



RFP – 2019-0093 Historic Preservation & Cultural Resources Consultant

PART 1 – GENERAL INFORMATION

1.1 About Atlanta Housing

Atlanta Housing of the City of Atlanta, Georgia, a public body corporate and politic created under the Housing Authorities Laws of the State of Georgia, is a diversified real estate company with a public mission and purpose. Atlanta Housing meets its mission by deploying its assets to facilitate affordable housing opportunities for low-income, elderly and disabled households in the City of Atlanta. Atlanta Housing has broad corporate powers including but not limited to, the power to acquire, manage, own, operate, develop and renovate housing, invest and lend money, create for-profit and not-for-profit entities, administer vouchers, issue bonds for affordable housing purposes and develop commercial, retail and market rate properties that benefit affordable housing. Many of AH's programs are funded, in part, and regulated by the U. S. Department of Housing and Urban Development ("HUD") under the provisions of the U.S. Housing Act of 1937, as amended, as modified by Atlanta Housing's Moving-to-Work Agreement dated September 23, 2003, as amended and restated effective as of November 13, 2008 and as further amended effective as of January 16, 2009 ("MTW Agreement"). Today, AH is the largest housing agency in Georgia and one of the largest in the nation, serving approximately 50,000 people. To learn more about Atlanta Housing and its history, mission and business plan, Respondents are encouraged to visit AH's website www.atlantahousing.org.

1.2 Solicitation Purpose

The Housing Authority of the City of Atlanta, Georgia ("AH") is seeking the services of a firm that is qualified and experienced in Historic Preservation & Cultural Resources Consulting, to provide technical assistance in regards to compliance with Section 106 of the National Historic Preservation Act (NHPA; Public Law 89-665; 54 U.S.C. 300101 et seq.) or other applicable Federal, State, or local historic preservation regulations for the development efforts of various properties. Development efforts may include demolition of existing structures, adaptive reuse of existing structures, and/or new construction. Respondents will be evaluated on their capacity and capability to respond to one or more of the requirements in Section 1.3 Statement of Work. AH may select one or more consultants to enter into a Master Services Agreement with the agency for up to 5 years.

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PART 2 – SCOPE OF WORK

2.1 Scope of Work

The vendor should have a broad range of qualifications related to historic preservation & cultural resources consulting. Examples of the types of tasks the qualified vendor will assist AH include the following:

- a. Provide consulting services related to historic preservation related to AH adaptive reuse, demolition, new construction, or other development-related projects;
- b. Review the proposed design plans and examine all relevant materials for preservation-related impacts;
- c. Identify potential archeological concerns in projects;
- d. Conduct field visits to Property;
- e. Conduct Property related research and/or interviews, as necessary;
- f. Work with AH to identify and resolve potential conflicts between preservation of historic properties and the development and maintenance of perpetually affordable housing;
- g. Provide technical assistance to AH regarding general and project specific historic preservation challenges and opportunities;
- h. Consult with the State Historic Preservation Officer (SHPO) on ways to avoid, reduce, or mitigate adverse effects to historic properties;
- i. Prepare recommendations to the SHPO when it has been determined that proposed activities have an adverse effect to historic properties as well as overseeing recommended mitigation measures when necessary;
- j. Prepare and assist with the implementation of a Memorandum of Agreement (MOA) or other deliverables, if needed;
- k. Assist with the execution of the requirements of the MOA;
- l. Assist with the submission and maintenance of correspondence and documentation to the National Advisory Council and/or SHPO, as required, regarding the project's compliance with the provisions of Section 106 of the National Historic Preservation Act;
- m. Consult with the City of Atlanta Office of Design –Historic Preservation when needed;
- n. Perform archival research and working with primary source documentation. The firm should be willing and able to perform archival research with the Atlanta Housing Archives at the Rose Library of Emory University, the Robert Woodruff Library at Atlanta University, the Georgia Archives, Kenan Research Archives at the Atlanta History Center, or any archives applicable to the project; and
- o. Attend and present at any relevant meetings that may involve the public, AH Board of Commissioners, AH staff, Atlanta Urban Design Commission, other stakeholders, etc.

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When applicable, the work performed shall meet the applicable Secretary of Interior's Professional Qualification Standards. The vendor should have a clear understanding of how to interpret and apply the Secretary of the Interior's Standards and a clear understanding of how to interpret and apply the National Register of Historic Places criteria. The vendor should also be very familiar with the requirements of Section 106 of the National Historic Preservation Act, the City of Atlanta Historic Preservation Ordinance, and any other applicable Federal, State, or local regulations.

Experience pertaining to the following will also be weighed heavily in the selection process.

1. Experience with the United States Housing and Urban Development.
2. Familiarity and knowledge of Low Income Housing Tax Credit program and the Federal Historic Preservation Tax Credit program.
3. Experience working with the City of Atlanta Office of Design – Historic Preservation.
4. Experience in historic preservation activities related to adaptive reuse, demolition, rehabilitation, and new construction of residential and mixed-use construction.

