



**Governor's Office of
Storm Recovery**

ANDREW M. CUOMO
Governor

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Executive Director

HOUSING TRUST FUND CORPORATION

Request for Qualifications ("RFQ")

for

**Architectural/Engineering ("A/E") Professional Services
for
Community Development Block Grant-Disaster Recovery
Oakdale Marsh Restoration and Public Access**

RFQ #201611_053

November 15, 2016

**Responses must be received by
3:00 p.m. (Eastern), December 7, 2016**

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1. GENERAL INFORMATION

1.1. Purpose

The Governor's Office of Storm Recovery ("GOSR") of the Housing Trust Fund Corporation ("HTFC") seeks to identify New York State licensed professional architectural and engineering ("A/E") firms best qualified to provide the services necessary to design the Oakdale Marsh Restoration and Public Access Project in connection with its administration of U.S. Department of Housing and Urban Development ("HUD") Community Development Block Grant-Disaster Recovery ("CDBG-DR") funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2). This Request for Qualifications ("RFQ") is issued in accordance with the Procurement and Contract Guidelines of GOSR and in compliance with [Section 2879a of the New York Public Authorities Law](#).

The purpose of this RFQ is to obtain Qualifications from Respondents and to award a contract to provide services necessary to design a project which will substantially improve tidal exchange in the Pickman-Remmer wetlands, restore the wetlands, and provide for the removal of invasive species. Project design will also involve providing for improved public access to the wetlands consistent with the requirements of the CDBG-DR funding stream. GOSR seeks qualified Respondents that should also possess tidal wetland processes expertise and experience with the wetland system conditions at and around the project site. These services are detailed in section 3 of this RFQ. Respondents to this RFQ should thoroughly review the New York State Action Plan for Community Development Block Grant Disaster Recovery and all amendments thereto, as well as all Federal Register notices related to the CDBG-DR funds. The Action Plan and all amendments are located on the GOSR website at: <http://stormrecovery.ny.gov/funding/action-plans-amendments>. Respondents will be reviewed on the basis of their technical expertise, proven ability to execute projects, eligibility and ability to provide services in a manner sensitive to specific requirements and timetables established by federal law. One qualified Respondent will be selected to provide these services.

1.2. Description of Program(s)

The NY Rising Community Reconstruction (NYRCR) Program is a participatory recovery and resiliency initiative established to provide assistance to 124 communities severely damaged by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The Governor's Office of Storm Recovery (GOSR) has allotted more than \$700 million in federal funds to support the planning and implementation of community-developed projects.

The services to be procured through this RFQ will be used to carry out the Oakdale Marsh Restoration and Public Access project, a project funded by and conceived through the GOSR NYRCR CDBG-DR Program – Oakdale / West Sayville NYRCR Plan, "Living Marsh – Grand Canal Levee Improvements."

1.3. Diversity and Income Requirements

Pursuant to New York State Executive Law Article 15-A ("Article 15-A"), GOSR recognizes its obligation to promote opportunities for maximum feasible participation of certified Minority- and Women-Owned Business Enterprises ("MWBES"), and the employment of minority

group members and women in the performance of all New York State funded GOSR contracts. GOSR is committed to ensuring that firms which are MWBE certified in New York State, or any other city or state, or the federal government, are encouraged to submit Qualifications in response to this RFQ.

For purposes of this solicitation, HTFC hereby establishes an overall goal of 30% for MWBE participation for the above described services performed under the contract awarded pursuant to this RFQ: 15% for Minority-Owned Business Enterprises and 15% for Women-Owned Business Enterprises.

In addition, in accordance with New York State Executive Law Article 17-B (“Article 17-B”) governing NYS contracting requirements, HTFC hereby establishes a utilization goal of 6% for Service-Disabled Veteran-Owned Business (“SDVOB”) participation. Refer to section 5.3.6.

