



REQUEST FOR PROPOSALS

Procurement per 15 AAC 150.300-490

Section

1

Project Title: Public Relations and Support Services

RFP Number: 23-GRPA-001

Project Site: Anchorage, Alaska

Project Description: AHFC is seeking proposals for Public Relations and Support Services from qualified agencies as detailed in the Statement of Services.

Procurement Officer: Marlon Dimatulac

Contact Info: Phone: (907) 330 – 8161 Fax: (907) 330-8217 Email: Submittals@ahfc.us

Anticipated Period of Performance – Begin thru End: Two (2) years with an option to extend up to two (2) additional three (3) year periods at the sole discretion of AHFC.

Funding Source: ☒ Corporate ☒ Federal

Estimated Amount of Proposed Contract:

☐ Less than \$100,000 ☒ \$100,000 to \$500,000 ☐ \$500,000 or greater

Question Deadline and Submittal location:

DATE: September 27, 2022 **PREVAILING TIME:** 4:00 PM **EMAIL:** submittals@ahfc.us

Submittal Location and Deadline

(Offerors are responsible to assure delivery prior to deadline. Only proposals received prior to the following date and time will be opened.)

DATE: October 5, 2022 **PREVAILING TIME:** 4:00 PM

DELIVER PROPOSALS VIA ONE OF THE FOLLOWING METHODS (and person, if named):

HAND DELIVER OR MAIL

Alaska Housing Finance Corporation
4300 Boniface Parkway
Anchorage, Alaska 99504
Attention: Andrew Morton, Administrative Manager, Procurement

EMAIL:

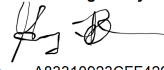
Submittals@ahfc.us

IMPORTANT NOTICE: If you downloaded this solicitation from the Corporation's Website, you must register with the planholders list and to receive subsequent addenda. Failure to register may adversely affect your proposal. It is the Offeror's responsibility to ensure that he has received all addenda affecting this RFP. To be registered, call 907-330-8239 or fax 907-330-8217 and provide the project name & number, company name & contact person, address, phone number & fax number. An electronic version of the RFP may be obtained at AHFC's website <https://www.ahfc.us/about-us/notices/requests-proposals>

Minority and women-owned businesses are encouraged to submit proposals.

This RFP issued on behalf of the Alaska Housing Finance Corporation by:

DocuSigned by:



A83310923CFF429...
Gregory Rochon,
Chief Procurement Officer

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Notices

1. The Alaska Housing Finance Corporation is an equal opportunity employer.
2. Copies of sample contract documents are attached to this RFP.
3. Offerors are specifically advised that a contract shall not be in effect until a written agreement is executed by an authorized agent of the Corporation. The Corporation shall not be liable for any cost incurred by an Offeror in response to this solicitation, including any work done, even in good faith, prior to execution of a contract and issuance of a Notice to Proceed.
4. The Corporation expressly reserves the right to accept or reject and and all proposals, waive minor informalities, negotiate changes and to not award the proposed contract, if in its best interest. "Minor Informalities" means matters of form rather than substance which are evident from the submittal, or are insignificant matters that have a negligible effect on price, quantity, quality, delivery, or contractual conditions and can be waived or corrected without prejudice to other Offerors.
5. AHFC will not be subject to payment for costs incurred for proposal preparation or Contract preparation as a result of valid and legal termination of this RFP or termination of any contract resulting from the award of the RFP.
6. All proposals shall be open for public inspection after a Notice of Intent to Award is issued. Offerors should not include proprietary information in proposals if such information should not be disclosed to the public. Any language within a submittal purporting to render all or portions of a proposal confidential will be disregarded. Proprietary information which may be provided after selection for contract negotiations will be confidential if expressly agreed to by the Corporation.
7. Substitution for any personnel named in a proposal may result in termination of negotiations.
8. If it is discovered that a selected Offeror is in arrears on taxes due the State of Alaska, a contract may not be awarded until the Alaska Department of Revenue approves the payment provisions for the contract.

9. Offerors and proposed subcontractors shall be in compliance with the statutory requirements for Alaska business licensing and professional registrations.

10. **Price Competition:** If the services performed do not require an Architect, Engineer or Land Surveyor, then all Offerors including any A/E or LS must provide Price Proposals in accordance with 15 AAC 150.330(f)(2). Notwithstanding (f)(2) of this section, for architectural, engineering, or land surveying services, the corporation may negotiate a contract with the most qualified and suitable firm or person of demonstrated competence. 15 AAC 150.330(m)

11. Standard insurance provisions for Worker's Compensation, General and Automobile Liability, and Professional Liability are contained in the Sample Contract, Indemnification and Insurance. Coverages may be modified under very limited circumstances. Offeror should not assume any modification of coverages.

12. **Professional Liability Insurance for the proposed contract:** ☒ is required

13. **Pre-proposal Conference:** ☒ None ☐ As follows:

14. **Special Notices:**

14.1 An Alaska Business License is required of Contractors who do business in Alaska at time of award. To qualify for the Alaska Bidder's Preference, under 15 AAC 150.910(b), an Offeror shall have a valid Alaska business license as a prerequisite to proposal. Information regarding applying for an Alaska Business License can be found on-line at <http://commerce.alaska.gov/dnn/cbpl/Home.aspx> or by calling 1-907-465-2550. The business license must be in the name of the company under which the proposal is submitted.

15. **Contractual Agreements:** A sample contract is included as Attachment to this RFP (the Contract). The apparent successful Firm(s) will be required to sign the Contract in the same form as the sample Contract. Objections to any of the provisions in the sample Contract must be expressed and submitted in the Firm's proposal or all provisions of the Contract will be determined accepted as written.

Unless stated otherwise herein, the basic and governing language of the contractual agreement resulting from this solicitation shall be comprised of the Contract, this RFP, including all documents, any attachments and amendments, and the successful Firm's signed proposal. In the event of a conflict between the documents, the Contract shall govern.

SUBMITTAL CHECKLIST

Section

2

Offeror may use left margin to check off items when completed.

- [] 1. Offerors must carefully review this RFP Package for defects and questionable material and become familiar with submittal requirements. Submit written comments to the address shown under "Question Deadline and Submittal Location" on page 1 of the RFP. Substantive issues will be addressed in a written addendum to all RFP recipients on the planholders list. Failure to comply with directions may result in lower score and may eliminate a submittal from consideration. Protests based on alleged improprieties or ambiguities in a solicitation may be disallowed at the discretion of the AHFC if the protest is not received in writing at least ten Agency work days prior to the Submittal Deadline.
- [] 2. Review the proposed Statement of Services and any other attached or referenced materials. If no Statement of Services is attached, telephone the AHFC Procurement Officer identified on page 1 of the RFP.
- [] 3. Review the Evaluation Criteria. Read each criterion in light of the proposed Statement of Services. Note any project specific criteria. Be aware of the assigned weight for each criterion. If a weight is not entered for any criterion, notify the Agency contact person. Plan your proposal to address the applicable criteria.
- [] 4. Prepare a distinct Response for each criterion that has a weight more than zero. Failure to respond directly to any criteria weighted more than zero will result in an evaluation score of zero for that criteria. Any Responses to criteria weighted zero will be disregarded. Acceptable Responses must be specific and directly related to AHFC's proposed Statement of Services. Marketing brochures, federal standard forms 330s, marketing resumes, and other non-project specific materials will be discarded without evaluation and should not be submitted, unless specifically requested by this RFP.
- [] 5. **Each criterion Response must be titled, numbered and assembled in the order in which the criteria are listed** so the criterion to which information applies shall be plainly evident. Material not so identified or assembled may be discarded without evaluation.
- [] 6. Price ☒ is ☐ is not an evaluation criterion for the proposed contract.

