



Andrew M. Cuomo, Governor

Homes and Community Renewal

James S. Rubin, Commissioner/CEO

Request for Proposals for Independent Auditor Services

Proposal Issuance Date:

September 29, 2015

Proposal Submission Deadline:

October 23, 2015, 12:00 PM EDT

HOUSING TRUST FUND CORPORATION
HAMPTON PLAZA
38-40 STATE STREET • ALBANY, NEW YORK 12207
www.nyshcr.org

Proposal Checklist

CHECKLIST LIMITED TO REQUIRED FORM RELATED ITEMS TO BE COMPLETED AND RETURNED:

Tab 1 - Application Coversheet

Tab 1 - Cover Letter

Tab 2 – Technical Proposal

Tab 3 – Cost Proposal

Tab 4 – Administrative Proposal

[Lobbying Reform Law Form 1](#)

[Lobbying Reform Law Form 2](#)

[Non-Collusive Bidding Certification Form](#)

[Contractor and/or Vendor Information Form](#)

[Vendor Responsibility Questionnaire – For Profit Business Entity](#) OR [Non-Profit Entity](#);

[EEO Staffing Plan, PROC-1](#)

[MWBE Utilization Form, PROC-2](#)

[MWBE & EEO Policy Statement, PROC-4](#)

[Company Demographic Profile, PROC-7](#)

[EEOC Statement, PROC-8](#)

[Diversity Practices Questionnaire, PROC-9](#)

Conflict Of Interest Statement

Proof of Errors & Omissions Insurance & additional Insurance Requirements

Proposer's most recent two years of financial statements or federal tax returns

Application Coversheet

Attach this form to the top of your proposal.

DATE OF APPLICATION:

GENERAL INFORMATION ON FIRM:

Legal Name of Firm:

Firm's Mailing Address:

Firm's Website:

Firm's Main Telephone Number (including area code):

Federal Tax ID Number:

SEC Registration Number (if applicable):

MWBE Registration Number (if applicable):

MAIN CONTACT INFORMATION FOR THIS PROPOSAL:

Please list the individual that will be the main contact *regarding this proposal*:

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

PRINCIPAL IN CHARGE:

Please list the primary staff person(s) who will provide services relating to the Housing Trust Fund Corporation. Attach additional sheets if necessary.

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

ADDITIONAL CONTACTS (if applicable):

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

HOUSING TRUST FUND CORPORATION
REQUEST FOR PROPOSALS
FOR
INDEPENDENT AUDITOR SERVICES

The Procurement Lobbying Law designated Contact Officer for this procurement is:

Stacey C. Mickle, Treasurer
New York State Homes and Community Renewal
Housing Trust Fund Corporation
38-40 State Street
Albany, New York 12207
Email: Stacey.Mickle@nyshcr.org

1. Introduction

[New York State Homes and Community Renewal](#) (“**HCR**”) consists of all the major housing and community renewal agencies of the State of New York (“**State**”), including the Housing Trust Fund Corporation (“**HTFC**” or “**Corporation**”). HCR includes other State agencies not involved in this Request for Proposals (“**RFP**”) process.

2. Purpose

HTFC seeks proposals from qualified certified public accounting firms or individuals (“**Proposer**” or “**Firm**”), registered to practice in the State, to conduct financial audits of the Corporation for a five year period, as more fully described in Section 7 of this RFP, “*Scope of Work.*” The successful Proposer (“**Contractor**”) will demonstrate qualifications that meet or exceed the minimum requirements specified in Section 8 of this RFP.

3. Overview of the Corporation

HTFC was established in 1985 under Section 45-a of the State’s Private Housing Finance Law as a public benefit corporation. Its mission is to create decent affordable housing for persons of low income by providing loans and grants for the rehabilitation of existing housing or the construction of new housing. This mission has been expanded by the addition of many federal and State programs to the HTFC portfolio, such as:

Federal Programs

Section 8 Project-based Contract Administration (“Section 8 Contract”) program (previously referred to as the Housing Assistance Payment Program) – provides low income housing rental subsidy to qualified landlords.

Section 8 Housing Choice Voucher (“HCV”) program and related programs – provides low-income housing rental subsidy to qualified individuals with a related program that includes the five-year Mainstream program.

Community Development Block Grant (“CDBG”) program – provides funding to eligible municipalities in the State for various housing, community development and economic development activities.

CDBG Disaster Recovery (“CDBG-DR”) program – provides funding for projects to aid in the recovery efforts in areas impacted by Hurricanes Sandy and Irene and Tropical Storm Lee.

HOME Investment Partnership (“HOME”) program – provides funds for the construction and rehabilitation of low income housing.

State Programs

Low Income Trust Fund Housing Program – provides funds for the construction and rehabilitation of low income housing.

Public Housing Modernization and Drug Elimination Programs – provide funds to rehabilitate State run public housing authorities and reduce drug and crime activities.

Homes for Working Families Program – provides funds to finance affordable housing for low income families and senior citizens by accessing tax exempt bond financing and low income housing credits.

Medicaid Redesign Team Program – create new supportive housing opportunities by leveraging other public and private investments to maximize potential Medicaid savings.

Visit HTFC’s website at <http://www.nyshcr.org/> to learn more about the above HTFC programs and other HTFC programs not described in this RFP but applicable to Scope of Work in this RFP.

The Corporation is governed by a three-member Board of Directors (“**Board**”) comprised of the Commissioner of the New York State Division of Housing and Community Renewal (“**DHCR**”), the Chairman of the New York State Housing Finance Agency (“**HFA**”) and one additional person appointed by the Commissioner of DHCR. Pursuant to a services agreement, the Corporation is administered by HTFC staff together with staff employed by DHCR and directly employs approximately 196 employees of whom 136 administer the CDBG-DR program.

For information regarding HTFC's financial statements, visit our website at: <http://www.nyshcr.org>.

4. Assessment of Diversity Practices

HTFC has determined, pursuant to New York State Executive Law Article 15-a (“**Article 15-a**”), that the assessment of the diversity practices of respondents to this RFP is practical, feasible, and appropriate. Accordingly, Proposers are required to include as part of their proposal to this RFP, as described more fully in Sections 10 and 12 herein, (i) [EEO Staffing Plan, PROC-1](#); (ii) [MWBE Utilization Form, PROC-2](#); (iii) [MWBE/EEO Policy Statement, PROC-4](#); (iv) [Company Demographic Profile PROC-7](#); (v) [EEOC Statement, PROC-8](#), applicable to Proposers with 15 or more employees; and (vi) [Diversity Practice Questionnaire, PROC-9](#), all forms hyperlinked herein.

4.1 Minority and/or Women Owned Business Enterprise (“MWBE”) Participation

HTFC is committed to awarding contracts to firms and/or individuals that are dedicated to diversity and provide high-quality services at competitive rates. HTFC strongly encourages firms and/or individuals that are certified by the State as MWBEs, as well as firms and/or individuals that are not yet certified but have applied for certification, to submit responses to this RFP. All certified MWBEs submitting proposals to this RFP are encouraged to be registered with the State's Empire State Development. MWBEs that are not certified, but have applied for certification, must provide evidence of filing, including the filing date. MWBEs must be certified prior to the Corporation making an award of contract.

HTFC is required to implement the provisions of the State's Article 15-A and 5 NYCRR Parts 142-144 (“**MWBE Regulations**”) for all New York State funded HTFC contracts, as defined therein, with a value in excess of \$25,000. HTFC strongly encourages joint ventures of MWBEs with majority firms and MWBEs with other MWBEs. For assistance identifying MWBE partners, contact Senior Purchase Agent, Kenneth Ford at Kenneth.Ford@nyshcr.org and Nyhomes.Proposal@nyshcr.org.