2.2 Task Order Processing Steps

1. Atlanta Housing will issue a proposed Task Order containing a Scope of Work with specific requirements for a project to selected Respondents from this RFP who will be included on the Atlanta Housing pre-qualified list for Historic Preservation & Cultural Resources Consultant Services who successfully respond to this RFP. Proposed task orders will minimally include the following:
 - a. Price Proposal with relevant personnel costs (with hourly rates), reimbursable expenses and a complete breakdown of all costs and fees
 - b. Technical Proposal
 - c. Schedule with major milestones for delivery
 - d. Subcontracting Plan
 - e. Other Documents as Required.
2. At the time of the issuance of the Task Order, AH may request an updated organizational chart with assigned personnel and their resumes for the specific task. At this time, AH may request additional information related to financial capacity, firm resources and personal in order to determine capacity to perform the work.
3. The pre-qualified Historic Preservation & Cultural Resources Consultant firm will submit a proposed fee based on the Scope of Work.

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4. Atlanta Housing and the Historic Preservation & Cultural Resources Consultant firm whose proposal in answer to the Scope of Work is accepted will negotiate agreed fees and execute a formal Task Order with a Notice-to-Proceed.

2.3 Qualifications of Personnel

The Respondent will need to demonstrate that the qualifications of their staff meets or exceeds the Federal requirements stated in the "Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines," Federal Register, Vol. 48, No. 190-September 29, 1983, Pt. IV (see https://www.nps.gov/history/local-law/arch_stnds_9.htm). Therefore, the Respondent's staff must meet or exceed the following minimum education and experience for **at least one** of the stated professions. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of fulltime or part-time work adding up to the equivalent of a year of full-time experience.

History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

Archeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology, and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

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Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Architecture

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

Historic Architecture

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

If you do not meet the requirements stated in the "Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines", please provide an explanation as to how your qualifications and experience allow you to perform the tasks identified in Section 2.1.

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2.4 Schedule of Events

The following Schedule of Events represents AH’s estimate of the timetable that will be followed in connection with this solicitation:

EVENTS	DATE AND/OR TIME
1. RFP Posted on AH’s website*	March 11, 2019
Pre-Proposal Conference 230 John Wesley Dobbs Avenue Atlanta, GA 30303 Pecan Room	March 19, 2019 at 11:00 AM EST
2. Deadline for Questions and/or Comments	March 26, 2019 at 5:00 PM EST
3. Proposal Due Date and Time	April 09, 2019 at 5:00 PM EST

* Solicitation available on AH's website for download

NOTE: AH reserves the right, at its sole discretion, to adjust this Schedule of Events as it deems necessary. If necessary, AH will communicate adjustments to any event in the Schedule of Events in the form of an addendum to this RFP. Addenda to this RFP will only be issued and posted on AH’s website at <http://atlantahousing.org/business/vendors/index.cfm?Fuseaction=contracting>. Addenda **will not** be mailed to potential Respondents. **It is the responsibility of the Respondent to monitor AH’s website for any addenda issued.** Each Respondent must acknowledge all addenda issued so as to ensure that addenda are considered in their proposal response by completing *Addenda Acknowledgement Form*. This Form must be submitted with the Service Provider’s response to this Request for Proposals. Failure to include the Form in the proposal response may subject your Firm to disqualification.

2.5 Fee Proposal

Respondent shall identify its pricing for the Services using the Fee Proposal identified in **Exhibit I**. Any licensing fees, permit costs, printing costs and any other reimbursable items are the responsibility of the Respondent and can be negotiated during the issuance of a task order. Please note, that travel expenses outside of the Atlanta metropolitan area and per diem (hotel, meals, etc.) are not considered reimbursable expenses under this contract. AH may make an exception to this condition if any unforeseen need arises.

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PART 3 – PROPOSAL EVALUATION

Mandatory Submittals

The following Mandatory Submittals that must be included as a part of the proposal and received by the due date and time are:

MANDATORY SUBMITTALS
Cover Letter
E-Verify Affidavit
Clean Hands Certification
HUD Form 5369-C: Certifications and Representations of Offerors Non-Construction Contract
MWBE/Section 3 Utilization Plan
Principal Personnel Disclosure Statement Certification and Instructions
Respondent Disclosure Certification
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Addenda Acknowledge Form (if applicable)
Fee Proposal

NOTE 1: *Forms shall be completed, signed, and notarized where required or marked “Not Applicable” where appropriate.*

NOTE 2: *All forms are available in Adobe's PDF format for viewing and printing. To view and use the forms you must install [Adobe Acrobat Reader](#) on your computer. Acrobat 5.0 (minimum) is required for all fillable forms.*

3.1 Clean Hands Policy

Procurement actions shall be conducted only with responsible contractors who have the technical and financial competence to perform, who have the fiscal responsibility in business dealings, and who have a satisfactory record of integrity. Before awarding a contract, AH shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity, compliance with public policy, record of past performance on AH and other jobs (including contacting previous clients of the contractor), and financial and technical resources. AH shall not award a new contract or conduct new business with a bidding contractor, vendor or applicant who (i) has past due financial obligations or indebtedness to AH pursuant to a contract or other transaction and has not fulfilled the obligation prior to submission of a bid, proposal or application for a contract, (ii) has an existing claim, demand, litigation action,

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investigation, hearing, or other legal, administrative, arbitral or similar proceeding or dispute against AH, whether civil or criminal (including any appeal or review of any of the foregoing) or (iii) in AH’s reasonable discretion, has taken action that may give rise to or threatened to assert a claim, demand, litigation action, investigation, hearing, or other legal, administrative, arbitral or similar proceeding or dispute against AH, whether civil or criminal (including any appeal or review of any of the foregoing) or other dispute against AH. The President and Chief Executive Officer may waive the requirements of this paragraph for good cause shown as determined by the President and Chief Executive Officer and if it is otherwise in AH’s best interests.