If Price is a Criterion, one copy bound with one staple in the upper left corner separately enclosed in a sealed envelope marked on the outside to identify it as a Billing Rates or Cost/Fee Proposal Form and the names of the Project and Offeror. Each Billing Rates or Cost/Fee Proposal Form must be signed and dated by the person who prepares it (may be different signatures for each Subcontractor).
- [] 7. Complete all entries on the Proposal Form. Note the statutory requirements for Alaska business licenses and professional registrations and be sure to sign and date the Certification. Copies of licenses and registrations may be provided with submittal, and will not count in the requirements of #8 below.
- [] 8. Attach Criteria Responses (**except any Billing Rates or Cost/Fee Proposals Form**) to the Proposal Form. Attached page limit if any, does not include the five-page the Proposal Form, any Billing Rates or Cost/Fee Proposals Form, and any other required Federal HUD Forms (if applicable).

Criteria Responses shall be presented in **8-1/2" X 11" format**, except for a minimal number of larger sheets (e.g. 11" x 17") that may be used (e.g. for schedules) if they are folded to 8-1/2" X 11" size. Large sheets will count as multiple pages at 93.5 square inches or fraction thereof per page, unless otherwise noted.

CAUTION: Criteria Responses which do not comply with the required page limit or presentation size, may result in disqualification. Further, small print or typeface that is difficult to read may negatively influence evaluation of your submittal and affect scoring for "Quality of Proposal."
- [] 9. Deliver **submittals in one sealed package** to the location and before the submittal deadline cited under "Question and Submittal Deadline on Page 1 of the RFP. **Mark the outside of the package** to identify the Project and the Offeror. Proposals must be received prior to the specified date and time. Late proposals will not be opened. Proposals must remain valid for at least ninety (90) calendar days from the date AHFC designates as the deadline for submitting proposals plus and addenda or extension to the RFP.

SECTION 3 EVALUATION CRITERIA

EVALUATION OF PROPOSALS:

The Corporation will appoint an evaluation committee to review the proposals submitted. Evaluations will be based solely on the evaluation factors set out in this Section of the RFP.

Any proposals received by AHFC that may be missing any or all of the mandatory information required by this RFP will be determined to be non-responsive and will not be evaluated by the Corporation. Firms must ensure that their proposal has submitted all required forms and signatures, as well as, thoroughly responded to all requirements and provisions. The Corporation will not be responsible for notifying Firms of any deficiencies in proposals.

Following evaluation of written proposals, AHFC may decide to conduct discussions (or “interviews”) with responsible offerors whose proposals are determined to be susceptible to being selected for the award for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements.

3.1 EVALUATION SCORING:

3.1.1 OFFEROR INFORMATION	Weight: 30%
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- a) Offeror has demonstrated sufficient prior experience working professional communications in the housing/finance sector (or an acceptable substitute thereof) with projects of a similar nature.

In evaluating the experience of the Offeror, the Alaska Housing evaluation committee will rely upon the Offeror to clearly demonstrate its experience through materials and references submitted with the Offeror's response. The Offeror must establish proof that the Offeror is staffed with sufficient personnel with prior experience to enable the Offeror to adequately foresee and resolve problems that may be associated with developing, designing, and carrying out the terms of the proposed contract.

- b) Account Manager (The person AHFC will be working with)

In evaluating the experience of the Offeror, the Alaska Housing evaluation committee will rely upon the Offeror to clearly demonstrate its experience through materials and references submitted with the Offeror's response as well as commitment to continuing education. The account manager must have a minimum of seven years of account management experience, including three or more years coming from working with Alaska businesses.

- c) The Offeror has demonstrated sufficient staff, materials or equipment available to perform the proposed contractual agreement.

A determination with respect to the Offeror's administrative support will be based upon the information supplied by Offeror, including the resumes of key staff (Offeror must designate by name and clearly illustrate relevant experience of key project

personnel), the location of the Offeror's business office(s), hours of business operation and availability of staff, along with other information that substantiate the Offeror's administrative capabilities.

A determination of satisfactory performance of prior contractual agreements will be made by Alaska Housing absent review and verification of the Offeror's previous work experience, including reference checks through other parties who have contracted with the Offeror.

3.1.2 METHODOLOGY AND/OR MANAGEMENT PLAN

Weight: 25%

The Offeror's Methodology and/or Management Plan must demonstrate the Offeror's comprehension of the objectives and Scope of Services anticipated by this RFP, without merely duplicating the Scope of Services. The Methodology and/or Management Plan must clearly describe and detail Offeror's proposed approach to timely perform and complete all services required by the RFP, any subsequent Contract, and undefined contingencies including changed conditions and/or change orders.

3.1.3 SUPPORTING SERVICES/COLLABORATION
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Weight: 20%

Offerors must demonstrate ability to collaborate effectively with their client and be dedicated to an integrated communications plan by submitting a complete list of sub-contractors/in-house resources, including relevant prior work and references for supporting services:

3.1.4 STAFF CONTINUING EDUCATION/TRAINING
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Weight: 5%

Offerors must demonstrate ability to collaborate effectively with their client and be dedicated to *development and implementation of* an integrated communications plan... *See Statement of Services more detail.*

3.1.5 COST/FEE PROPOSAL

Weight: 20%

Offerors must submit the Cost/Fee Proposal form provided to this solicitation. Failure to provide cost information on the form provided may result in rejection of Offeror's proposal as non-responsive. Include all miscellaneous charges applicable in performing indirect costs, such as copying, telephone, supplies, etc. Alaska Bidder's preference of five percent will apply to Cost Proposals.

Each Offeror's score will be calculated using the following equation - except that the score will be zero if a rate for each listed function is not provided by an Offeror.

$$\frac{(\text{Lowest aggregate rate from all Offerors}) \times (\text{MPP}^*)}{(\text{Offeror's aggregate rate})} = \text{Offeror's Criterion Score}$$

*MPP = Maximum Possible Points = (5) x (Number of Evaluators) x (Weight)

If no federal funding, then per AS 36.30.250(b), cost proposal shall be reduced by the following applicable percentages when the cost proposal from Offerors qualifies as an Alaska Bidder.