For purposes of this solicitation, HTFC hereby establishes an overall goal of 30% of total contract expenditures for MWBE participation, 15% for minority-owned business enterprises (“**MBEs**”) and 15% for women-owned business enterprises (“**WBEs**”).

4.2 MWBE Subcontractor Interest

New York State certified MWBEs may request that their firm's contact information be included on a list of MWBE firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the Corporation's website for reference by the bidding community. A

firm requesting inclusion on this list should send contact information and a copy of its NYS MWBE certification to Kenneth.Ford@nyshcr.org. Nothing prohibits an MWBE firm from being a Proposer.

5. Calendar of Events and Milestones

It is anticipated that a contract will be awarded in response to this RFP based on the following schedule:

Event	Date
Issuance of RFP	September 29, 2015
Deadline for RFP Questions	October 13, 2015, 12:00pm, Eastern Daylight Time (“ EDT ”)
Deadline for Responses to RFP Questions	October 16, 2015
Proposal Submission Deadline	October 23, 2015, 12:00pm, EDT
Interview Notification (if needed)	Week of November 2, 2015
Interview for Selected Proposers (if needed)	Week of November 9, 2015
Anticipated Notification of Selection Date	December 10, 2015
Anticipated Date for Execution of Contract	December 31, 2015*

*Subject to the approval of HTFC’s Board.

HTFC reserves the right to modify this schedule at its discretion. HTFC reserves the right to conduct interviews with Proposers for purposes of expanding or clarifying responses. Notification of changes in connection with this RFP will be made available to all interested parties via HTFC’s web page: <http://www.nyshcr.org/AboutUs/Procurement/HCR-Procurement.htm>.

6. Administrative Information

6.1 Questions and Answers

Any questions or requests for clarification regarding the RFP must be submitted via email to Nyhomes.Proposal@nyshcr.org and Kenneth.Ford@nyshcr.org, citing the RFP page and section,

no later than the date identified in the “*Calendar of Events and Milestones*” section of this RFP. The “Subject” line of the email should indicate “Questions - HTFC Audit Services RFP”.

Questions will not be accepted orally and any question received after the deadline may not be answered. The list of questions/requests for clarifications and the official responses of the Corporation will be posted in a timely manner on the [HCR “Procurement Opportunities” webpage](#).

Proposers should note that all clarifications and exceptions are to be resolved prior to submission of the proposal.

An electronic version of this RFP will be posted on [HCR’s website](#) in addition to any subsequent changes, additions or deletions to the RFP, including the timelines and target dates. Proposers are encouraged to check the [HCR website](#) frequently for notices of any clarifications, changes, additions, or deletions to the RFP.

6.2 Amendments and Addenda

The Corporation reserves the right to modify any part of this RFP including, but not limited to, the date and time proposals must be submitted and received by the Corporation, at any time prior to the Proposal Submission Deadline date listed in the “*Calendar of Events and Milestones*” section of this RFP. Modifications to this RFP will be made by issuance of amendments and/or addenda. Any amendment or addendum to this RFP will become part of this RFP.

Prior to the Proposal Submission Deadline date, any such clarifications or modifications as deemed necessary will be posted to [HCR’s website](#).

If the Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Proposer will immediately notify the Corporation of such error in writing and request clarification or modification of the document.

There are no designated dates for release of addenda. Therefore, interested Proposers should check the Corporation’s website frequently through the Proposal Submission Deadline date. It is the sole responsibility of the Proposer to be knowledgeable of all addenda related to this RFP process.

6.3 Restriction of Communication

Pursuant to State Finance Law (“SFL”) §§139-j and 139-k, this RFP imposes certain restrictions on communications between the Corporation and its Affiliates (DHCR, HFA, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency, and Tobacco Settlement Financing Corporation, i.e., the agencies constituting HCR), and a potential Proposer during the procurement process. A Proposer is restricted from making contacts that a reasonable person may infer were intended to influence the selection of a firm or company to perform (or provide) the proposed professional services (or

goods) in this RFP, from the date of publication of this RFP until the awarding of a contract(s) by the Corporation (the “**Restricted Period**”) with any person other than the designated staff member named below, unless it is a contact that is included among certain statutory exceptions set forth in SFL §139-j(3)(a). Employees of the Corporation, including any employees of the agencies that constitute HCR, are required to obtain certain information when contacted during the Restricted Period and make a determination of responsibility of the Proposer under the SFL. Findings of non-responsibility can result in rejection for contract award and in the event of two (2) findings within a four (4) year period, the Proposer will be debarred from obtaining governmental contracts.

For further information, please refer to the following website:
<http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/Faq.htm> .

For all Lobbying Law Contacts, please contact:

Stacey C. Mickle, Treasurer
New York State Homes and Community Renewal
Housing Trust Fund Corporation
38-40 State Street
Albany, New York 12207
Email: Stacey.Mickle@nyshcr.org

If you have inquiries regarding this RFP or would like to contact the Corporation regarding issues not relating to Lobbying Law Contacts, please contact:

Kenneth J. Ford, Senior Purchase Agent
New York State Homes and Community Renewal
Housing Trust Fund Corporation
38-40 State Street
Albany, New York 12207
Kenneth.Ford@nyshcr.org and Nyhomes.Proposal@nyshcr.org

Other than the two contact persons identified above, prospective Proposers shall not approach the Corporation’s employees, or any employees of the agencies that constitute HCR, during the Restricted Period about any matters related to this RFP or any proposal(s) submitted pursuant thereto.

6.4 Contract Term

The term of the contract is five (5) years. The scope of work, fees, and other provisions covered by this RFP may be modified by HTFC during the term of the agreement, on an as needed basis, with the mutual written consent of both parties. In addition, HTFC, at its discretion, may exercise its option to extend the term of the engagement and revise any provision of the engagement, on an as needed basis, with the mutual written consent of both parties. Any contract that exceeds a

five year period will require the affirmative concurrence of HTFC's Board to extend the contract without undergoing a new solicitation process.

Prior written approval must be received from the Corporation for the use of any subcontractor, including substitution and/or change in existing subcontractor(s). The subcontracting agreement between the successful Proposer and the subcontractor must receive prior written approval from the Corporation. The sections relating to the scope of services and compensation in the subcontracting agreement must be well-defined.

The successful Proposer(s) will be required to execute an Audit Services Agreement with the Corporation, that incorporates Appendix I [Standard Clauses for Contracts](#) and [Appendix II relating to requirements and procedures for Participation by Minority Group Members and Women](#), both appendices hyperlinked herein.

Proposers should be aware that federal law and regulations require that contracts involving federal funds contain certain provisions including, but not limited to, those listed in **Attachment B, attached hereto**. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

6.5 Vendor Responsibility

6.5.1 General Responsibility

The successful Proposer will at all times during the contract term and during the proposal evaluation process remain responsible. The successful Proposer agrees, if requested by the Corporation, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior experience, and organizational and financial capacity.

6.5.2 Suspension (for Non-Responsibility)

The Corporation reserves the right to suspend any or all activities under an awarded contract, at any time, when the Corporation discovers information that calls into question the responsibility of any successful Proposer. In the event of such suspension, the successful Proposer (“**Contractor**”) will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Corporation issues a written notice authorizing a resumption of performance under the contract.

6.5.3 Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard by the Corporation, the contract may be terminated by the Corporation, at the Contractor's expense, where the Contractor is determined by the Corporation to be non-responsible. In such event, the

Corporation may complete the contractual requirements in any manner the Corporation deems advisable and pursue available legal or equitable remedies for breach.

7. Scope of Work

7.1 General Scope of Services

The Contractor will provide audit services to HTFC for at least a consecutive five year period, beginning with the fiscal year ending March 31, 2016.

Within 80 days of the Corporation's fiscal year end, final draft audits must be completed in order to present the required reports to the Board.