3.2 Evaluation Factors and Award

The proposal evaluating process is designed to award the contract, not necessarily to the Respondent(s) of least cost, but rather to the Respondent(s) with the best combination of attributes, (qualifications, experience, and cost), based upon the evaluation factors specifically established for the RFP.

Respondent(s) must provide all information outlined in the Evaluation Factors (as defined below) for the Respondent’s proposal to be considered responsive. Proposals will be evaluated based on the responsiveness of the Respondent’s information to the Evaluation Factors which will demonstrate the Respondent’s understanding of the Evaluation Factors and capacity to perform the required services of the Request for Proposals. The quality of answers rather than length of responses to this RFP is important. The maximum points that shall be awarded for each of the Evaluation Factors are detailed and described below.

The establishment, application and interpretation of the above Evaluation Factors shall be solely within the discretion of AH. AH reserves the right to determine the suitability of proposals on the basis of all of these factors.

EVALUATION FACTORS	MAXIMUM POINTS
Cover Letter	Evaluated but not weighted
Qualification of Personnel	35
Experience	40
Sample Report	15
References	10
Fee Proposal	Evaluated but not weighted
TOTAL	100

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EVALUATION QUESTIONS DESCRIPTIONS

The maximum points that shall be awarded for each of the Evaluation Factors are detailed and described below.

Evaluation Question A

Cover Letter..... Evaluated but not weighted

In no more than 2 pages, the Respondent should include a cover letter with a description of the firm including size of firm, location, number and nature of the professional staff to be assigned. The cover letter should highlight the firm's area of expertise.

Evaluation Question B

Qualification of Personnel.....35 Points

In no more than 10 pages, the vendor should describe the qualifications of the personnel employed by or subcontracted by the firm, which may include professional resumes of pertinent staff. Please, specifically document how the professional meets the minimum education and experience for at least one of the stated professions in the "Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines" along with any other useful experience or background information. The ideal firm will be able to perform most of the work in-house.

Evaluation Question C

Experience.....40 Points

In no more than 10 pages, the vendor should include 5 examples of demolition and/or major rehabilitation projects that the consultant provided historic consultation services. AH is particularly interested in the consultant's involvement rather than a general project description. The vendor should provide specific details as to how their reports, findings, and any other consulting services were useful during the decision making process with the Client as well as with Federal, State, or local regulators. At least one of the projects discussed should have been considered a high profile project, which involved either media involvement or community engagement.

Evaluation Question D

Sample Report15 Points

The vendor should provide a sample report of their choice. The vendor can redact any confidential information. The sample report should effectively show how the firm is capable of assessing the historic & cultural resources of a property, and the report should also provide recommendations regarding mitigation measures.

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Evaluation Question E

References.....10 Points

Include at least three reference letters.

Evaluation Question F

Fee Proposal.....Evaluated but not weighted

MAXIMUM TOTAL POSSIBLE POINTS.....100 Points

3.3 Responsibility Determination

The responsibility determination includes consideration of a Respondent's record of integrity and business ethics, compliance with public policy, past performance with AH (if any) and other entities, financial capacity, and eligibility to perform government work (e.g., debarment/suspension from any Federal, State, or local government). AH reserves the right to perform whatever research it deems appropriate in order to assess the merits of any Respondent's proposal and utilize the information gathered in the final evaluation of those firms in competitive range.

A. Financial Capacity Determination

AH shall make an assessment of the Respondent's financial capacity, that is, whether in the sole opinion of AH, the Respondent is capable of undertaking and completing the RFP scope of work delineated within this RFP in a satisfactory manner. AH will award a contract only to the responsible Respondent who, in AH's sole opinion, has the financial ability to successfully perform under the terms of this RFP. AH's determination will include an assessment of the Respondent's financial resources/ability to perform the scope of work in accordance with the RFP requirements.

Respondents who make the competitive range may be asked to submit financial information. Failure by the Respondent to provide such information within the allotted time will render the Respondent ineligible for award.

B. Technical Capacity Determination

AH will conduct a survey relating to the Respondent's record of performance on past and present projects that are similar to the scope of work identified in this RFP, which may include services/projects not identified by the Respondent. AH reserves the right to

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perform whatever research it deems appropriate in order to assess the merits of any Respondent's proposal. Such research may include, but not necessarily be limited to, discussions with outside Respondents, interviews and site visits with the Respondent's existing clients and analysis of industry reports. AH will make a finding of the Respondent's Technical Resources/Ability to perform the RFP scope of work based upon the results of the survey.

A Respondent will be determined responsible if AH determines that the results of the Technical Resources/Ability survey reflect that the Respondent is capable of undertaking and completing the RFP scope of work in a satisfactory manner.