In addition to the above diversity requirements, and pursuant to Section 3 of the Housing & Urban Development Act of 1968, GOSR is committed to ensuring that employment and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

Further requirements for MWBE Contractor participation are detailed in Appendix III, “NYS MWBE Contractor Requirements and Procedures” of this RFQ. Section 3 requirements are detailed in Section 30 of Appendix I, “HUD General Provisions.”

1.4. Anticipated Contract Term

It is anticipated that GOSR will award a two-and-a-half--year Contract from this RFQ. GOSR reserves the right, prior to contract award, to determine the length of the initial contract term and each option to renew.

2. RFQ PROCESS AND ADMINISTRATIVE REQUIREMENTS

2.1. RFQ Coordinator

Shin Kim
Chief Procurement Officer
Governor’s Office of Storm Recovery
25 Beaver Street
New York, New York 10004
GOSRProcurement@stormrecovery.ny.gov

2.2. RFQ Timeline

Target Date	Event
November 15, 2016	Release of RFQ
November 18, 2016	Anticipated Pre-Submission Conference
November 21, 2016	Last Day to Submit Questions – 3:00 p.m. (Eastern)
November 23, 2016	Issuance of Answers to Questions (tentative)
December 7, 2016	Proposal Submission Deadline – 3:00 p.m. (Eastern)
December 2016	Finalist Interviews (if applicable)
December 2016/January 2017	Target Date for Selection

Please note that the RFQ timeline includes target dates and may change. It is the responsibility of Respondents to periodically review the GOSR and HTFC websites for regular updates to the RFQ timeline and other important information which may alter the terms or requirements of this RFQ.

2.3. Pre-Submission Conference and Questions

A pre-submission conference will be scheduled to discuss this RFQ, accept questions, and provide preliminary responses. GOSR is in the process of scheduling the conference and will post an update to the Governor’s Office of Storm Recovery “Procurement Opportunities” webpage at: <http://stormrecovery.ny.gov/doing-business-with-gosr/rfps>.

Interested firms are strongly encouraged to check the “Procurement Opportunities” webpage frequently for updates and additional information pertaining to this RFQ. All questions and correspondence must be sent to GOSRProcurement@stormrecovery.ny.gov. Any correspondence or questions regarding this RFQ sent to any other email will not receive a response. All questions must reference this specific RFQ in the subject line of the email. The subject line for questions related to this RFQ should read “**RE: RFQ Question – RFQ Oakdale Marsh Restoration and Public Access.**” Answers to all substantive questions, including those arising from the pre-submission conference, will be posted on the GOSR “Procurement Opportunities” webpage listed above.

2.4. Procurement Lobbying Provisions

Pursuant to State Finance Law §§ 139-j and 139-k, this RFQ includes and imposes certain restrictions on communications between GOSR and Respondents during the solicitation process. A Respondent is restricted from making contacts, from the earliest notice of intent to solicit offers through final award and approval of the contract (the restricted period), with GOSR staff other than the RFQ Coordinator unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a).

GOSR employees are required to obtain certain information when contacted during the restricted period and make a determination of responsibility of the Respondent pursuant to these two statutes. Certain findings of non-responsibility can result in the rejection for contract award

and, in the event of two (2) findings within a four-year period, the Respondent is debarred from obtaining governmental procurement contracts. Information on these requirements can be found at:

<http://www.ogs.state.ny.us/aboutogs/regulations/defaultAdvisoryCouncil.html>

For all lobbying law contacts and inquiries, please contact:

Natalie Dennerly

Lobbying Contact Officer

Governor's Office of Storm Recovery

GOSRProcurement@stormrecovery.ny.gov

Email must indicate subject: **RE: Lobbying Inquiry**

2.5. Conflicts of Interest

In the event of real or apparent conflicts of interest, GOSR reserves the right to impose additional conditions upon Respondents. The selected Respondent will be subject to the provisions on conflicts of interest set forth in section 74 of the New York State Public Officers Law. GOSR reserves the right to cancel any contract awarded pursuant to this RFQ upon 30 days written notice in the event that an actual conflict of interest, or the appearance of such conflict, is not cured to GOSR's satisfaction. Prior to responding to this RFQ, you must perform a conflict of interest inquiry and disclose to GOSR in your Qualifications any and all potential conflicts of interest that exist or may exist for your organization or your subcontractors or affiliates in relation to the scope of work contained in this document.