Within 90 days of the Corporation's fiscal year end, financial and other reports must be filed on the New York State Public Authorities Reporting Information System ("PARIS"). The Contractor will also issue reports thereon, as more fully described below.

By December 31st of each year of the audit, the Contractor will verify and certify the data from the United States Department of Housing and Urban Development ("HUD") Real Estate Assessment Center ("REAC") system which is compiled for the annual audited Financial Assessment Subsystem ("FASS") submission required under the HCV program.

The Corporation is included as a component unit in the New York State Single Audit, however, the OMB circular A-133 Audit is not required.

The Corporation's activities are primarily funded through State appropriations from the New York State Housing Program Fund and Federal appropriations from HUD. For the fiscal year ending March 31, 2015, the State appropriated \$66,200,000 and allocated an additional \$43,428,000 in non-appropriated funds. For the fiscal year ending September 30, 2015, the Federal government appropriated \$63,251,015 for the CDBG and Home programs and approximately \$2,000,000,000 for the Project Based Contract Administration and Housing Choice Voucher programs. In addition, a total allocation of \$4,487,882,000 has been awarded to the State through the CDBG-DR program with an expected expenditure of those funds by fiscal year 2019. The Corporation also services its own mortgages which currently aggregates approximately \$1,100,000,000 and will also continue to manage State and federal funds from prior years.

The Corporation generally invests its funds in treasury bills, zero principal strips, and repurchase agreements, in consultation with its custodian and investment agent, and the NYS Division of the Treasury.

The fiscal year for HTFC commences on April 1st and ends on March 31st of each year.

The Contractor will provide audit services in accordance with the Scope of Services outlined herein for HTFC's offices in Albany and New York City:

7.1.1 Audit Requirements

The audit shall be conducted for the purpose of expressing an opinion on the Corporation's financial statements, in accordance with auditing standards generally accepted in the United States of America ("U.S."), and will include such supplemental information as is required by generally accepted auditing standards including, but not limited to, management's discussion and analysis.

The Contractor shall examine the financial statements of the Corporation for the fiscal year ending March 31st of each year of the engagement. The Contractor's examination shall be made in accordance with auditing standards generally accepted in the U.S. and the standards applicable to financial audits contained in Government Auditing Standards issued by the U.S. Comptroller General.

The Contractor will review the Corporation's internal controls over financial reporting and perform such tests, as necessary, to determine the Corporation's compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters, and will issue reports thereon. The Contractor will also issue a letter to HTFC's Management and Board that contains observations that the Contractor believes are of value to the Corporation, commonly referred to as a "Management Letter." The Contractor will also perform those procedures required by the State's Office of the Comptroller ("OSC") with respect to the Corporation's investment practices and issue a report thereon. These procedures are designed to determine whether the Corporation has complied with OSC's Investment Guidelines for Public Authorities.

The Contractor will compare financial statements to the program trial balances utilized to prepare the FASS submission for the HCV system, note any discrepancies, provide assistance in resolving any discrepancies, and certify the FASS submission in the HUD REAC system by the required submission deadline for each year of the audit engagement.

7.1.2 Audit Deliverables

The Contractor will provide all of the following annual reports in electronic format (i.e., PDF or Word file formats via e-mail attachments):

- A. Contractor will issue a report on the Corporation's financial statements, including Contractor's opinion, Management's discussion and analysis, and required supplementary information. The final draft audits must be completed within 80 days of the Corporation's fiscal year end and presented to its Board. The final financial statements and other reports (including the Independent Auditor's Report) must be filed on PARIS within 90 days of the Corporation's fiscal year end.

- B. Contractor will issue an *Internal Control and Compliance Report* which reports on the Corporation's internal accounting controls over financial reporting as required by generally accepted auditing standards.
- C. Contractor will issue a report on the Corporation's compliance at the financial statement level with all relevant rules and regulations. This information may be included with or within another report, if consistent with industry standards.
- D. Contractor shall issue a “Management Letter” which contains observations that the Contractor believes are of value to the Corporation.
- E. Contractor will issue an investment report on the Corporation's investment practices as required by the State and OSC’s “Investment Guidelines for Public Authorities.”
- F. Contractor will annually review and certify the HCV program FASS submission in the HUD REAC system by the required December 31st deadline.
- G. Contractor will also issue such other reports, if any, required by current federal or New York State law or regulation, or by any relevant industry governing body, to be included in a non-Circular A-133 annual independent audit.

7.1.3 Audit Timelines

All of the Audit Deliverables must be received in draft form by the Corporation by the end of the first week of June for each year of the audit engagement. With the exception of Audit Deliverables relating to the review and recertification of the HCV program FASS submission due by December 31st, all of the Audit Deliverables must be received in final form by the Corporation by the end of the second week of June for each year of the audit engagement.

In addition, Contractor will be required to send a senior representative of the Contractor to the HTFC June Board meeting to report on the audit. These meetings are usually held at HTFC’s Albany Office, but may be held outside the Capital District.

The Contractor must make themselves available for the coordination and submission of the FASS report by December 31st for each year of the audit engagement.

8. Minimum Proposer Requirements

Proposer must have a minimum of three (3) years of experience with audits of government entities and must demonstrate familiarity with all relevant statutes, regulations, policies and industry standards affecting the Corporation’s funding and New York State public benefit corporations, including those promulgated by the State’s Public Authorities Law, State’s Private Housing Finance Law, U.S. Government Accounting Office (“GAO”), Governmental

Accounting Standards Board (“**GASB**”) and the American Institute of Certified Public Accountants (“**AICPA**”). Proposer must submit documents that evidence the same with its proposal submission.

Proposer must be certified by the AICPA for a minimum of three (3) years, including Proposer’s predecessor, in any, as of the Proposal Submission Deadline indicated in the “*Calendar of Events and Milestone*” section of this RFP.

The Proposer must submit documents that provide evidence of the above requirements with its proposal response, in addition to the requirements outlined below:

- A. Proposer must be a current member of the AICPA for a minimum of three years as of Proposal Submission Deadline date;
- B. Proposer must employ certified public accountants properly licensed by the University of the State of New York and registered by the State Education Department or other applicable State regulatory agency;
- C. Proposer must meet all required independence standards, including GAO Standards for Audit of Governmental Organizations, Programs, Activities and Functions, the AICPA’s Rules on Independence and those of any other applicable regulatory agencies;
- D. The Proposer must demonstrate a familiarity with the Generally Accepted Auditing Principles (“**GAAP**”) and the General Accepted Auditing Standards (“**GAAS**”);
- D. Proposer must not have a record of substandard work;
- E. Proposer must have a national Audit and Assurance practice; and
- F. Proposer must have a valid ID in order to certify statements in the HUD REAC system.

Subcontractor(s) of the Proposer are also subject to the requirements in this Section 8.

9. Proposal Requirements

A complete proposal for this RFP is comprised of four (4) separate tabs: (i) Tab One: Application Cover Sheet and Cover Letter; (ii) Tab Two: Technical Proposal; (iii) Tab Three: Cost Proposal; and (iv) Tab Four: Administrative Proposal.

Proposals must be complete and prepared in a format consistent with the instructions provided in this RFP. In all instances, the Corporation’s determination regarding a proposal will be final. Proposals not organized in the manner prescribed in this RFP may be considered non-responsive at the Corporation’s sole discretion. Proposers should not refer to other parts of the proposal, to

information that may be publicly available elsewhere, or to the Proposer's or other websites in lieu of answering a specific question.

9.1 Proposal Submission Requirements

Proposals must be delivered by email no later than the proposal due date and time indicated in the "*Calendar of Events and Milestones*" section of this RFP.