PART 4 – TERMS SHEET

4.1 Compliance with E-Verify

In compliance with O.C.G.A. §§ 13-10-90 and 13-10-91, effective July 1, 2013, **before AH can consider** Respondent's proposal for the services requested, Respondent must register and participate in the federal work authorization program operated by the United States Department of Homeland Security, commonly known as E-Verify, to verify employment eligibility information of newly hired employees and must continue to participate in E-Verify during the term of the contract. Such participation is evidenced by submitting to AH a signed affidavit in the form of the affidavit either provided by Georgia Department of Audits and Accounts or approved by AH ("E-Verify Affidavit") – see **Prerequisites** – State of Georgia Contractor E-Verify Affidavit. The E-Verify Affidavit is Respondent's certification that it has registered with, is authorized to use and uses the federal work authorization program.

Respondent further certifies that all tiers of contractors and subcontractors hired by Respondent to perform the services under the agreement are compliant with E-Verify; that Respondent will continue to use E-Verify throughout the term of the contract; that Respondent and all tiers of its contractors and subcontractors will only contract with other contractors and subcontractors who present an E-Verify Affidavit, or the appropriate documentation in lieu of the E-Verify Affidavit; and that Respondent will submit the appropriate affidavits and other documents to AH from it and all tiers of contractors and subcontractors, as required.

4.2 Licenses, Permits and Certifications

Before a contract pursuant to this RFP is executed, the apparent successful Respondent(s) must hold all necessary, applicable professional licenses required by the State of Georgia and all other regulatory agencies necessary to complete the Services. The Respondent shall obtain, at the Service Provider's expense, any permits, certificates and licenses as may be required in the performance of the work specified. All required licenses shall remain active and valid during the

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entire duration of the subsequent contract. AH may require any or all Respondents to submit evidence of proper licensure.

4.3 Atlanta Housing Opportunity Inclusion Policy (OIP)

It is the policy of Atlanta Housing that Minority, Women and Small Business Enterprises (MBE/WBE/SBE as defined in regulations developed by the Secretary of the Department of Housing and Urban Development (HUD) and promulgated in 2 CFR 200, the National Affordable Housing Act 42 U.S.C 12703, and HUD Procurement Handbook for Public Housing Agencies No. 7460.8 Rev.2, the United States Small Business Administration and other governmental and professional industry association certifying agencies) shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds and that bidders, proposers or contractors and their subcontractors or suppliers shall take all necessary and reasonable steps to ensure that MBE/WBE/SBEs shall have the maximum opportunity to compete for and perform contracts financed in whole or in part by federal funds.

MBE/WBE/SBE economic participation shall be implemented through Atlanta Housing's Opportunity Inclusion Policy via an MBE/WBE/SBE Utilization Plan that is submitted by entities seeking to do business with Atlanta Housing or its partners who utilize federal funding in whole or in part.

AH shall, to the greatest extent feasible, make every effort to ensure that small businesses, minority owned and women-owned businesses, and labor surplus area businesses, and other individuals or firms located in or owned in substantial part by persons residing in the area of AH-owned communities are used when possible in AH's contracting opportunities. Respondent is encouraged to provide a contracting/employment opportunity plan, noting the potential jobs and subcontracting opportunities that will be made available by Respondent for the services to be provided.

Respondents who, as a result of a robust, timely and documented process of solicitation to the marketplace to meet this requirement, find that it is not possible to secure that level of participation, may augment their MBE/WBE/SBE participation goal with a comprehensive detail of good faith efforts. Documented good faith efforts will be considered on their merits and in light of other respondents and their plans regarding impracticability of meeting the published goals. In RFQ submissions of qualifications, an affidavit of future compliance will evidence intended compliance. For proposals submitted as a response to RFP's a written plan to achieve the published aspirational goal will be required with initial proposal or subsequent task orders. RFP respondents may submit partial plans to comply with aspirational goals so long as they are accompanied with a detail of best efforts that support the impracticability of the aspirational goal with a request for partial waiver.

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4.4 Atlanta Housing Section 3 Policy

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701 u) requires that AH ensure that employment and other economic and business opportunities generated by HUD financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low and very-low income persons.

AH is committed to utilizing residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with funds from HUD. It is the responsibility of contractors, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. The Respondent will be required to submit with their proposal either a Contract Compliance Affidavit (Schedule A) or a measurable Section 3 Action Plan via MWBE & Section 3 Business Utilization Plan (Schedule B) to include training, employment, contracting and other economic opportunities throughout all phases of the development work. The Action Plan should include a brief description of the job opportunities, business opportunities and/or training for Section 3 eligible participants. Some examples of opportunities include word processing, payroll, research, accounting, landscaping, painting, carpentry, and catering, to name a few. As contractors, Respondents will be expected to report on the progress of its Section 3 Action Plan on a quarterly basis, or as otherwise requested by AH. All Respondents to this RFP are required to comply with the requirements of Section 3, (Schedule A) - Contract Compliance Affidavit, as applicable.

4.5 Certification Regarding Debarment

The Respondent certifies by submission of its offer, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a Federal department or agency. All Respondents are required to submit a Disclosure Statement if this is not the case.

4.6 Respondents' Status

The Respondent and its agents will be held to be an independent contractor, and will not be an employee of AH.