2.6. Qualifications Submission Format

Qualification submissions to this RFQ must be filed electronically in Portable Document Format (pdf) file. Unless otherwise noted, Respondents must complete and submit all forms, information, and other documentation listed herein (including, without limitation, any Attachments and Appendices to this RFQ) as part of their electronic submissions. Respondent is responsible to ensure that emails and attachments are delivered in a legible format.

Any Qualification submission delivered after the submission deadline will not be evaluated. Delivery delays shall not excuse late submissions. Respondents are responsible for ensuring that emails/attachments are delivered on time in a legible format. Complete Qualifications, including all parts, must be received by the deadline in order for a submission to be considered timely. Respondents assume all risks associated with delivery. In all instances, GOSR's determination regarding the completeness and timeliness of any submissions shall be at the sole discretion of GOSR and shall be final.

Qualifications must be submitted by email to:

GOSRProcurement@stormrecovery.ny.gov

Proposals must be delivered by email in two parts no later than the Qualifications submission deadline. Part one shall include the Price Proposal. The email subject shall indicate **RE: Bid Proposal for Oakdale Marsh Restoration and Public Access – Price Proposal**. Part two shall include the Technical Qualifications along with all attachments and completed forms.

The email subject shall indicate **RE: Qualifications for Oakdale Marsh Restoration and Public Access– Technical Qualifications and Attachments.**

There is a 40-page total limit except that résumés, curricula vitae, appendices that document relevant work performed, and screen shots of potential project management systems do not count against the page limit. Qualifications font size shall not be any less than 12 point, with 1-inch margins, with the exception of tables and charts, but such text must be clearly legible. Respondents are encouraged to submit only relevant and necessary information.

GOSR will consider Qualifications in response to this RFQ that are presented in a consistent and easily comparable format. Qualifications that are not organized in the manner set forth in this RFQ may be considered non-responsive at the sole discretion of GOSR. Do not refer to other parts of your Qualifications, or to information that may be publicly available elsewhere, or to your website, or to another website in lieu of presenting the information in your Qualifications.

Qualifications must include a cover letter stating that: (a) the information submitted in and with the Qualifications is true and accurate; and (b) the person signing the cover letter is authorized to submit the Qualifications on behalf of the Respondent.

2.7. Changes to Qualifications Wording / Clarifications

The Respondent shall not change the wording of its Qualifications after the submission and no words or comments will be added to the Qualifications unless requested by GOSR for purposes of clarification.

2.8. Errors and Omissions in Qualifications

GOSR reserves the right to reject Qualifications that contains an error or omission. GOSR also reserves the right to request correction of any errors or omissions and/or to request clarification or additional information from any Respondent, without opening up clarifications for all Respondents. Respondents will be provided a reasonable period of time in which to submit written responses to GOSR's request for clarification or additional information. Respondents shall respond by the deadline stated in the correspondence.

2.9. Respondent's Expenses

Respondents are solely responsible for their own expenses in preparing Qualifications and for subsequent negotiations with GOSR, if any. GOSR will not be liable for any claims, costs or damages incurred by the Respondent in preparing the Qualifications, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever.

2.10. Selection of Qualifications in Best Interests of the State

Notwithstanding the selection criteria set forth in the RFQ, GOSR reserves the right to select Qualifications that, in its sole judgment, is consistent with and responsive to the goals of the State's CDBG-DR Action Plan, if it is determined by the Executive Director of GOSR and the Commissioner of NYS HCR to be in the best interests of the State of New York.