- ALASKA BIDDER PREFERENCE [2 AAC 12.260(d)] 0%

To qualify as an Alaska Bidder:

1) Response must certify that Offeror meets the following requirements per AS 36.30.990

- (A) Firm holds a current Alaska Business License;
- (B) Proposal is submitted under the name as appearing on the Firm's current Alaska Business License;
- (C) Firm has maintained a place of business within Alaska, staffed by the Firm or an employee of the Firm, for a period of six months immediately preceding the date of the offer;
- (D) Firm is incorporated or qualified to do business under the laws of the State of Alaska, is a sole proprietorship, and the proprietor is a resident of Alaska, is a limited liability company organized under AS 10.50 and all members are residents of Alaska, or is a partnership under AS 32.05, AS 32.06, or AS 32.11 and all partners are residents of Alaska; and
- (E) If the Firm is a Joint Venture, it is composed entirely of entities that qualify under (A) - (D).

3.2 AWARD FACTORS:

If applicable, the Procurement Manager or his/her designee will conduct negotiations with responsive and responsible Firms whose proposal, when considered with all other proposals submitted in response to this solicitation, best meet the needs of GRPA.

Upon selection of successful Firms, AHFC will issue a "Notice of Intent to Award". Copies of this Notice of Intent to Award will be emailed/faxed and/or mailed to all Firms who submitted proposals in response to this RFP.

Following a ten (10) day appeal period, AHFC will enter into negotiations with the apparently successful Offeror. Should contractual negotiations with the apparently successful Offeror be determined unsuccessful, AHFC reserves the right to either negotiate with the Offeror who submitted the next highest scoring proposal or to cancel the RFP.

3.3 UNAUTHORIZED NEGOTIATIONS:

In no event shall a prospective Firm, or the apparently successful Firm, enter into discussions or negotiations with representatives of AHFC other than the Procurement Manager, or his/her designee.

3.4 OTHER FACTORS/REQUIREMENTS:

News releases pertaining to this RFP may not be made without prior written approval of the AHFC Government Relations and Public Affairs (GRPA).

In accordance with AHFC Procurement regulations, all proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to issuance of the Notice of Intent to Award a contractual agreement. Thereafter, proposals will become public information.

Statement of Services

RFP# 23-GRPA-001

Section 4

4.1 Background

The mission of Alaska Housing Finance Corporation is “To provide Alaskans access to safe, quality, affordable housing.”

Values of Alaska Housing are listed and defined as follows:

- **Integrity:** Hold oneself to the highest standards.
- **Respectful:** Act in a manner that demonstrates professionalism, discretion, and courtesy.
- **Leadership:** Be a trusted industry expert and resource.
- **Sustainable:** Take an approach that enables a strong, healthy corporation and growth of investments.

Alaska Housing is seeking a business partner with demonstrated expertise and skills in professional communications who understands and seeks to advance the Corporation’s mission and values, and with skills to comprehend complex and bureaucratic systems, develop strategic communications plans, and suggest and deploy relevant tactical and visual communications for audiences using a combination of paid, earned, social and owned media. The winning vendor will be a valued member of a three-part team that consists of AHFC’s department of Governmental Relations & Public Affairs (GRPA) and web/digital contractor.

Alaska Housing is a financially self-supporting corporation owned by the State of Alaska, requiring no general funds for its operations. There are five departments that drive the majority of GRPA’s work. They are: Public Housing, Mortgage, Finance, Planning & Program Development, and Research & Rural Development. There are two standalone departments with unique audiences, the Statewide Housing & Homeless Office and Statewide Senior Housing Office. All departments receive operational support from departments including but not limited to Human Resources.

Information about all of these departments and their programs can be found at AHFC’s website, ahfc.us.

4.2 PROFESSIONAL COMMUNICATIONS/PUBLIC RELATIONS

In 2012, Public Relations Society of America adopted a new definition of public relations: *“Public relations is a strategic communication process that builds mutually beneficial relationships between organizations and their publics.”*

Regardless of what you call your craft, we’ve spent the last 51 years delivering on our mission of providing Alaskans access to safe, quality, affordable housing and there’s still much that needs to be done and shared. Building on AHFC’s history while meeting the challenges of the present and future through credible, trusted and strategic communications with key stakeholders is paramount to the successful bidder and long-term relationship with AHFC and its partners.

We’re seeking a professional communications firm capable of developing and implementing integrated communications plans through collaboration with GRPA and its web/digital contractor. Offeror must be able to provide supporting services, in house or as a sub-contract, that provides content creation; graphic design; promotional item acquisition; market research; media buying; marketing/advertising; media training and buying; crisis communications; photography/videography; multicultural communications; and event support. For each of the areas listed below and as appropriate, define how you measure success.

Content Creation:

Offeror is expected to write, a lot. How and where content should be used and placed is subject to Offeror recommendation and collaboration with GRPA and its web/digital contractor and be used to enhance Alaska Housing’s presence and engagement.

Editorial calendars are expected to be developed no less than annually. Content development is expected to be used in traditional and new media, including AHFC’s website, ahfc.us, and other formats as required (memos/letters, award nominations, etc.). Alaska Housing is currently active on Facebook. It has profiles on Twitter, Instagram and LinkedIn.

Graphic Design/Promotional Item Acquisition:

Offeror will familiarize themselves with AHFC’s visual style guide and as required, develop collateral in accordance with the standards, including Fair Housing standards and ADA accessibility. Every year, the Offeror is expected to review the guide and provide recommendations for enhancements.

Examples of collateral most often requested; Brochures, Flyers, PowerPoint (or other public presentations), logo wear.

Market Research:

Offeror will advise as to most effective method of market research for greater understanding of stakeholder sentiments and to evaluate and advance key objectives of Alaska Housing, its services and products.

Media Buying:

Media buys will be placed by Offeror. No less than annually, Offeror should present reasonable recommendations for placements consistent with communications framework and/or business objectives.

Marketing/Advertising:

Offeror will create and produce creative and effective messages targeting relevant audience(s) through placements in appropriate paid communication channel(s) and in collaboration with AHFC's web/digital contractor.

Media Training:

Offeror is expected no less than annually to provide training for corporate leadership in best and new practices in media coverage. Offeror will support GRPA to achieve earned media so demonstrated positive relations with local and state media are important. AHFC is not requesting media lists from its vendors but requires management of AHFC's existing media list and confidentiality (AHFC's list is not to be shared and/or used for purposes other than those expressly authorized by AHFC).

Crisis Communications:

Offeror is expected to have experience in crisis communications and offer no less than one annual training session for AHFC's leadership on the subject.

Offeror is expected to be available outside of business hours to act in a supporting capacity during real-time crisis situations. Offer should clearly disclose any scheduling restrictions and detail after-hours procedures for emergency contact.

Photography/Videography:

AHFC has an extensive photo library and growing video catalog. Offeror will familiarize themselves with DASH, identify gaps in the library and consistent with AHFC's visual style guide and any relevant communication plans, no less than annually develop a shot list to keep the library fresh and relevant and to document corporate milestones for use online, in the annual report, and other collateral necessary.