4.7 Funding Limitations

This procurement may be funded, in whole or in part, by grant funds provided by the U. S. Department of Housing and Urban Development. AH will not be bound to any contract if funding has been disallowed by HUD.

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4.8 Government Restrictions

In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the goods or the material, quality, workmanship or performance of the goods or services offered, it shall be the responsibility of the successful Respondent to immediately notify AH in writing specifying the regulation which requires an alteration. AH reserves the right to accept any such alteration, including any reasonable price adjustments occasioned thereby, or to terminate the contract at no expense to AH.

4.9 Insurance

Contractor will be required to obtain and maintain the following insurance coverages during the entire contract period:

A. Minimum Limits and Coverage

- a. Workers' Compensation and Employer's Liability with the following minimum limits and coverage:
 - i. Workers' Compensation: Statutory limit in accordance with the laws of the State of Georgia
 - ii. Employer's Liability:
 - (a) \$500,000 each accident for bodily injury by accident
 - (b) \$500,000 each employee for bodily injury by disease
 - (c) \$500,000 policy limit for bodily injury by disease
- b. Commercial General Liability with the following minimum limits and coverage:
 - i. \$1,000,000 each occurrence (combined single limit for bodily injury and property damage)
 - ii. \$1,000,000 for personal and advertising injury liability;
 - iii. \$1,000,000 aggregate on products and completed operations;
 - iv. \$2,000,000 general aggregate.
 - v. **Additional Insured Endorsement:** Blanket additional insured coverage is required, to include AH and any other party as may be required.
- c. Automobile Liability with the following minimum limit and coverage:

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- i. \$1,000,000 combined single limit each accident
 - ii. Coverage shall be for any auto (including owned, hired, and non-owned autos) iii. **Additional Insured Endorsement:** Blanket additional insured coverage is required, to include AH and any other party as may be required.
- d. **Professional Liability / Errors & Omissions**
- i. Professional Liability / Errors & Omissions insurance in the amount of not less than \$1,000,000 per claim, unless otherwise required by AH.
- e. Other Insurance as may be required by AH.
- f. The following are additional requirements with respect to insurance coverage:
- i. **As a condition precedent to entering into this Agreement, Consultant will provide to AH all certificates of insurance, including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the declarations and endorsement page of the commercial general liability policy listing all policy endorsements for each of the insurance policies named above, prior to execution of this Agreement and at the beginning of each Option Term.** AH specifically reserves the right to require Consultant to provide certified complete copies of such policy or policies. Each such policy will not be canceled or materially changed or altered without Consultant or the insurance provider first giving 30 days' written notice thereof to AH's Director, Contracts & Procurement, 230 John Wesley Dobbs Avenue, NE, 5th Floor, Atlanta, Georgia 30303-2421, sent by certified mail, return receipt requested.
 - ii. All certificates and endorsements are to be received and approved by AH before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. AH reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. All coverage, limits and endorsements required herein shall be maintained in full force.
 - iii. The insurance carrier shall be licensed to transact business in the State of Georgia and shall carry a current A.M. Best's rating of no less than A-
 - iv. Consultant agrees to notify AH of any substantial change in such insurance coverage described herein. Substantial change includes, but is not limited

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to, events such as cancellation, non-renewal, reduction in coverage or receipt of a claim against such coverage with a potential recovery in excess of 20% of available coverage.

- v. The premium cost of all insurance purchased by Consultant for protection against risks assumed by Consultant by virtue of this Agreement shall be borne by Consultant and is not reimbursable by AH.
- vi. An umbrella liability policy (or excess liability) may be used to provide additional commercial general liability, automobile liability, and employers' liability limits to meet AH's minimum coverage requirements.
- vii. AH reserves the right, but not the obligation, to review and revise any insurance requirements, including limits, coverages and endorsements, based upon insurance market conditions affecting the availability and affordability of coverage. Additionally, AH reserves the right, but not the obligation, to review and reject any insurance policies, certificates of insurance or insurer failing to meet the criteria stated herein.
- viii. The insurance obligations under this agreement shall be: (1) all the insurance coverage and/or limits carried by or available to the Consultant; or (2) the minimum insurance coverage requirements and/or limits shown in this agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to AH. The minimum insurance coverage limits outlined herein do not preclude Consultant's contractual obligations to cover losses for which it is liable in accordance with this Agreement. No representation is made that the minimum insurance requirements of this agreement are sufficient to cover the obligations of the Consultant under this agreement.

4.10 Indemnification

AH is defined in this Section to include AH Commissioners, officers, employees, agents, volunteers, and assigns. Consultant agrees to indemnify AH and hold it harmless from and against any and all claims, liabilities, damages, losses, costs or expenses, including, without limitation, reasonable attorney fees, to the extent of and arising out of or related to: (a) a breach of this Agreement by Consultant or (b) the performance of the Services, whether by Consultant, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, except to the extent that such claim, liability, damage, loss, cost or expense is caused by the wanton or willful misconduct of a party indemnified hereunder. Consultant's indemnification obligations shall not be limited by a limitation on amount or type of damages, compensation or

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benefits payable by or for Consultant or subcontractor under any insurance required by this Agreement, including workers' compensation acts, disability benefit acts, other employee benefit acts or any other insurance. Consultant may not settle or compromise any indemnifiable claims hereunder without the prior written consent of AH. This Section shall survive the termination of this Agreement.