Proposals must be submitted by email to Nyhomes.proposal@nyshcr.org and Kenneth.ford@nyshcr.org in searchable portable document format ("PDF") compatible with Adobe Reader XI. The Corporation will not accept discs, flash drives, or FTP file references that require the Corporation to download information from the Proposer's or a third party's site. If the file is large, it may be submitted in multiple email attachments, with the proper Part One or Part Two label (if applicable) and "1 of X", "2 of X", etc., and the last email as "X of X – Final" for each additional email.

The proposal must be bookmarked and divided into four parts: (i) Tab One: Application Cover Sheet and Cover Letter; (ii) Tab Two: Technical Proposal; (iii) Tab Three: Cost Proposal; and (iv) Tab Four: Administrative Proposal. Proposals must be sent in two emails and labeled as follows: (a) one email to include Tabs One and Two and the subject line of the email must be labeled: "HTFC Audit Services RFP: Tabs 1 and 2"; and (b) the other email must include Tabs Three and Four and the subject line of the email must be labeled "HTFC Audit Services RFP: Tabs 3 and 4".

Any proposal delivered after the proposal due date and time indicated in the "*Calendar of Events and Milestones*" section of this RFP may be deemed ineligible. It is the Proposer's sole responsibility to ensure that all emails and attachments are delivered on time in a legible format. Proposers assume all risk for proposal delivery.

A proposal may be deemed to be non-responsive because it is materially incomplete. The Corporation reserves the right to seek clarification or request additional information.

The determination of whether any proposal is complete or was received on time is at the sole discretion of the Corporation.

All submitted proposals shall become the property of the Corporation.

10. Contents of Proposals

Proposals should demonstrate that the Proposer is qualified to perform the Scope of Work based upon prior relevant professional experience, proposed work plan, methodology, timeline, staffing plan, MWBE participation, and budget. A Corporation Review Committee ("**Committee**") will

conduct a comprehensive review of each proposal to determine which Proposer will provide the “best value” by optimizing quality, cost, and efficiency.

Each Proposer is required to submit the information and documentation listed below in the order in which it is requested. A proposal that does not include all required information and completed forms may be subject to rejection.

The completed proposal will include Tabs One through Four, as described in the Proposal Submission Requirements section of this RFP. Each Tab must be electronically bookmarked as “Tab 1,” “Tab 2,” “Tab 3,” and “Tab 4” and must be presented in the exact order requested in this RFP. The content in Tabs 1 through 2 must be limited to ten (10) letter-size pages (single or double spaced, minimum 12 point font, and at least one inch margins). The ten (10) page limit does not include the Application Cover Sheet, resumes, references, organizational chart, and other required attachments.

The Proposer must submit a proposal that clearly provides all of the information required in this RFP. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and clarity of content. The Proposer is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with these instructions, or do not meet the full intent of all the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsible.

The Corporation does not require, nor desire, any promotional material that does not specifically address the response requirements of this RFP.

Proposals should demonstrate that the Proposer is qualified to perform the Scope of Work described herein based upon prior relevant professional experience and include a Staffing Plan, MWBE Utilization Plan, and fees.

The Proposer’s proposal should contain the following:

10.1 TAB 1: Application Coversheet & Cover Letter

The Proposer must submit, as part of its Proposal Submission, the Application Coversheet, found on pages 3 and 4 of this RFP and a Cover Letter.

The Proposer’s Cover Letter must not exceed three (3) pages and should include:

- A. A summary of the Proposer’s organizational history and legal structure (e.g. individual practitioner, partnership, LLC, corporation, non-profit organization, evidence of MWBE certification status, etc.);
- B. A statement affirming the Proposer’s number of years of experience as it relates to the Scope of Work;

- C. The Proposer’s name, address, telephone number, fax number, email address and web site address, if applicable;
- D. The name, title, telephone number, fax number and email address of the individual within the Proposer’s organization who will be the Corporation’s primary contact concerning the proposal;
- E. The name(s) of the primary staff who will provide services to the Corporation;
- F. The contact name, telephone number, fax number and email address for the Firm(s), if any, with which the Proposer intends to enter into a subcontract agreement to meet HTFC’s overall 30% MWBE participation goal;
- G. Evidence of the requirements described in the “*Minimum Proposer Requirements*” section of this RFP; and
- H. A written certification confirming that the information contained in the proposal is true and accurate and that the person signing the cover letter is authorized to submit the proposal on behalf of the Proposer.

10.2 TAB 2: Technical Proposal

This section of the RFP provides instructions to Proposers regarding information that is to be included in the Technical Proposal. Proposals must be complete, factual and as detailed as necessary to allow the Corporation to adequately evaluate capabilities and experience.

The purpose of the Technical Proposal is to provide a Proposer an opportunity to demonstrate its qualifications, competence and capacity to undertake the Scope of Work described herein, in a manner which complies with the requirements of this RFP. Proposals should specifically detail a Proposer’s qualifications and experience in providing services sought by the Corporation (including the experience of its subcontractors, where applicable).

10.2.1 Detailed Work Plan, Methodology, Timeline and MWBE Plan for Accomplishing the Scope of Work

A Proposer must submit a work plan (“**Work Plan**”) that establishes goals, sets target dates, and identifies its intended methodology for performing the Scope of Work. The Work Plan must:

- (i) Provide a detailed description of the Proposer’s intended means, methods, and timeline for accomplishing each task required by the Scope of Work, as well as any component sub-tasks that the Proposer may identify. The description should indicate the Proposer’s previous experience in using these means and methods as well as its reasons for employing them in this project;

- (ii) Identify any “best practices” the Proposer will use to assure the timely completion of the Work Plan; and
- (iii) Indicate the extent to which the Scope of Work and any of its component sub-tasks will be performed within the State and will utilize MWBEs. Describe in detail the Scope of Work to be assigned to a MWBE(s).

A Proposer must also submit a timeline that identifies the earliest date upon which the Proposer can commence its work subsequent to its receipt of an executed contract. The timeline should be as precise as possible in establishing dates for the completion of each of the tasks described in the Scope of Work as well as any component sub-tasks identified by the Proposer.

10.2.2 Company Background Information

Briefly describe your Firm’s qualifications and capacity to provide the Scope of Work described herein. Your response should include:

- (i) A brief description of your Firm and its organizational structure including Firm size and location of offices from which work will be performed;
- (ii) A brief description of the range of activities performed by the Firm, including specific references to engagements similar in size and scope;
- (iii) The Firm’s participation in training and continuing professional education in auditing governmental programs;
- (iv) A description of the Firm’s quality control procedures, and review and supervisory procedures, if relevant;
- (v) Discuss the results of your Firm’s internal and independent quality control reviews, including information on peer review, if relevant;
- (vi) Discussion of your Firm’s presence in the State including any offices maintained in the State, the number of staff employed in the State and the number of staff covering the Corporation who are employed in the State;
- (vii) A description of any significant changes to the management structure and/or operational dynamics of the Firm’s organization, including any mergers that occurred in the last three (3) years or are expected in the near future or any subcontracting and/or partnering relationships with any other entity;
- (viii) Describe the Firm’s corporate citizenship and commitment to New York State, including local procurement of goods and services, development or participation in internship programs or scholarships and corporate philanthropy;

- (ix) Provide a list and description of any proceedings against your Firm, pending or contemplated by any governmental agencies or oversight body, such as the NYS Education Department--Office of the Professions, AICPA, IRS, Stockholders' Group, Trustee, or entity, including but not limited to, any pending or anticipated proceedings or rule or order relating to a violation or alleged violation by your Firm of any federal or state statute or regulation that could have an adverse material impact on the Proposer's ability to successfully perform the Scope of Work. Provide a list of all sanctions and/or fines imposed on your Firm during the last 24 months in connection with any proceeding of the type described in the proceeding sentence. Also provide the Corporation with a list and description of any pending or anticipated proceedings by private parties against your Firm (individually or in the aggregate) that your Firm has determined may have a material adverse impact on the current financial status or operations of your Firm.
- (x) Disclose any existing or contemplated relationship with any other person or entity, including relationships with any parent, subsidiary or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Proposer or former officers and employees of the Corporation and its Affiliates, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, please describe how your Firm would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Corporation of, and resolve any such conflicts.
- (xi) Disclose whether the Firm, or any of its members discussed in the above paragraph (x) has been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "**Commission**"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