AHFC's video capabilities are developing. Offeror will provide assistance as required for pre-production, production and post-production.

Multicultural Communications:

Offeror is expected to demonstrate an awareness of and appreciation for Alaska's diverse peoples through written and visual media.

Event Support:

AHFC has historically participated in external events including home shows across Alaska and in relevant partner/industry events that has recently included the Alaska State Fair in Palmer. Offeror will support AHFC's in-house resources with recommendations for other statewide activities as well as internally-developed events.

Above descriptions of assignment duties for each category are not intended to be all-inclusive, and alternative ideas are encouraged during the course of the Contract.

Alaska Housing is seeking a collaborative relationship with Offeror and other vendors. Upon award of the Contract, specific Alaska Housing assignments and Offeror acknowledgements will be in writing.

WHAT'S NOT INCLUDED:

Legislative Support: While the sponsoring department of this RFP is Governmental Relations & Public Affairs, AHFC is statutorily prohibited from engaging lobbyist support. AHFC chooses to use its internal resources for any and all communications with legislators, their staff and advocacy organizations.

End of Statement of Services

Instructions to Offerors Non-Construction

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
 - (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
 - (3) letter or telegram, or
 - (4) facsimile, if facsimile offers are authorized in the solicitation.
- The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the HA will be considered at any time it is received and may be accepted.

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and
- (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/01/2014)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$100,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

proposal submitted before final payment of the contract.

- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
 - (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

- (a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

- (b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

PROPOSAL FORM

THIS FORM MUST BE THE FIRST PAGE OF PROPOSAL

Project Title: Public Relations and Support Services

RFP Number: 23-GRPA-001

Project Site: Anchorage, Alaska

CONTRACTOR (OFFERER) INFORMATION

Contractor Name: _____

Street Address: _____ **City:** _____ **State:** _____

Alaska Business License Number: _____

Individuals to Sign Contract: _____

Title: _____

Contractor's Contract Administrator: _____

Title: _____ **Phone:** _____ **Email:** _____

Contractor Qualifies as Alaska Bidder (if Corporate funded): Yes [☐] No [☐]

Receipt of Addenda numbered _____ **is hereby acknowledged.**

PROPOSED SUBCONTRACTORS

<u>Subcontractor Name</u>	<u>Service Provided</u>	<u>AK Business License</u>
1.		
2.		
3.		
4.		

CERTIFICATIONS

I certify: that I am a duly authorized representative of the Contractor; that this Submittal accurately represents capabilities of the Contractor and Subcontractors identified herein for providing the services indicated; and, that the requirements of Certifications on page 2 and 3 of this proposal for 1) Foreign Contracting, 2) Former Public Officer and 3) the Disclosures, Pledges and Promises on pages 2, 3, and 4 of this Proposal Form will be complied with in full. These Certifications are material representations of fact upon which reliance will be placed if the proposed contract is awarded. Failure to comply with these Certifications is a fraudulent act. The Corporation is hereby authorized to request any entity identified in this proposal to furnish information deemed necessary to verify the reputation and capabilities of the Contractor and Subcontractors. This proposal is valid for at least ninety days.

Signature: _____

Date: _____

Name: _____

Telephone: _____

Title: _____

Fax: _____

Email Address: _____

CERTIFICATION - FOREIGN CONTRACTING

By signature on this solicitation, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States. If the offeror cannot certify that all work is being performed in the United States, the offeror must contact the Contracts Officer to request a waiver at least 10 days prior to proposal deadline. The offeror must provide with their submission a detailed description of the portion of work being performed outside the United States, where, by whom, and the reason the waiver is necessary. Failure to comply with this requirement may cause the state to reject the bid or proposal as non-responsive, or cancel the contract.

CERTIFICATION – FORMER PUBLIC OFFICER

Any proposer listing as a member of the proposer's team a current public officer or a former public officer who has left state service within the past two years must submit a sworn statement from that individual that the Alaska Executive Branch Ethics Act does not prohibit his or her participation in this project. If a proposer fails to submit a required statement, the proposal may be deemed nonresponsive or nonresponsible, and rejected, depending upon the materiality of the individual's proposed position.

The Ethics Act bars a public officer who leaves state service from representing, advising or assisting a person for compensation regarding a matter – that was under consideration by the administrative unit in which the officer served, and in which the officer participated personally and substantially through the exercise of official action, for two years after leaving state service. See AS 39.52.180(a). "Public officer" includes a state employee, a member of a state board and commission, and a trustee of the Exxon Valdez Oil Spill Trust. "Official action" means a recommendation, decision, approval, disapproval, vote, or other similar action or inaction. Possible remedies for violating the bar include penalties against the former public officer and voiding the state grant, contract or lease in which the former public officer is involved.

Additionally, former public officers may not disclose or use information acquired in the course of their official duties that could in any way result in a benefit to the former public officers or their families, if the information has not been disseminated to the public or is confidential by law, without appropriate authorization. See AS 39.52.140.

Each current or former public officer is responsible for determining whether he or she may serve in the listed capacity on this project without violating the Ethics Act. A form that a former public officer may use to certify their eligibility is attached below. Current public officers may seek advice from their designated ethics supervisors concerning the scope and application of the Ethics Act. Former public officers may, in writing, request advice from the Office of the Attorney General, Ethics Attorney concerning the application of the Ethics Act to their participation in this project. It is the responsibility of the individual and the proposer to seek resolution in a timely manner of any question concerning the individual's eligibility.

DISCLOSURES, PLEDGES, AND PROMISES

Respond to every question or blank space provided in the Disclosures, Pledges and Promises. If the information required is not applicable, enter "N/A". If there is not enough space to adequately respond to any question or request for information, enter "see attached explanation" in the space provided, and attach the additional pages of information. Clearly identify the portion of the Disclosures, Pledges and Promises you are responding to, and attach the information in the proper order.

1. The proposal submitted to AHFC is genuine, not collusive or a sham; the Offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other Offeror or person, to submit a sham proposal, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price submitted by Offeror or submitted by any other Offeror, or to fix any terms, conditions, overhead, profit or cost element of said proposal, or of the proposal of any other Offeror, or to secure any advantage against AHFC or any person interested in the proposed Contract; and that all statements in said proposal are true.

The Offeror has not, and will not disclose the terms and conditions of the proposal, directly or indirectly, to any other Offeror or interested person prior to Contract award unless otherwise required by law.

2. Each signature on the proposal and all addenda are considered to be a certification by the signatory that the signatory:

- a. Is the person from the Offeror's organization responsible for determining the prices and terms being offered in the proposal, and that the signatory has not participated and will not participate in any action contrary to Paragraph 1 above; and

- b. Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated and will not participate in any action contrary to Paragraph 1 above.

(Insert full name of person(s) in the Offeror's organization responsible for determining the prices and terms offered in the proposal, and the title of his or her position in the Offeror's organization.)