2.11. Notification of Selection

The selected Respondent(s) will be issued a Letter of Intent to Contract subject to negotiation of fair and reasonable compensation, via email.

2.12. Number of Awards

At the sole discretion of GOSR, and based upon the breadth and experience of Respondents to this RFQ, GOSR may award contracts to more than one Respondent. GOSR currently anticipates awarding one (1) contract pursuant to this RFQ.

Nothing in this section shall be construed to limit in any way GOSR's right, in its sole discretion, to cancel this RFQ.

2.13. Service Level Agreements

GOSR expects to select a Respondent that will agree to a clearly-defined service level agreement ("SLA"), as yet to be determined but to be included in any final contract between the parties. Such SLA will be established and agreed upon to ensure a timely, efficient, equitable, and transparent recovery process. Fees payable under this contract will be contingent upon compliance with the terms of the SLA and other pre-agreed metrics for success. GOSR reserves the right to cancel any contract awarded pursuant to this RFQ, or withhold payment of funds under any contract awarded pursuant to this RFQ, for failure to adhere to the SLA.

2.14. Withdrawal of Qualifications

A Respondent may withdraw Qualifications at any time up to the date and time that the contract is awarded. The withdrawal must be submitted in writing to the RFQ Coordinator.

2.15. Rejection of Qualifications / Cancellation of RFQ

Issuance of this RFQ does not constitute a commitment by GOSR to award a contract. GOSR reserves the right to accept or reject, in whole or in part, all Qualifications submitted and/or to cancel this solicitation and reissue this RFQ or another version of it, if it determines that doing so is in the best interest of the impacted communities or the State of New York.

2.16. Ownership of Qualifications

All documents, including Qualifications submitted to GOSR, become the property of GOSR. They will be received and held in confidence by GOSR, subject to the provisions of the *Freedom of Information Law*. Selection or rejection of Qualifications does not affect this provision.

2.17. Waiver of Informalities

GOSR reserves the right to waive any informalities and/or irregularities in Qualifications if it determines that doing so is in the best interest of the impacted communities or the State of New York.

2.18. Proprietary Information

Only information considered trade secrets or non-published financial data may be classified as proprietary or confidential. Such information within the Qualifications must be clearly marked. Qualifications containing substantial contents marked as confidential or proprietary may be rejected by GOSR. Provision of any information marked as confidential or proprietary shall not prevent GOSR from disclosing such information if required by law. The awarded contract(s), and all prices set forth therein, shall not be considered confidential or proprietary and such information may be made publicly available.

2.19. Confidentiality of Information

Information pertaining to GOSR obtained by the Respondent as a result of participation in this RFQ is confidential and must not be disclosed without written authorization from GOSR.

2.20. Collection and Use of Personal Information

Respondents are solely responsible for familiarizing themselves and ensuring that they comply with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning their employees and/or employees of any subcontractors. If this RFQ requires Respondents to provide GOSR with personal information of employees who have been included as resources in their Qualifications responsive to this RFQ, Respondents will ensure that they have obtained written consent from each of those employees before forwarding such personal information to GOSR. Such written consents are to specify that the personal information may be forwarded to GOSR for the purpose of responding to this RFQ and used by GOSR for the purposes set out in the RFQ. GOSR may, at any time, request the original consents or copies of the original consents from Respondents, and upon such request being made, Respondents shall immediately supply such originals or copies to GOSR.

2.21. RFQ and Qualifications as Part of Contract

This RFQ and the selected Respondent's Qualifications will become part of any contract between GOSR and the Respondent. In the event that the terms of the RFQ conflict with the contract, the contract terms shall control.

3. SERVICES

3.1. Project Description

This Project is based on the "Living" Marsh – Grand Canal Levee Improvement project in the Oakdale/West Sayville NY Rising Community Reconstruction plan¹.