10.2.3 Experience and Performance

Proposers must demonstrate the experience to perform the Scope of Work described in this RFP as outlined below:

- (i) Describe your Firm's experience and familiarity with all relevant statutes, regulations, policies and industry standards effecting the Corporation, and New York State public benefit corporations in general, including, but not limited to, requirements related to federal subsidies (including Section 8), those promulgated by the State's Public Authority Law, the State's Private Housing Finance Law, GAO, GASB, GAAS, GAAP, and the AICPA. References must be specific.
- (ii) Describe your Firm's capacity to provide audit services with entities similar in magnitude to the Corporation, and its experience of at least three (3) years with audits of similar organizations. Include a list of clients for whom you currently provide and have previously provided similar auditing services as described in this RFP, especially

State agencies, public authorities, or public benefit corporations, along with a description of the type of engagements. Include references that may be contacted, with contact information, with respect to your work on these matters.

- (iii) Describe your Firm's experience with governmental agencies.
- (iv) Describe your Firm's experience with HUD REAC filings.
- (v) Discuss a general outline of your auditing approach. Include any special expertise that your Firm will bring to this engagement. Your Firm must also demonstrate its ability to provide all of the deliverables within the timetable described herein, in accordance with your Firm's auditing approach.
- (vi) If your Firm has served as an auditor for the Corporation, discuss your Firm's audit performance. If your Firm has not served as an auditor for the Corporation, discuss your audit performance with respect to a similar governmental agency.
- (vii) The Firm must state the nature and amount of assistance it expects from the Corporation for the timely completion of the audit, including availability of HTFC staff during other than normal business hours, if any.
- (viii) Provide a summary of comparable engagements, either as a lead or supporting firm, including a brief description of how three (3) of these experiences are relevant or complementary to the Scope of Work describe in this RFP.
- (ix) Describe the experience of key personnel, including lead and supporting staff, responsible for performing work under a contract with the Corporation. Attach a copy of the proposed organizational chart together with resumes, titles and contact information for all key and supporting staff. The information required herein must also be provided for any subcontractors or partners. Attach any contracts, agreements, or letters of intent that have been entered into with such firms that are relevant to this RFP.
- (x) Provide evidence of Certified Public Accountant status for the State of New York.
- (xi) Provide a minimum of three (3) references for the Proposer and at least two references for any subcontractors or partners. Each reference should include the name, title, telephone number, and email address for each contact person and each company. Attach a brief summary of the relationship between the reference and the Proposer.

Information provided by the references may be used by the Corporation for the evaluation of proposals. The Corporation is not responsible for the degree of or lack of responsiveness of the references listed by a Proposer, subcontractor or partner. The Corporation is not required to alert Proposers about a reference's unresponsiveness during the evaluation of a proposal.

- (xii) The technology, policies and procedures, and any organizational attributes that the Proposer will employ to undertake the Scope of Work and whether such items are already in place.

Subcontractor(s) of the Proposer are subject to the requirements in this subsection 10.2., Tab. 2: Technical Proposal.

10.3 TAB 3: Cost Proposal

Tab 3 is comprised of the Cost Proposal for this RFP which must include the Total Project Cost for providing the tasks in the Scope of Work. A Proposer must submit its proposed total not-to-exceed cost required to complete the full Scope of Work on the Corporation's "Proposed Audit Contract Fee Structure," attached hereto as Attachment A.

The successful Proposer will be paid for travel expenses that are necessary and customary. Such reimbursement will be paid in accordance with policies set for State employees and payment will be made at the rate paid to State employees; payment will be in addition to the audit fee, and therefore should not be included in the fee proposal.

The Cost Proposal must also include the amount and percentage of the budgeted funds which will be (i) spent within the State of New York and (ii) allocated to MWBEs.

The Cost Proposal must also reflect that ten percent (10%) of the total fee due under the contract will be retained until fifteen (15) days after the work has been accepted or deemed accepted by HTFC.

Work under this contract will be paid annually in two installments: (a) payment upon completion of the June deliverables; and (b) final payment upon completion of the December FASS submission.

10.4 TAB 4: Administrative Proposal

Proposers are subject to the requirements described in HTFC's [Standard Clauses and Requirements for Solicitations, hyperlinked herein as Exhibit A](#). Such requirements include, but are not limited to, submission of the following information and forms of HTFC: (a) [Lobbying Procurement Law FORM 1](#) and [Lobbying Procurement Law FORM 2](#); (b) [Non-Collusive Bidding Certification FORM](#) ; (c) [Contractor and Vendor Information FORM](#) ; (d) [EEO Staffing Plan, PROC-1](#); (e) [MWBE Utilization Form, PROC-2](#); (f) [MWBE/EEO Policy Statement, PROC-4 form](#); (g) [Company Demographic Profile, PROC-7](#); (h) [EEOC Statement](#), applicable to Proposers with 15 or more employees, PROC-8; (i) [Diversity Practice Questionnaire, PROC-9](#); and (j) [Vendor Questionnaire, For Profit](#) or [Vendor Questionnaire, Not For Profit](#) , all forms hyperlinked herein.

In addition to completion of the forms hyperlinked in the paragraph above, Proposers must provide the following information:

10.4.1 Part III of Attachment B contains the insurance requirements the Contractor will have to satisfy.

10.4.2 Provide the last two years of your Firm's most recent tax returns or, if available, audited financial statements.

10.4.3 Diversity Practices

Proposers are subject to the requirements described in [Appendix II relating to requirements and procedures for Participation by Minority Group Members and Women](#), hyperlinked herein. Such requirements include, but are not limited to, submission of the following information and forms of the Corporation: [\(a\) EEO Staffing Plan, PROC-1](#); [\(b\) MWBE Utilization Form, PROC-2](#); [\(c\) MWBE & EEO Policy Statement, PROC-4](#); [\(d\) Company Demographic Profile PROC-7](#); [\(e\) EEOC Statement, PROC-8](#), applicable to Proposers with 15 or more employees; and [\(f\) Diversity Practices Questionnaire, PROC-9](#).

Proposers must provide the following information:

- (i) The Corporation is committed to increasing the utilization of MWBE firms. Please share any ideas you may have for joint venture partnerships which would meet the 30% overall MWBE participation requirement of the Corporation;
- (ii) If the Proposer is a State-certified MWBE firm, provide documentation evidencing registration. For MWBE firms that are not certified but have applied for certification, provide documentation evidencing the application with the Empire State Development Corporation, including the filing date;
- (iii) If the Proposer is not a State certified MWBE firm, descriptions of the instances, if any, in which the Proposer has worked with MWBE firms on previous transactions by engaging in joint ventures or other partnering or subcontracting arrangements. Responses should include the nature of the engagement, how such arrangement was structured and a description of how the services and fees were allocated; and
- (iv) A statement by the Proposer indicating its willingness to engage in MWBE partnering, subcontracting or mentoring arrangements with an MWBE firm selected by the Proposer. Such statement should include an explanation of how the Proposer would suggest structuring such an arrangement and allocating services and fees between the firms.

11. Performance, Evaluation, Selection and Notification

11.1 Preliminary Review

All proposals will be reviewed to determine if they contain all required submittals specified in this RFP. Proposals that do not meet minimum requirements will not be reviewed. Incomplete proposals may be rejected.