- c. As an authorized agent of the Offeror, does certify that the principals named in Paragraph 2, Section b, have not participated and will not participate in any action contrary to Paragraph 1 above.

- d. As an authorized agent of the Offeror, has not personally participated and will not participate in any action contrary to Paragraph 1 above.

3. The Offeror represents that, except for full-time bona fide employees working solely for the Offeror, the Offeror:

- a. () has, () has not, employed or retained any person or company to solicit or obtain the AHFC Contract resulting from this RFP; and

- b. () has, () has not, paid or agreed to pay any person or company employed or retained to solicit or obtain the AHFC Contract resulting from this RFP, any commission, percentage, brokerage or other fee contingent upon or resulting from the award of a Contract.

If the answer to 3a or 3b above is affirmative, the Offeror shall include a full and written disclosure attached to this affidavit and addressed to the AHFC Contract Compliance Officer.

The Offeror acknowledges and agrees that any misrepresentation made by the Offeror subject to Paragraphs 3a and 3b above shall give AHFC the right to (1) terminate any subsequent Contract; (2) at its sole discretion, deduct from Contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the Contract.

4. To the best of Offeror's knowledge and in good faith, it is the Offeror's belief that the following named AHFC employees or AHFC Board of Directors members may have a financial, business, or familial interest, direct or indirect, in or with the Offeror or Offeror's representative: (If none, so state.)

AHFC Employee Name/Job Title

AHFC Board of Directors Member(s)

Explanation of nature of AHFC employee or Board member interest with Offeror or Offeror's representative: (If none, so state.)

5. The Offeror does not have any organizational conflict of interest, which is defined as a situation in which the nature of work to be performed or services to be supplied under the proposed AHFC Contract, and the Offeror's organizational, financial, contractual, or other interests may:

- a. Result in an unfair competitive advantage to the Offeror; or
- b. Impair the Offeror's objectivity in performing the Contract work or providing the Contract services.

If the Offeror cannot respond affirmatively to 5a and 5b above, the Offeror shall include a full and written disclosure attached to this affidavit and addressed to the AHFC Contract Compliance Officer.

6. Neither the Offeror, nor any person or firm which has an interest in the Offeror's firm, is ineligible to:

- a. Be awarded contracts by any agency of the United States Government, HUD, AHFC, or the State of Alaska.

7. The Offeror certifies that:

- a. It has paid all required fees and is properly licensed and bonded to do business in the State of Alaska and within the local governing body in which any work or services subsequent to this RFP is to be performed or provided.
- b. It complies and will comply with all laws of the State of Alaska, the applicable portions of the Federal Civil Rights Act of 1964, and the Equal Employment Opportunity Act as regulated by the State and federal governments.
- c. The Offeror certifies that all terms and conditions, including fee or price quotes submitted as a part of the Offeror's response to this solicitation shall remain effective for a period of not less than ninety (90) days from the date AHFC designates as the deadline for submitting proposals, plus any addenda or extensions to the RFP, and for an additional contractual term if the Offeror should enter into a Contract with AHFC to perform work or provide services as described in this solicitation. The Offeror acknowledges and agrees that its proposal and all other material submitted will become the property of AHFC.
- d. No action, suit, proceeding, inquiry or investigation before or by any court or federal, State, municipal or other governmental authority is pending, or to the Offeror's knowledge is threatened against Offeror or affecting the assets, properties, or operations of the Offeror or its interests, which if determined adversely to Offeror would have material and adverse effect upon the consummation of transactions contemplated by, or the validity of, agreements between AHFC and the Offeror, or upon the financial condition, assets, properties or operations of Offeror. No employee employed by the Offeror's firm, or the Offeror's firm itself has been debarred, suspended or otherwise prohibited from practice by any federal, State or local agency.
- e. If the Offeror is unable to affirmatively certify any statement under Paragraph (d) above, the Offeror shall include a full and written disclosure attached to this affidavit and addressed to the AHFC Contract Compliance Officer.

Under the Alaska Executive Branch Ethics Act
(AS 39.52.140, AS 39.52.180)

I certify under penalty of perjury that the foregoing is true.

[name of former state employee]

IN WITNESS WHEREOF, I have placed my signature and affixed my official seal.

If no notary or other official (judge, magistrate, U.S. postmaster or municipal clerk) is available, omit the notary certificate and include the following statement in the text: A notary or other official empowered to administer oaths is unavailable.

COST/FEE PROPOSAL FORM

OFFERORS TO NOTE THE FOLLOWING:

A proposal to be considered for the RFP, the respondent understands and agrees there is no minimum or maximum guarantee of work or dollar amount under the contract and AHFC reserves the right to accomplish any or all of the work through means other than this agreement, including the use of in-house forces.

INSTRUCTIONS FOR COMPLETING FORM:

Respond to every question or blank space provided on this form. If the information required is not applicable, enter "N/A". If the form does not provide enough space to adequately respond to any question or request for information, enter "see attached explanation" in the space provided, and attach the additional pages of information. Clearly identify the portion of the form you are responding to, and attach the information in the proper order.

Response will be scored as follows:

$$\frac{(\text{Lowest Total of all Hourly Billing Rates}) \times (\text{Maximum Points Possible}^)}{\text{Score}} = \text{Criterion}$$*
(Offeror's Total Proposed Price)

ITEM	Hourly Rate	Hours	Total = Hourly Rate (Times) Hours Ex: \$100 per Hr (x) 20 Hours = \$2,000
Account Executive		20	\$
Account Coordinator		50	\$
Art Director		20	\$
Creative Director		20	\$
Copy Writing		20	\$
Designing/Layout		20	\$
Administrative/Clerical Support		100	\$
Researching		20	\$
Social Media Management		50	\$

Web Development		10	\$
Photography		20	\$
Videography		20	\$
Editing		20	\$
TOTAL			\$

Offeror must provide a fully burdened hourly billing rate for all positions, functions, or tasks identified above. If there are other Rates, not listed below, firm may provide separate rate schedule for AHFC consideration. Rates provided will be incorporated into the contract for the first two years. Awarded Contractor may request rate adjustments during contract renewal periods.

AHFC Professional Services Contract

Project Title: Public Relations and Support Services

Contract Number: 23-GRPA-001

Project Site: Anchorage, Alaska

Contract Term: Two (2) years with an option to extend up to two (2) additional three (3) year periods at the sole discretion of AHFC.

CONTRACTOR INFORMATION

Contractor: Insert Contractor Name

Address: Insert Street Address or PO Box

City, State, Zip: Insert City State and Zip Code

Contract Manager: Insert Contractor's Contract Administrator and Title

Phone No: (907) XXX-XXXX

Fax No: (907) XXX-XXXX

Email Address:

AHFC INFORMATION

Street: 4300 Boniface Parkway

PO Box: P.O. Box 101020

City, State, Zip: Anchorage, AK 99504

Contract Manager: Insert Contractor's Contract Administrator and Title

Phone No: (907) XXX-XXXX

Fax No: (907) 330-8217

Email Address:

INCORPORATED BY REFERENCE

The following documents are incorporated by reference into this Contract:

- A. RFP# 23-GRPA-001, addendums, attachments, etc.; and
- B. Contractor's proposal submitted to AHFC.