4.11 Compliance with Laws

A. AH is legally obligated, as applicable, to require these provisions in its contract.

Contractor and its employees, agents, and subcontractors shall comply with all applicable Federal, State, and local laws, rules, ordinances, regulations and orders applicable to the work described herein, including, but not limited to, those applicable laws, regulations and requirements governing equal employment opportunity strategies, subcontracting with small and minority firms, women's business enterprise, and labor surplus area firms, equal opportunity for businesses and unemployed and underemployed persons (as referenced in Section 3 of The Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Davis-Bacon Act, and those laws and regulations concerning the abatement and remediation of asbestos and lead-based paint, and shall provide for such compliance in the contract documents. To the extent the work required under this contract is related to development, Contractor shall further comply with the applicable Annual Contributions Contract ("ACC") related to such development. To the extent such work is related to a mixed finance development, Contractor shall comply with the provisions of 24 CFR § 941.208.

B. HUD Section 3 Compliance:

- a. The services to be performed under the contract are subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("HUD Section 3"). The purpose of HUD Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by HUD 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 hereby agree to comply with HUD's regulations in 24 CFR Part 135, which implement HUD Section 3 (the "Implementing Regulations"). As evidenced by their execution of this contract, the parties to the contract certify that they are under no contractual or other impediment that would prevent them from complying with the implementing Regulations.

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- c. Contractor agrees to send to each labor organization or representative of workers with which Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of Contractor's commitments under this HUD 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 HUD 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 Services shall begin.
- d. Contractor will certify that any vacant employment positions, including training positions, that are filled one (1) after Contractor is selected but before the contract is signed, and (2) with persons other than those to whom the Implementing Regulations require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under the Implementing Regulations.
- e. 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.
- f. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

C. Energy Efficiency

Contractor will comply with all 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 Services are performed.

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D. Clean Air and Clean Water

For contracts in excess of \$100,000, Contractor must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857 (h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations 40 CFR part 15.

E. Equal Employment Opportunity

Contractor, during the performance of the contract, shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor shall comply with applicable federal and state non-discrimination and equal opportunity laws, rules, regulations and executive orders.

F. Anti-Lobbying

- a. Contractor will not use federally- appropriated funds that have been paid or will be paid, by or on behalf of Contractor, for the purpose of influencing or attempting to influence any 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 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, or the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- b. Contractor agrees to disclose any conflict as soon as such conflict becomes known or should have become known.
- c. Contractor agrees to include the language of this subsection in the award documents for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub recipients and subcontractors shall acknowledge and disclose accordingly.

4.12 Termination for Convenience and Default

- a. AH may terminate the contract, in whole or in part, for AH's convenience by delivering to Contractor a written notice of termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, Contractor shall: (i) immediately discontinue all Services affected (unless the notice directs otherwise); and (ii) deliver to AH all information, reports, papers, and other

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materials accumulated or generated in performing the Services, whether completed or in process.

- b. Either Party may terminate the contract upon the material breach of the contract by the other Party, which breach is not cured within 30 calendar days following written notice thereof; provided, however, that if such breach is not susceptible to cure the non-breaching Party may terminate the contract immediately upon written notice thereof to the breaching Party. For avoidance of doubt, any materially false, deceptive, incorrect or incomplete statement, representation or certification by Contractor in connection with the contract or in the RFP process shall constitute a material breach that is not susceptible to cure by Contractor. Upon the termination of the contract by AH pursuant to this subsection, Contractor shall: (i) immediately discontinue all Services affected (unless the notice directs otherwise); and (ii) deliver to AH all information, reports, papers, and other materials accumulated or generated in performing the Services, whether completed or in process.
- c. If the termination is for the convenience of AH, then AH shall be liable only for payment for Services rendered before the effective date of the termination. In arriving at the amount due Contractor for a termination for convenience, in no event shall the payment to Contractor exceed the aggregate price set forth in the contract and there shall be deducted:
 - i. all progress payments to Contractor under the terminated portion of the contract, and
 - ii. any claim which AH has against Contractor under the contract.
- d. If the termination is due to breach by Contractor, AH may (i) require Contractor to deliver to it, in the manner and to the extent directed by AH, any work as described in subparagraph (b) above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and Contractor shall be liable for any additional cost incurred by AH; and (iii) withhold any payments to Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to AH by Contractor.
- e. If, after termination for breach by Contractor, it is determined that Contractor had not in fact breached the contract, the termination shall be deemed to have been effected for the convenience of AH, and Contractor shall be entitled to payment as described in subparagraph (c) above.

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- f. Contractor agrees that upon termination of the contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of the Services to AH or another contractor. Contractor shall provide full disclosure to AH and the third-party contractor about the equipment, software, or services required to perform the Services for AH.