11.2 Selection Process

The selection process will begin with the review and evaluation of each of the written proposals. The purpose of the evaluation is two-fold: (1) to examine the responses for compliance with this RFP; and (2) to identify the firm with the highest probability of satisfactorily performing the Scope of Work, described herein, at a reasonable cost. The evaluation will be conducted in a comprehensive and impartial manner.

11.3 Interviews

The Corporation reserves the right to determine whether interviews will be necessary and the number of firms to be interviewed. If the Corporation deems interviews necessary, interviews will be held during the dates specified in the “*Calendar of Events and Milestones*” section of this RFP. The Proposer’s primary staff person who would be responsible for the Corporation’s relationship with the Proposer, as well as other key personnel proposed to provide services including its subcontractor’s primary staff person, must be present and participate in the interview. The purpose of the interview is to further document the Proposer’s ability to provide the required services, and to impart to the Corporation’s Committee an understanding of how specific services will be furnished. The interview will be evaluated on the basis of whether it substantiates the characteristics and attributes claimed by the Proposer in its written response to this RFP and any other information requested by the Committee prior to the interview.

The Corporation reserves the right to negotiate or hold discussions with any Proposer.

11.4 Selection and Notification Process

The selected Proposer will be notified via U.S. mail or email. Proposers who are not selected will be notified of the Corporation’s determination via U.S. mail or email.

12. Information relating to MWBEs, EEO and use of State Businesses

12.1 Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority-and Women-Owned Business Enterprises and Equal Employment Opportunities (“EEO”) for Minority Group Members and Women

12.1.1 New York State Law

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR 140-145, for New York State funded contracts, the Corporation recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of HTFC contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether MWBEs had a full and fair opportunity to participate in State contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" (“**Disparity Study**”). The report found evidence of statistically significant disparities between the level of participation of MWBEs in State procurement contracting versus the number of MWBEs that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the State-wide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the Corporation establish goals for maximum feasible participation of New York State certified MWBEs and the employment of minority group members and women in the performance of New York State contracts.

12.1.2 Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Corporation hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State certified minority-owned business enterprise (“**MBE**”) participation and 15% for New York State certified women-owned business enterprise (“**WBE**”) participation (based on the current availability of qualified MBEs and WBEs). A contractor (“**Contractor**”) on the subject contract (“**Contract**”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that the Corporation may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the Corporation will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and the Corporation may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a proposal, a bidder on the Contract (“**Bidder**” or “**Proposer**”) agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System (“**NYSCS**”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting Mr. Kenneth Ford at Kenneth.Ford@nyshcr.org and Nyhomes.Proposal@nyshcr.org. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder’s MWBE requirements, please click on the following hyperlinked MWBE guidance, “[Your MWBE Utilization and Reporting Responsibilities Under Article 15-A.](#)”

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

- a. An [MWBE Utilization Plan](#) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Corporation
- b. The Corporation will review the submitted MWBE Utilization Plan and advise the Bidder of the Corporation’s acceptance or issue a notice of deficiency within 30 days of receipt.
- c. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Corporation at 641 Lexington Avenue, 4th Floor, New York, NY 10022, Fax number 917-274-0393, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Corporation to be inadequate, the Corporation shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

The Corporation may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c) If a Bidder fails to submit a request for waiver; or
- d) If the Corporation determines that the Bidder has failed to document good faith efforts.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Corporation, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a [Contractor's Quarterly M/WBE Contractor Compliance & Payment Report](#) to the Corporation, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

12.2 Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of [Appendix I – Standard Clauses for All New York State Contracts including Clause 7 - Equal Employment Opportunities for Minorities and Women](#).

The Bidder will be required to submit a [Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement, PROC-4 Form](#) to the Corporation with their bid or proposal.

To ensure compliance with this Section, the Bidder will be required to submit with the bid or proposal an [Equal Employment Opportunity Staffing Plan PROC-1 Form](#), identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit an [Equal Employment Opportunity Workforce Employment Utilization Compliance Report](#) identifying the workforce actually utilized on the Contract, if known, through the New York State Contract System; provided, however, that a Bidder may arrange to provide such report via a non-electronic method by contacting Mr. Kenneth Ford at Kenneth.Ford@nyshcr.org and Nyhomes.Proposal@nyshcr.org.

Further, pursuant to Article 15 of the Executive Law (the “**Human Rights Law**”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

13. Miscellaneous Provisions

This RFP and any agreement which may result from it are subject to all applicable laws, rules, and regulations promulgated by any federal, State, or local authority having jurisdiction over the subject matter hereof, as the same may be amended from time to time.

A proposal may be rejected at any time during the evaluation process and at any point thereafter if there are any adverse findings that would prevent any Agency from selecting the Offerer or any person or entity associated or partnering with the Offerer. Such adverse findings include, but are not limited to:

- Pending or unresolved litigation with the Federal government, any State government, or a local municipality regarding contract performance;
- Local, State, Federal or private mortgage arrears, default, or foreclosure proceedings;
- Defaults under any Federal, State or locally-sponsored program;
- Listing on the federal or State excluded parties lists.

Depending on the nature of the procurement, there may be additional State and Federal reserved rights beyond those presented here.

**Response to Request for Proposals for fiscal years 2016 – 2020
HTFC Financial Audits**

Proposed Audit Contract Fee Structure

	Amount Not To Exceed		
	<u>2016 – 2018*</u>	<u>2019</u>	<u>2020</u>
HTFC Financial Audits	\$ _____	_____	_____
10% Retained by HTFC	\$ _____	_____	_____
TOTAL AMOUNT	\$ _____	_____	_____

*The fee must remain the same for the first three years (2016 - 2018) of the audit engagement.

The financial audit of HTFC shall include the issuance of: (a) Independent Auditor’s Report, (b) a Management Letter, and (c) an Investment Guidelines for Public Authorities Compliance Report.

For fiscal years 2016 – 2018, 2019 and 2020, indicate the amount and percentage of the budgeted funds that will be (i) spent within the State of New York and (ii) allocated to MWBEs.

ATTACHMENT B

SUPPLEMENTARY CONDITIONS FOR CONTRACTS

ORDER OF PRECEDENCE

In the event of a conflict between the terms of these Supplementary Conditions and the terms of the remainder of the contract (including any other attachments thereto and amendments thereof), the terms of these Supplementary Conditions shall control.

In the event of a conflict among the requirements found in these Supplementary Conditions, which conflict would make it impossible to comply with all of the requirements set forth herein, the provisions shall be applied with the following priority:

- (1) Part I: Required Federal Provisions; then
- (2) Part II: [Required State Provisions](#), hyperlinked herein;

and the remaining requirements shall be interpreted in a manner so as to allow for the terms contained therein to remain valid and consistent with such superseding provisions. If any provision of these Supplementary Conditions relates to a matter embraced by another provision(s) of these Supplementary Conditions, but is not in conflict therewith, all such provisions shall apply.

PART I: REQUIRED FEDERAL PROVISIONS

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development (“HUD”).

GENERAL CONDITIONS

- 1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.
- 2. STATUTORY AND REGULATORY COMPLIANCE.** Contractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.
- 3. BREACH OF CONTRACT TERMS.** HTFC reserves their rights to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 4. REPORTING REQUIREMENTS.** The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by HTFC. The Contractor shall cooperate with all HTFC efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507.
- 5. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government and the recipient in any resulting invention in accordance with 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations

and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by HUD.

6. DEBARMENT, SUSPENSION, AND INELIGIBILITY. The Contractor represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 C.F.R. Part 2424. The Contractor shall notify HTFC should it or any of its subcontractors become debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 C.F.R. Part 2424.