In case of any conflict between the terms of this Agreement, The RFP, and the Contractor's Proposal, the terms of this Agreement shall prevail, followed by the RFP, and then the Contractor's Proposal.

This contract (the Contract) is made between _____ (the Contractor) and the Alaska Housing Finance Corporation (AHFC).

GENERAL PURPOSE OF CONTRACT

The purpose of this Contract is to establish the Contractor as approved to provide services as required by AHFC; and to define Contractor's duties and obligations, and the rights of the parties.

Contractor and AHFC agree as follows:

1. **CONTRACT IN ITS ENTIRETY:** This Contract represents the entire understanding between AHFC and Contractor. No prior oral or written understandings shall have any force or effect with respect to any matter covered in this Contract or in interpreting this Contract. This Contract shall only be modified or amended by written amendment executed by all parties
2. **EFFECTIVE DATE:** This Contract is not effective until the date upon which it is signed by AHFC.
3. **NOTICE TO PROCEED:** Services under this agreement shall not be undertaken or performed until a Notice to Proceed is issued by AHFC.
4. **CONTRACTOR'S DUTIES:** Contractor shall diligently perform for AHFC all of its duties under this Contract and/or any written instructions by AHFC. All work performed by the Contractor is subject to inspection, evaluation, and approval by AHFC. AHFC may employ all reasonable means to ensure that the work both progresses and is performed in compliance with the Contract.

Contractor shall have no liability for defects in the services attributable to Contractor's reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by AHFC, third parties retained by AHFC, or in the public domain. Contractor, unless otherwise provided in Exhibit A, shall not be responsible for the verification of any documents or other information provided by AHFC and relied upon by Contractor in performing the services.

In performing the services, Contractor may be required to make certain assumptions or forecasts of conditions, events, or circumstances that may occur in the future. Contractor will take reasonable efforts to assure that assumptions and forecasts made are reasonable and the basis upon which they are made follow generally accepted practices for such assumptions or projections under similar circumstances. AHFC expressly acknowledges that actual results may differ significantly from those projected as influenced by conditions, events, and circumstances that actually occur.

5. **TRAVEL:** If Contractor must travel in order to perform services or complete work as required by this Contract, all travel must be approved by AHFC in writing, and in advance. Travel expenses include, but are not limited to: coach class airfare or other commercial carrier tourist class fare, mid-sized car rental, necessary excess baggage fees, meal allowances at the applicable state or federal rate, and moderately-priced lodging costs.
6. **NO ADDITIONAL WORK OR MATERIALS:** No claim for additional services that are not specifically provided in this Contract, that are performed or furnished by the Contractor, will be allowed unless AHFC has ordered the work in writing, and in advance of the work being performed or the materials being provided.

AHFC and the Contractor agree to negotiate an acceptable compensation for any additional work. Before AHFC may agree to compensate the Contractor for additional work, the Contractor must provide AHFC with detailed cost and pricing data based upon the work to be performed and the schedule for delivery of work product.

Any additional work must be documented as a written amendment to this Contract and must be dated and signed by both parties prior to the work commencing.

7. **KEY PERSONNEL:** Any change in the key personnel of the Contractor responsible for performing work under this Contract must be approved in writing by AHFC.

Upon receipt of documentation that demonstrates that the proposed replacement personnel possess at least equivalent communications skills, specialized knowledge and technical experience comparable to the personnel to be replaced, AHFC may not unreasonably withhold such approval.

8. **COMPENSATION:** Compensation for services will be paid at the rates attached as "Exhibit A".

No payment will be made until the Contract is approved and signed by the AHFC Administrative Services Director, or designee. AHFC is not responsible for and will not pay local, state or federal taxes on work performed under this Contract. All costs associated with the Contract must be stated in U.S. currency.

9. **REIMBURSEMENT:** Any costs or expenses Contractor incurs performing Contractor's duties under this Contract are to be borne by Contractor and will not be reimbursed by AHFC except as provided in this Contract.

10. **TERMINATION BY CONTRACTOR:** The Contractor's duties under this Contract may be terminated in whole at any time at the option of the Contractor, upon ninety (90) days written notice to AHFC.

11. **TERMINATION BY AHFC:** AHFC, by written notice, may terminate this Contract in whole or in part, as follows:

- A. for any reason upon ninety (90) days written notice to Contractor;
- B. for Contractor's breach of any term of this Contract upon written notice to Contractor of the breach. A breach of this Contract includes, but is not limited to, Contractor's failure to comply with the Contract, including:
 - 1) Contractor's failure to maintain adequate insurance and/or bonding;
 - 2) Contractor's failure to comply with any federal, State, or local law, regulation, order, or judicial precedent that applies to Contractor;
 - 3) the dissolution or the commencement of any action or proceeding for the liquidation of the Contractor, or for the appointment of a receiver or trustee of the property of the Contractor;
 - 4) the insolvency of Contractor, the adjudication of Contractor as bankrupt, the appointment of a receiver for Contractor, the execution by Contractor of a general assignment for the benefit of Contractor creditors, or other material change in Contractor's status. Contractor's interest in this Contract is not an asset of Contractor or Contractor's successors or assigns, and no interest in this Contract may pass by operation of law without the express written consent of AHFC;
 - 5) a substantial change in the ownership of Contractor, including but not limited to, a sale of the majority interest in Contractor or a change in the corporate status of a Contractor without the prior written consent of AHFC;
 - 6) if a professional services contract, a substantial change in the experience or

qualifications of Contractor's staff assigned to perform services under this Contract without AHFC's express written approval;

- 7) a finding by a court that Contractor, or any principal of Contractor, committed an act of civil fraud, or a conviction of Contractor or any principal of Contractor of a crime for acts related to Contractor's business;
- 8) any revocation or suspension of Contractor's State of Alaska business license, or any determination by any professional board censuring Contractor in any manner;
- 9) any action or inaction on the part of the Contractor which results in a lien being filed against AHFC or results in AHFC dispensing funds to prevent lien action, provided, Contractor shall have ten (10) days from receipt of written notice to (i) remedy the same, or (ii) commence proceedings to remedy the same and proceed diligently in remedying the same;
- 10) failure of Contractor to pay subcontractors, suppliers, laborers, applicable State or federal taxes, provided, Contractor shall have ten (10) days from receipt of written notice to (i) remedy the same, or (ii) commence proceedings to remedy the same and proceed diligently in remedying the same.

- C. Whether or not AHFC has notified Contractor of the Contract termination under Subsection B, AHFC may take any action that in its discretion is reasonable to protect itself from Contractor's breach of this Contract.
- D. Failure of AHFC to terminate this Contract for Contractor's breach under Subsection B does not waive that right or any other right under this Contract.
- E. AHFC is liable only for payment in accordance with the compensation provisions of this Contract for services rendered before the effective date of any termination of this Contract.