4.13 Disputes

- a. The Parties agree to attempt to resolve all disputes and misunderstandings that may arise under or relating to the contract by agreement of the Parties or through amicable negotiations.
- b. All claims by Contractor shall be made in writing and submitted to AH. AH shall, with reasonable promptness, but in no more than 30 calendar days, render a decision concerning any claim hereunder. Unless Contractor, within 20 calendar days after receipt of AH's decision, shall notify AH in writing that it takes exception to such decision, the decision shall be final and conclusive. Contractor shall proceed diligently with performance of the contract, pending decision from AH concerning any claim hereunder.
- c. If Contractor does not agree with the decision of AH, Contractor may pursue other legal means to resolve such claim. The venue of any action brought under the contract shall be in the Superior Court of Fulton County, Georgia.

4.14 Examination and Retention of Contractor's Records

- a. Contractor shall maintain, during the performance of the contract, and for a period of at least three years following the date of final payment under the contract, all of Contractor's books, documents, papers and other records, including electronic records, involving transactions related to the contract for the purpose of making audit, examination, excerpts, and transcriptions. AH, the United States Department of Housing and Urban Development ("HUD"), or Comptroller General of the United States, or any of their duly authorized representatives, shall, until three years after final payment under the contract, have access to and the right to examine all such books, documents, papers and other records, including electronic records.
- b. Contractor agrees to include in first-tier subcontracts under the contract a clause substantially the same as subsection (a) above. "Subcontract," as used in this section, excludes contracts not exceeding \$10,000.

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- c. Notwithstanding anything to the contrary set forth in this section, the periods of access and examination in subsection (a) above shall continue until final disposition of any appeals, litigation, claims or exceptions related thereto that were commenced prior to the expiration of such three-year period.

4.15 Ownership Rights in Works

All data, materials, documentation, computer programs, inventions (whether or not patentable) and works of authorship created or developed in whole or in part by Contractor during the contract period in connection with the performance of the Services hereunder (collectively, "Works") shall be considered work made for hire by Contractor and owned by AH. Works shall not be reproduced or used by Contractor without the express written consent of AH. Contractor shall execute all documents and take all actions necessary to vest ownership of the Works in AH.

4.16 Intellectual Property

Contractor agrees it will not use the name or any intellectual property of AH, including but not limited to, AH copyrights, trademarks or logo in any manner, including commercial advertising or use as a business reference, without the prior written consent of AH.

4.17 Confidential Information

AH may provide Contractor with information owned by or relating to AH and its business, including, without limitation, its operations, business plans, personnel, or financial matters, all of which is hereby designated as confidential and proprietary by AH ("Confidential Information"). Contractor agrees to only use AH's Confidential Information to the extent necessary to perform the Services as contemplated herein. During the Contract Period and for two years following the expiration or earlier termination thereof, Contractor shall keep confidential and shall not publish or otherwise disclose, or permit its employees, subcontractors and assigns to publish or otherwise disclose, any of AH's Confidential Information without AH's prior written approval; provided that to the extent such Confidential Information constitutes a trade secret under applicable law, such covenants shall continue for so long as such Confidential Information so constitutes a trade secret. At a minimum, Contractor shall carry out its obligations hereunder using the degree of care that it uses in protecting its own confidential and proprietary information of similar importance. All Confidential Information is and shall remain AH's property and Contractor shall return such Confidential Information, and all embodiments thereof, to AH upon expiration or termination of the contract or upon the earlier request of AH. Contractor agrees that all of its employees and subcontractors will, upon AH's request, sign a confidentiality statement, in a form approved by AH in its reasonable discretion, in which such employees and subcontractors agree to be bound by the restrictions set forth in this section. The following types of information shall not be subject to the requirements of this section: (a) information which is or becomes known to the public through no act or omission of Contractor; (b) information which Contractor can

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demonstrate was in its possession prior to the execution of the contract (and was provided by a source other than AH); (c) information which Contractor developed independently from any relationship with AH; and (d) information which Contractor acquired from a third party which did not violate any obligation of confidentiality or trust by disclosing such information.

4.18 Conflicts of Interest

AH is contractually obligated to ensure compliance with this provision. Contractor agrees to notify AH if any of the following persons enter into an agreement with Contractor while such persons are in the roles listed below or within one year after termination of such roles and further certifies that Contractor is not:

- a. A member or officer of AH's Board of Commissioners or an *immediate family member of an officer of AH's Board of Commissioners. This prohibition does not include any present or former resident commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, AH, or a business entity.
- b. Any AH employee who formulates policy or who influences decisions with respect to AH's projects, or any member of the employee's *immediate family, or the employee's partner.
- c. Any public official, member of the local governing body, or State or local legislator (including members of the City of Atlanta City Council, Fulton County Board of Commissioners, DeKalb County Board of Commissioners, or Georgia legislator), or any member of such individuals' *immediate family, who exercises functions or responsibilities with respect to AH's projects.
- d. A member of or delegate to the Congress of the United States of America or a resident commissioner (defined as an individual appointed to oversee a territory or possession of the United States of America, such as Guam).

* *"Immediate family member"* means the spouse, mother, father, brother, sister, or child of a covered class member whether related as a full blood relative, or as a "half" or "step" relative (e.g., half-brother or stepchild).

Contractor agrees to notify AH in writing if it has, during the course of the contract, any organizational conflict of interest, which is defined as a situation in which the nature of work under the contract and a Contractor's organizational, financial, contractual or other interests are such that award of the contract may result in an unfair competitive advantage or Contractor's objectivity in performing the Services may be impaired.