7. CONFLICTS OF INTEREST. The Contractor shall notify HTFC as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 (or 84.42, if applicable)). The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that HTFC is able to assess such actual or potential conflict. The Contractor shall provide HTFC any additional information necessary for HTFC to fully assess and address such actual or potential conflict of interest. The Contractor shall accept any reasonable conflict mitigation strategy employed by HTFC, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict. If requested by HTFC, contractor shall sign a certification affirming that it has no conflict of interest arising from performance of work on a specific task.

8. SUBCONTRACTING. When subcontracting, the Contractor shall solicit for and contract with such subcontractors in a manner providing for fair competition. Some of the situations considered to be restrictive of competition include but are not limited to:

- A. Placing unreasonable requirements on firms in order for them to qualify to do business,
- B. Requiring unnecessary experience and excessive bonding,
- C. Noncompetitive pricing practices between firms or between affiliated companies,
- D. Noncompetitive awards to consultants that are on retainer contracts,
- E. Organizational conflicts of interest,
- F. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- G. Any arbitrary action in the procurement process.

The Contractor represents to HTFC that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

The Contractor will include these Required Federal Provisions in every subcontract issued by it so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

9. ASSIGNABILITY. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of HTFC.

10. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless HTFC and its agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Contractor in the performance of the services called for in this contract.

11. TERMINATION FOR CAUSE (Applicable to contracts exceeding \$10,000). If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, HTFC shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of HTFC, become HTFC's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to HTFC for damages sustained by HTFC by virtue of any breach of the contract by the Contractor, and HTFC may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due HTFC from the Contractor is determined.

12. TERMINATION FOR CONVENIENCE (Applicable to contracts exceeding \$10,000). HTFC may terminate this contract at any time by giving at least ten (10) days' notice in writing to the Contractor. If the contract is terminated by HTFC as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

13. LOBBYING (Applicable to contracts exceeding \$100,000). The Contractor certifies, to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an 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, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- B. If any funds other than federal appropriated funds have been paid or will be paid to 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 this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

14. BONDING REQUIREMENTS (Applicable to construction and facility improvement contracts exceeding \$100,000). The Contractor shall comply with New York State bonding requirements, unless they have not been approved by HUD, in which case the Contractor shall comply with the following minimum bonding requirements:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- B. A performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.
- C. A payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

15. ACCESS TO RECORDS. HTFC, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records

of the Contractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

16. MAINTENANCE/RETENTION OF RECORDS. All records connected with this contract will be maintained in a central location and will be maintained for a period of at least four (4) years following the date of final payment and close-out of all pending matters related to this contract.

CIVIL RIGHTS AND DIVERSITY PROVISIONS

17. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS. The Contractor will comply with the small and minority firms, women's business enterprise, and labor surplus area requirements as set forth at 24 C.F.R. § 85.36 or 24 C.F.R. § 84.44 as applicable. Contractor will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in these Required Federal Provisions, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians.

The contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- E. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

18. TITLES VI AND VIII OF THE CIVIL RIGHTS ACT OF 1964 AND EXECUTIVE ORDER 11063. The Contractor shall comply with the provisions of Titles VI and VIII of the Civil Rights Act of 1964 and with Executive Order 11063. No person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. No person shall, on the grounds of race, color, religion, sex, or national origin, be discriminated against in the sale, rental, or financing of dwellings. To the extent that any such sale, lease or other transfer of land shall occur, Contractor, in undertaking its obligation to carry out the Program assisted hereunder, will not itself so discriminate.

19. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

20. SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990. The Contractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations, and with the Americans with Disabilities Act of 1990 (42 U.S.C. § 126), as amended, and any applicable regulations

The Contractor agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance from HUD.

21. AGE DISCRIMINATION ACT OF 1975. The Contractor shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

22. NONDISCRIMINATION (Applicable to construction contracts and subcontracts exceeding \$10,000). The Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967; Executive Order 11478 of August 8, 1969; Executive Order 12107 of December 28, 1978; Executive Order 12086 of October 5, 1978; and as supplemented in Department of Labor regulations (41 C.F.R. Part 60).

The Contractor shall comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 C.F.R. § 570.607, as revised by Executive Order 13279 of December 12, 2002. The applicable non-discrimination provisions in Section 109 of the Housing and Community Development Act of 1974 are still applicable. The Contractor shall comply with all other federal statutory and constitutional non-discrimination provisions. 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. The Contractor shall take affirmative action to ensure that applicants for employment 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, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that it is an Equal Opportunity or Affirmative Action employer.
- C. The Contractor will, 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.
- D. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- F. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- G. In the event of the Contractor's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- H. Contractor shall incorporate the provisions of A through G above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such subcontractor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

23. CERTIFICATION OF NONSEGREGATED FACILITIES (Applicable to construction contracts exceeding \$10,000). The Contractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the nondiscrimination clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the nondiscrimination clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

24. SECTION 503 OF THE REHABILITATION ACT OF 1973 (Applicable to contracts exceeding \$10,000). The Contractor shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

- A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
1. Recruitment, advertising, and job application procedures;
 2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
 3. Rates of pay or any other form of compensation and changes in compensation;
 4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 5. Leaves of absence, sick leave, or any other leave;
 6. Fringe benefits available by virtue of employment, whether or not administered by the contractor;
 7. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 8. Activities sponsored by the contractor including social or recreational programs; and
 9. Any other term, condition, or privilege of employment.
- B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- E. The Contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as

amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

- F. The Contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

25. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (As required by applicable thresholds).

- 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 C.F.R. 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, the availability of apprenticeship and training positions, the qualifications for each, 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 C.F.R. Part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. 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).

Irrespective of any applicable federal reporting requirements, Contractor shall submit quarterly reports along with any supporting documentation, in a form acceptable to HTFC, of its Section 3 compliance efforts to HTFC. Contractor may be required to consolidate all reports received from subcontractors and lower-tiered subcontractors into a single report or several reports as reasonably requested by HTFC. Notwithstanding the provision of such reports and supporting documentation, Contractor shall maintain copies of all reports and supporting documents as set forth in these Supplementary Conditions.

26. FAIR HOUSING ACT. Contractor shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Contractor shall comply with the provisions of the Equal Opportunity in Housing Act, which prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds.

LABOR PROVISIONS

27. COPELAND "ANTI-KICKBACK" ACT (Applicable to all construction or repair contracts). Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the

applicable regulations issued by the Secretary of Labor pursuant to the Copeland “Anti-Kickback Act” of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; and 40 U.S.C. § 276c). The Contractor shall comply with all applicable “Anti-Kickback” regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

28. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers). The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable federal laws and regulations pertaining to labor standards.

29. DAVIS-BACON ACT AND OTHER LABOR COMPLIANCE (Applicable to construction contracts exceeding \$2,000 when required by federal program legislation). The Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5), and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as they apply to the performance of this agreement. In addition, Contractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12586.pdf.

All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the Federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act. The Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to HTFC for review upon request.