12. TERMINATION NOT A RELEASE: Termination of this Contract by either AHFC or Contractor under Sections 11 or 12 of this Contract does not release Contractor from any obligations or liability under the Contract unless AHFC expressly releases Contractor in writing. Upon termination of the Contract by either AHFC or Contractor, Contractor must assist in an orderly transfer of all files, notes, draft reports, or other work product related to this Contract to the offices of AHFC or to any successor or custodian designated by AHFC (in writing).

13. INDEMNIFICATION: The Contractor shall indemnify, save harmless and defend AHFC and the State, its officers, agents, and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission, or negligent act of the Contractor, its subcontractors, or anyone directly or indirectly employed by Contractor in the performance of this Contract.

All actions or claims, including costs and expenses, resulting from injuries or damage sustained by any person or property arising directly or indirectly from Contractor's performance under this Contract which are caused by the joint negligence of AHFC and the Contractor shall be apportioned on a comparative-fault basis. Any such joint negligence on the part of AHFC must be a direct result of active involvement by AHFC.

- 14. NO ASSIGNMENT OR DELEGATION:** This Contract is a personal services Contract and Contractor may not assign or delegate this Contract, or any part of it, or any right to any compensation or reimbursement paid under it, except with the express written consent of AHFC, provided, Contractor may subcontract portions of the services to its related entities. The required consent shall not be unreasonably withheld, conditioned or delayed.
- 15. NOTICE:** Any notices given under this Contract must be in writing and must be sent by registered mail or certified mail, return receipt requested, and addressed to the parties identified on Page 1 of this contract:
- 16. OWNERSHIP OF RECORDS:** All records related to work performed by Contractor for AHFC under this Contract, including but not limited to documents, reports, recommendations, analysis, work produced in any form including intellectual property, computerized data files, and other media or papers of whatever kind or description (hereinafter called "records") whether or not developed or originated by Contractor are the sole property of AHFC.

At all times, each party shall retain all of its rights in its drawing details, designs, specifications, databases, models, computer software, copyrights, trade and service marks, patents, trade secrets, and any other proprietary property.

Nothing contained in this Section shall be construed as limiting or depriving Contractor of its rights to use its basic knowledge and skills to design or carry out other projects or work for itself or others, whether or not such other projects or work are similar to the work to be performed pursuant to this Contract.

Contractor shall have the right to retain and use copies of drawings, documents, and other data furnished by or to be furnished by Contractor and any non-confidential information contained therein.

AHFC shall not acquire any rights to any of Contractor's, its subcontractor's or vendor's proprietary computer software that may be used in connection with the services except as expressly provided in Exhibit A or as may be separately agreed in writing.

Contractor, upon AHFC's written request, shall deliver immediately all records to AHFC or as AHFC otherwise dictates in writing. Contractor may not condition in any manner whatsoever, the delivery of records. Any records that Contractor has retained on microfilm or otherwise condensed, must be reproduced promptly, at no cost to AHFC.

Unless all records have been delivered to AHFC, Contractor shall retain all records in its possession relating to the performance of this Contract for a period of three (3) years from completion of the project, or until notified by AHFC of final resolution of any audit findings, claims, or litigation related to the Contract, whichever is later.

- 17. EXAMINATION OF RECORDS:** Contractor shall permit any person designated by AHFC, at any reasonable time during regular business hours, and upon twenty four (24) hour notice, to examine and make audits of any and all of the records related to the services. Contractor shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or as a percentage of other costs.
- 18. PRIOR CONTRACTS:** This Contract supersedes any prior Contracts and understandings between AHFC and the Contractor relating to the subject matter of this Contract. However, the

provisions of this paragraph do not operate to release Contractor or AHFC from any responsibilities or liability that may have arisen under any prior Contract related to the subject matter of this Contract.

19. **PERMITS:** The Contractor shall be solely responsible and financially responsible for obtaining all required permits, licenses, and/or approvals to comply with municipal, borough, state and federal authority to operate Contractor's own business. The Contractor, as part of its services, may assist AHFC with obtaining permits and/or approvals for project work performed under this Contract, however, the Contractor shall not be financially responsible for the costs of such project-related permits and/or approvals.
20. **SAFETY:** The Contractor shall be solely responsible for initiating, managing and supervising all safety precautions and procedures related to, and arising out of, the Contractor's work under this Contract.

The Contractor shall take all necessary precautions to ensure the safety of all persons on the work site, whether the Contractor's employees or not. The Contractor shall comply with all applicable laws, ordinances, rules and regulations of any authority having jurisdiction over the safety of persons, or of the safe use of materials and equipment.

21. **CONFIDENTIALITY:** The Contractor acknowledges that AHFC will provide it with certain confidential and proprietary information to enable it to perform under this Contract. Contractor agrees that it will protect and keep confidential all such information that AHFC provides to it and will undertake to maintain the same standard of care and security to protect the confidential information as Contractor uses to protect its own confidential and proprietary information, provided Contractor shall be under no liability to treat the information received as confidential unless AHFC advises Contractor at the time of disclosure that said information is confidential.

Contractor's confidentiality obligation hereunder shall not extend to information which: (i) at the time of disclosure, is or becomes a part of the public domain by publication or otherwise through no fault of Contractor; (ii) Contractor can show was in its possession at the time of disclosure; or (iii) is subsequently disclosed to Contractor by a third-party, which information Contractor reasonably believes has not been wrongfully acquired, directly or indirectly.

Contractor shall not be restricted in any way from releasing information, including confidential information, in response to a subpoena, court order, or other legal process, or as may be legally compelled by any tribunal or governmental or regulatory authority, but in such event, shall notify AHFC of the demand for information before Contractor responds to such demand.

Contractor agrees to limit distribution of the confidential information to those of its employees who are performing work under the Contract. The confidential information may not be distributed to third-parties without the express written consent of AHFC. Contractor agrees that, upon completion of the Contract, it will return the originals and all copies of the confidential information to AHFC.

22. **COPYRIGHT:** Contractor acknowledges that the work product developed under this Contract is a work for hire specifically commissioned by AHFC. Contractor agrees that AHFC is entitled to the copyright in all technical materials, reports, drawings, manuals, or other work product developed pursuant to this Contract and Contractor hereby releases and waives any claim it may have to such copyright.

