data.

F. DRUG-FREE WORKPLACE

If the Respondent has implemented a drug-free workplace program, the Respondent must submit the following certification indicating that it meets all of the requirements of Section 287.087, Fla. Stat.:

I hereby certify on behalf of the Respondent, under the terms of RFQ 2019-04, that the Respondent has implemented a drug-free workplace program pursuant to Section 287.087, Fla. Stat.

Authorized Signature: _____
Print Name: _____
Print Title: _____

G. MINORITY BUSINESS ENTERPRISE

If the Respondent is a minority business enterprise as defined in Section 288.703, Fla. Stat., the Respondent must submit the following certification:

I hereby certify on behalf of the Respondent, under the terms of RFQ 2019-04, that the Respondent is a "minority business enterprise" as defined in Section 288.703(3), Fla. Stat.

Authorized Signature: _____
Print Name: _____
Print Title: _____

H. CERTIFICATION (Mandatory Item)

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

**SECTION SEVEN
EVALUATION PROCESS**

The individual Committee members will independently evaluate the Responses by reviewing the answers to each of the items identified in Section Six of this RFQ and assigning points up to the maximum points allowed for each item. The points available for items in Section Six are to be evaluated are as follows:

<u>Item Reference</u>	<u>Maximum Points</u>
B. General Information	15
C. Experience	30
D. Qualifications of Personnel	45
E. Fees	10
Total Points Available	100

For the Fee Section, the Respondent with the lowest proposed total fee will receive the maximum allowable points (10 points). The remaining respondents will receive a percentage of the maximum points, rounded to the nearest whole number, based on the following formula:

Lowest Proposed Total Fee	=	%	x	10	=	Total Points Awarded for "Fees" (Rounded to the nearest whole number)
+ Current Respondent's Proposed Total Fee						

In the event of a tie, Florida Housing will 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 will give preference to minority business enterprises as defined in Section 288.703, Fla. Stat.

The Committee will conduct one or more public meetings during which members will discuss their evaluations and develop a recommendation or series of recommendations to the Board. The Committee's recommendation will be based on the cumulative scoring and information gathered from the non-scored items. 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, and any other information the Board deems relevant in its selection of Respondents to whom to award a contract.

SECTION EIGHT AWARD PROCESS

Florida Housing will 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. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat. or failure to post the bond or other security required by law within the time allowed for filing a bond will constitute a waiver of proceedings under Chapter 120, Fla. Stat.