The terms of this section shall be included in all subcontracts entered into by Contractor in connection with the contract.

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At all times while Contractor is conducting business with AH, it is required to disclose in writing, any direct or indirect conflicts of interest and any organizational conflicts of interest as soon as such conflict becomes known or should have become known. If Contractor has a conflict of interest, it must provide a full and complete disclosure, in writing, to AH's Vice President, Acquisition & Management Services. The Disclosure Statement must be presented on Contractor's letterhead, notarized and signed by the individual making the disclosure.

4.19 Prohibition against Gifts/Favors/Anything of Monetary Value

No AH employee can accept or solicit for themselves or for others, anything of value from Contractor or any person, corporation, or other entity doing business with or attempting to do business with AH. The term "anything of value" includes, but is not limited to, gifts, money, property, meals, favors, personal benefit, entertainment, loans, or promises. Contractor shall report any violation of this prohibition immediately to the Director, Contracts and Procurement, 230 John Wesley Dobbs Avenue, 5th Floor, Atlanta, Georgia 30303-2421.

4.20 Assignment

Contractor may not assign the contract or any part thereof, or assign any of the monies to be paid thereunder, or assign or delegate any of its rights, duties or obligations under the contract to any other party, whether by operation of law or otherwise, without the prior written consent of AH. In the event Contractor subcontracts the performance of any of the Services to a third party approved by AH in accordance with this section, Contractor and each subcontractor shall enter into a subcontracting agreement in such form as approved by AH in its sole discretion, which form shall include, without limitation, all required provisions set forth in the contract. Any purported assignment in violation of this section shall be null and void. In its sole discretion, AH reserves the right to refuse approval of any assignment. During the contract term, Contractor is obligated to notify AH if the name or corporate structure changes, including any merger, acquisition, sale, restructuring or other transaction that renders the legal entity name or federal employer identification number different. Contractor agrees to provide sufficient documentation to AH to document such change in the legal entity name or federal employer identification number.

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4.21 Non-Exclusive Rights

The resulting contract is not exclusive. AH reserves the right to select other contractors to provide services similar to the Services described in the contract during the contract period.

4.22 Contract Modification

AH reserves the right to increase or delete any scheduled items, and/or increase or reduce the quantity of any scheduled item as deemed necessary, and to make other changes and modifications consistent with AH's policies and applicable local, State and Federal laws.

4.23 Governing Law

The contract will be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to principles of conflict of laws.

SECTION 5 – FORM OF CONTRACT

5.1 Exceptions to Contract

Respondents' proposed exceptions to the Form of Contract must be identified and submitted with the Respondents' proposal. Proposed exceptions must not conflict with or attempt to preempt mandatory requirements and required HUD terms and conditions (see **Prerequisites** to located Form HUD 5370-A - *General Conditions for Construction Contracts*.)

Prior to award, and if necessary, the apparent winning Respondent will be required to enter into discussions with AH to resolve any contractual differences before an award is made. These discussions will be finalized and all exceptions resolved within the timeframe specified by AH after notification of potential award. Failure to resolve contractual differences, including failure to return signed documents within time frames specified by AH, will lead to rejection of the Service Provider's proposal.

5.2 Contract Terms and Conditions

The contract that AH expects to award as a result of this RFP will be based upon the RFP, the contract terms and conditions, the Proposal submitted by the successful Respondent and any subsequent revisions to the Respondent's Proposal and the contract terms and conditions due to negotiations, written clarifications or changes made in accordance with the provisions of the RFP, and any other terms deemed necessary by AH, except that no objection or amendment by a Respondent to the RFP requirements or the contract terms and conditions shall be incorporated by reference into the contract unless AH has explicitly accepted the Service Provider's objection or amendment in writing.

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EXCEPTIONS OR OBJECTIONS TO THE PROPOSED CONTRACT TERMS MUST BE IDENTIFIED AND SUBMITTED WITH THE RESPONDENT'S PROPOSAL. AH WILL NOT ACCEPT PROPOSED EXCEPTIONS OR OBJECTIONS THAT CONFLICT WITH OR ATTEMPT TO PREEMPT MANDATORY REQUIREMENTS.

PRIOR TO AWARD, AND IF NECESSARY, THE APPARENT WINNING RESPONDENT MAY BE REQUIRED TO ENTER INTO DISCUSSIONS WITH AH TO RESOLVE ANY CONTRACTUAL DIFFERENCES BEFORE AN AWARD IS MADE. THESE DISCUSSIONS WILL BE FINALIZED AND ALL EXCEPTIONS RESOLVED WITHIN THE TIMEFRAME SPECIFIED BY AH AFTER NOTIFICATION OF POTENTIAL AWARD. FAILURE TO RESOLVE CONTRACTUAL DIFFERENCES WILL LEAD TO REJECTION OF THE RESPONDENT'S PROPOSAL.

AH RESERVES THE RIGHT TO REJECT OFFERS OR END DISCUSSIONS WITH RESPONDENTS THAT ARE NOT FORTHCOMING WITH EXCEPTIONS IN THE PROPOSAL SUBMISSION. GENERALIZED EXCEPTIONS ARE NOT ACCEPTABLE (E.G., RESPONDENT IS AMENABLE TO REACHING NEGOTIATED TERMS WITH AH).