23. **NON-WAIVER OF RIGHTS:** No waiver or default of any part of this Contract by AHFC shall operate as a waiver of any subsequent default of any part of this Contract that is to be performed by Contractor. Consent or notice by AHFC shall not be construed as consent or notice in the future.
24. **THIRD PARTIES NOT BENEFITED:** It is specifically agreed by the parties that they do not intend by any provisions of any part of this Contract to create in the public or any member hereof a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to initiate a suit for damages pursuant to this Contract.
25. **DISPUTES:** Any dispute arising under this Contract that is not disposed of by mutual agreement shall be decided in accordance with the appropriate AHFC authority governing contract disputes or controversies.
26. **INDEPENDENT CONTRACTOR:** The Contractor and any agents, employees and officers of the Contractor act in an independent capacity and are not officers or employees or agents of AHFC in the performance of this Contract.
27. **GOVERNING LAW:** This Contract is governed by the laws of the State of Alaska. Any actions brought as a result of this Contract shall be brought in the courts for the State of Alaska in the Third Judicial District in Anchorage, Alaska.
28. **OFFICIALS NOT TO BENEFIT:** Contractor must comply with all applicable State or federal laws regulating ethical conduct of public officers and employees.
29. **CAPTIONS, SEVERABILITY:** The captions and headings of the paragraphs of this Contract are for convenience only and are not to be used to interpret or define the provisions of this Contract. If any provision of this Contract conflicts with applicable law, the conflict does not affect the other provisions of this Contract which can be given effect without the conflicting provision. The provisions of this Contract are declared to be severable.
30. **FUNDING:** Notwithstanding any other provision of this Contract, funding to support this Contract is contingent upon legislative approval of AHFC's annual operating budget. AHFC's fiscal year is July 1 through June 30.
31. **CONTRACT ADMINISTRATOR NOTICE:** Each party to this Contract shall designate a Contract Administrator. This person must be authorized to act on behalf of and bind their respective organization. The authority of the Contract Administrator cannot be assigned, delegated or changed without written amendment to this Contract.

Any notice given to AHFC under this Contract must be in writing and must be sent by registered mail or certified mail, return receipt requested, addressed to the AHFC Contract Administrator.

32. **INSURANCE:** Without limiting Contractor's indemnification, it is agreed that Contractor will purchase at its own expense and maintain in force at all times during the performance of services under this Contract, the following described policies of insurance.

Contractor must provide the required insurance certificates as described below to AHFC within ten (10) working days of Notice of Intent to Award. AHFC will not sign a contract, issue a notice to proceed, or make any payment absent the required insurance certificates.

AHFC Risk Management reserves the right, but not the obligation, to review and revise any of the following insurance requirements, based on insurance market conditions which may affect the availability or affordability of coverage; or based on changes in the scope of work or

specifications that apply to this Contract. In addition, AHFC Risk Management reserves the right, but not the obligation, to review and reject any insurance policies failing to either meet the necessary criteria or that have been provided by an insurer in poor financial condition or legal status.

The requirements contained herein, as well as AHFC Risk Management review or acceptance of insurance maintained Contractor is not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Insurance policies required to be maintained by Contractor will name AHFC as additional insured for all coverage where applicable

Contractor and its subcontractors agree to obtain a waiver, where applicable, of all subrogation rights against AHFC, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor and its subcontractors for AHFC. However, this waiver shall be inoperative if its effect is to invalidate in any way the insurance coverage of either party.

Where specific limits are shown, it is understood that they will be the minimum acceptable limits. If the Contractor's policy contains higher limits, AHFC will be entitled to coverage to the extent of such higher limits. The coverages and/or limits required are intended to protect the primary interests of AHFC, and the Contractor agrees that in no way will the required coverages and/or limits be relied upon as a reflection of the appropriate types and limits of coverage to protect Contractor against any loss exposure whether a result of this Contract or otherwise.

Failure to furnish satisfactory evidence of insurance or lapse of any required insurance policy is a material breach and grounds for termination of this Contract.

Workers' Compensation Insurance: Contractor will provide and maintain, for all employees of the Contractor engaged in work under the Contract, Workers' Compensation Insurance as required by AS 23.30.045. Contractor shall be responsible for ensuring that any subcontractor that directly or indirectly provides services under this Contract has Workers' Compensation Insurance for its employees. This coverage must include statutory coverage for all States in which employees are engaging in work and employer's liability protection for not less than \$1,000,000 per occurrence. Where applicable, coverage for all federal acts (i.e., USL & H and Jones Acts) must also be included.

Commercial General Liability Insurance: Contractor will provide and maintain Commercial General Liability Insurance with not less than \$1,000,000 per occurrence limit, and will include premises-operation, products/completed operation, broad form property damage, blanket contractual and personal injury coverage. Coverage shall not contain any endorsement(s) excluding or limiting contractual liability nor providing for cross liability.

Automobile Liability Insurance: Contractor will provide and maintain Automobile Liability Insurance covering all owned, hired and non-owned vehicles with coverage limits not less than \$1,000,000 per occurrence bodily injury and property damages. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for hired and non-owned liability which may be satisfied by endorsement to the CGL policy or by separate Business Auto Liability policy.

Professional Liability Insurance: *(if required by the RFP, Section 1, Notices, Item #12)* The Contractor will provide and maintain Professional Liability Insurance covering all errors, omissions or negligent acts of the Contractor, its subcontractors, or anyone directly or indirectly employed by them, made in the performance of this Contract which results in financial loss to the State. Minimum limits required are not less than \$1,000,000; higher limits may be required based upon the scope of work for this Contract.

Umbrella or Excess Liability: Contractor may satisfy the minimum liability limits required above for CGL and Business Auto under an umbrella or excess liability policy. There is no minimum per occurrence limit under the umbrella or excess policy; however the annual aggregate limit shall not be less than the highest per occurrence limit stated above. Contractor agrees to endorse AHFC as an additional insured on the umbrella or excess policy unless the certificate of insurance states that the umbrella or excess policy provides coverage on a pure “true follow form” basis above the CGL and Business Auto policy.

Certificates of Insurance: Contractor agrees to provide AHFC with certificates of insurance evidencing that all coverages, limits and endorsements as described above are in full force and effect and will remain in full force and effect as required by this Contract. Certificates shall include a minimum thirty (30) day notice to AHFC of cancellation or non-renewal. The Certificate Holder address shall read:

Alaska Housing Finance Corporation
Risk Management Department
4300 Boniface Parkway
Anchorage, Alaska 99504
Fax (907) 330-8217
risk@ahfc.us

Information for Insurance Agents/Brokers: Contractor is strongly encouraged to provide its insurance agent/broker with a copy of the insurance provisions of this Contract in order that the Contractor may timely obtain and maintain the required insurance and/or bonding.

33. ADDITIONAL PROVISIONS.

- A. EQUAL OPPORTUNITY EMPLOYMENT.** Contractor certifies that it complies with the applicable portions of 42 U.S.C. 1971, 1975 and 2000 of the Civil Rights Act of 1964 and the civil rights laws in the Alaska Statutes, AS 18.80 2 AAC 12.120 (a) (4). Contractor further certifies that subcontracting shall be allocated to meet goals established to eliminate and prevent discrimination.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set out below. This Contract takes effect on the date of its execution by AHFC.

For the Contractor

Signature: _____

Name: Insert Person Identified in Proposal as responsible for signing

Date

Title: Insert professional title

For AHFC

Signature: _____

Name: Greg Rochon

Date

Title: Administrative Services Director, Chief Procurement Officer