If Contractor is engaged under a contract in excess of \$2,000 for construction, renovation, or repair work financed in whole or in part with assistance provided by HTFC, Contractor agrees, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, to comply and to cause all subcontractors engaged under such contracts to comply with federal requirements adopted by HTFC pertaining to such contracts and with the applicable requirements of the Department of Labor under 29 C.F.R. Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law,

nothing hereunder is to relieve Contractor of its obligation, if any, to require payment of the higher wage. Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

ENVIRONMENTAL PROVISIONS

30. ENERGY EFFICIENCY. The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

31. CERTIFICATION OF COMPLIANCE WITH ENVIRONMENTAL LAWS.

The Contractor and all subcontractors agree to comply with the following requirements (and their state and/or local counterparts or analogues, if any) insofar as they apply to the performance of this Agreement as any of the following may hereinafter be amended, superseded, replaced, or modified:

- A. Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951, 3 C.F.R., 1977 Comp., p. 117, as interpreted at 24 C.F.R. Part 55), and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961, 3 C.F.R., 1977 Comp., p. 121);
- B. Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 *et seq.*);
- C. Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. § 349, as amended), and EPA regulations for Sole Source Aquifers (40 C.F.R. Part 149);
- D. Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*);
- E. Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 *et seq.*);
- F. Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- G. EPA regulations for Determining Conformity of Federal Actions to State or Federal Implementation Plans (40 C.F.R. Parts 6, 51, and 93);
- H. Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201 *et seq.*), and USDA regulations at 7 C.F.R. Part 658;
- I. HUD criteria and standards at 24 C.F.R. Part 51;

- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Feb. 11, 1994 (59 FR 7629, 3 C.F.R., 1994 Comp. p. 859);
- K. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001-4128);
- L. National Flood Insurance Reform Act of 1994 (42 U.S.C. § 5154a);
- M. Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. § 3501);
- N. Runway Clear Zone regulations (24 C.F.R. Part 51);
- O. Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, *et seq.*), and all regulations and guidelines issued thereunder;
- P. Environmental Protection Agency (“EPA”) regulations at 40 C.F.R Part 50, as amended;
- Q. HUD regulations at 24 C.F.R. Part 51, Subpart B, and New York State and local laws, regulations, and ordinances related to noise abatement and control, as applicable;
- R. HUD regulations at 24 C.F.R. Part 51 Subpart C regarding siting of projects near hazardous operations handling conventional fuels or chemicals of an explosive or flammable nature;
- S. HUD and EPA regulations related to asbestos-containing material and lead-based paint, including but not limited to Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (12 NYCRR 56), the National Emission Standard for Asbestos (40 C.F.R. § 61.145), the National Emission Standard for Asbestos (40 C.F.R. § 61.150), and 24 C.F.R. Part 35 Subparts B, H, and J; and
- T. All other applicable environmental laws that may exist now or in the future.

Further, Contractor shall abide by any conditions or requirements set forth in any environmental review performed pursuant to 24 C.F.R. Part 58, which are HUD’s regulations for Responsible Entities implementing the National Environmental Policy Act.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to HTFC, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. Part 32 or on the List of Violating Facilities issued by the EPA pursuant to 40 C.F.R. Part 15, as amended.

- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

PART II: [REQUIRED STATE PROVISIONS](#), hyperlinked herein

-REMAINDER OF PAGE LEFT BLANK INTENTIONALLY-

PART III: INSURANCE

- A. Contractor shall procure and maintain without interruption, at its sole cost and expense, during the term of this Agreement (or any extensions thereof) and for a period of two years thereafter, insurance of the type, and with limits and deductibles, as follows:
- a. Commercial General Liability Insurance. Providing both bodily injury (including death) and property damage insurance with a limit not less than Two Million Dollars (\$2,000,000) in the aggregate and One Million Dollars (\$1,000,000) per occurrence. Such insurance is to be written on an occurrence basis with defense outside of limits. New York State and HTFC shall each be named as an additional insured.
 - b. Automobile Liability and Property Damage Insurance. In an amount not less than One Million Dollars (\$1,000,000) combined single limit for both Bodily Injury and Property Damage.
 - c. Professional Liability. If the Contractor is engaged in providing professional services under this Agreement, professional errors and omissions coverage with a limit not less than Two Million Dollars (\$2,000,000) in the aggregate and One Million Dollars (\$1,000,000) per occurrence. If the Contractor is not engaged in providing professional services under this Agreement, this professional errors and omissions coverage is not required.
 - d. Workers' Compensation Documentation. Upon notification of award, the successful Proposer will be requested to submit one of the following forms as Workers Compensation Insurance documentation:
 - CE-200 – Certificate of Attestation for New York Entities with No Employees and Certain Out-of-State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required; or
 - C-105.2 – Certificate of Workers' Compensation Insurance (or U-26.3 if insured through the State Insurance Fund); or
 - SI-12 – Certificate of Workers' Compensation Self-Insurance (or GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance).
 - e. Disability Insurance Documentation. Upon notification of award, the successful Proposer will be requested to submit one of the following forms as Disability documentation:

- CE-200 – Certificate of Attestation for New York Entities with No Employees and Certain Out-of-State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required; or
- DB-120.1 – Certificate of Disability Benefits Insurance; or
- DB-155 – Certificate of Disability Benefits Self-Insurance.

ACORD forms are not acceptable proof of insurance. Further information is available at the Workers Compensation Board website, which can be accessed through this link: <http://www.wcb.ny.gov> .

- f. Excess Liability Insurance. Not less than Eight Million Dollars (\$8,000,000) in the aggregate and per occurrence or per claim. This insurance shall be excess of the insurance in items (a), (b) and (c) above and shall be written on an occurrence and follow form basis. New York State and HTFC shall each be named as an additional insured for excess coverage with respect to the type of coverage set forth in item 1 above.
- B. In addition to the foregoing, Contractor and any subcontractors shall procure and maintain any and all insurance which is required by any applicable current or future law, rule, regulation, ordinance, permit, license, order or other legal requirement.
 - C. All insurance shall be primary and non-contributory and shall waive subrogation against HTFC and all of either of their former, current, or future officers, directors, and employees. No deductible of more than \$50,000 shall be permitted without advance written approval by HTFC, which HTFC may withhold, condition or deny in its sole and exclusive discretion.
 - D. The Contractor shall provide Certificates of Insurance to HTFC prior to the commencement of work and shall provide full and complete copies of the actual policies and all endorsements upon request. Subcontractors under this Agreement shall be required to maintain insurance meeting all of the requirements set forth in Section A above for items a-d, but not for item e; however Contractor shall require subcontractors to maintain greater limits and/or other or additional insurance coverages if greater limits and/or other or additional insurance coverages are (a) generally imposed by the Contractor given its normal course of business for subcontracts for similar work or services to those being provided by the subcontractor at issue; or (b) reasonable and customary in the industry for similar work or services to those anticipated hereunder.
 - E. If the above insurance requirements are potentially excessive because they exceed the type and/or amount of insurance which is reasonable and customary for similar work or services in the same general geographic area, Contractor shall, within fifteen (15) calendar days of the execution of this Agreement, provide written notice of the same to HTFC,

along with a written summary of the type and amount of insurance Contractor believes is reasonable and customary for similar work or services in the same general geographic area. HTFC may, in HTFC's sole and exclusive discretion, but is under no obligation to, waive, decrease, or otherwise alter or amend the insurance requirements in light of this notice. However, notwithstanding anything to the contrary herein, nothing in this paragraph requires or shall be deemed to require HTFC to waive, decrease, alter or amend, in whole or in part, any insurance requirements as a result of the foregoing notice from Contractor or for any other reason, and no waiver, decrease, alteration or amendment shall be made except as approved in advance and in writing by HTFC.

- F. If the above insurance requirements are potentially inadequate because they do not meet or exceed the type and/or amount of insurance which is reasonable and customary for similar work or services in the same general geographic area, Contractor shall, within fifteen (15) calendar days of the execution of this Agreement, provide written notice of the same to HTFC, along with a written summary of the type and amount of insurance Contractor believes is reasonable and customary for similar work or services in the same general geographic area. HTFC may, in HTFC's sole and exclusive discretion, but is under no obligation to increase, supplement, expand, or otherwise alter or amend the insurance requirements in light of this notice. However, notwithstanding anything to the contrary herein, nothing in this paragraph requires or shall be deemed to require HTFC to increase, supplement, expand, or otherwise alter or amend, in whole or in part, any insurance requirements as a result of the foregoing notice from Contractor or for any other reason, and no increase, supplement, expansion or other alteration or amendment shall be made except in an amendment to this Agreement, as approved in advance and in writing by HTFC.