The primary purpose of this project is to improve tidal exchange within an approximately 87-acre salt marsh wetland so as to increase its capacity to absorb coastal storm surge and storm water runoff as well as restore its ecological health. Poor tidal exchange has impacted the wetland ecology. Other components of the project include removal of invasive species, an evaluation of

¹ http://stormrecovery.ny.gov/sites/default/files/crp/community/documents/oakdale-westsayville_nyr-cr-plan.pdf

the best use of former residential properties abutting the wetlands – as buffers planted with appropriate buffer species or as street access points to the wetlands to promote public access – and the development of a hiking trail(s) over the wetland and bermed areas, and potentially connected to street access points on former residential properties, to promote increased public access. An additional expected benefit of this project is the reduction of mosquito larvae associated with a healthy marsh and increased fish populations.

The wetland, owned by New York State Department of Environmental Conservation (“NYSDEC”) and known locally as the Pickman-Remmer Wetlands, is cut off from regular tidal exchange by an earthen berm running north-south along the eastern bank of the Grand Canal. The berm was constructed when the canal was excavated over 100 years ago. At some point after the berm was constructed, a number of pipes of unknown size were added to allow for limited tidal exchange between the canal and adjacent wetlands to the east. However, many of these openings have either silted in or deteriorated over time and are no longer allowing for the intended exchange.

Likely as a result of the lack of tidal exchange, large portions of the marsh are dominated by invasive species such as phragmites. Providing a recommended approach to achieve appropriate tidal exchange, remove invasive species and promote the reestablishment of native species will be a part of this project.

Through the New York Rising Buyout and Acquisition Program, the State of New York is in the process of acquiring several properties contiguous with the wetlands. These properties shall be assessed for their potential to improve community access to the wetlands for educational and passive recreational purposes, and for their potential to serve as buffers to the wetlands. Further, opportunities for improvements along the eastern canal shoreline and berm that encourage community access, recreation and enjoyment, including but not limited to the potential for hiking trails, will be evaluated for incorporation into this project.

This project would commence with an Alternatives Analysis and Preliminary Design Phase during which time all requisite data will be gathered to inform an evaluation of several alternatives to restore the wetlands and promote public access in and around the project site. Selected alternatives will be advanced to Design and Construction Phase.

GOSR reserves the right to modify the Project Description.

3.2. Scope of Work

The following Scope of Work is intended only as an example of what may be required. The completion of the Project may include, but not be limited to, the following:

Alternatives Analysis and Preliminary Design Phase

1. Review and become familiar with all available documentation, including existing relevant studies and engineering reports, and confirm expectations of work scope for each project component with NYSDEC/GOSR;
2. Review all available existing drawings & specifications, and NYSDEC land management and regulatory framework to ensure an understanding of the project goals;

3. Perform and document visual field inspection of wetland and developed parcels adjacent to the bay and wetlands, as well as adjacent natural & man-made feature(s);
4. Schedule and attend fact finding and coordination meetings/conference calls with NYSDEC and GOSR personnel sufficient to confirm requirements of the work. Assume multiple meetings and consultations with NYSDEC staff, two coordination meetings at GOSR's Farmingdale Office (or if necessary, in the field) and two coordination conference calls for this phase of work;
5. Site Plan & Topographical Survey of the wetland to include, but not be limited to, the following:
 - a. Establish and document survey control data
 - b. Location and elevations of the berm, all culverts running underneath, and the internal network of channels within the wetlands
 - c. Sufficient elevation points within the wetland and channels to develop a topographical survey sufficient for the purpose of determining project design alternatives
 - d. Identification, location and spot elevations of existing berm breaches
 - e. All elevations in NAVD88
6. Topographical survey (bio benchmarks) of the adjacent (healthy) reference wetland to the west, in order to establish benchmark elevations for appropriate marsh types;
7. Vegetative survey of the subject wetland and adjacent reference wetland;
8. Preparation of a site base map in an electronic format as specified by GOSR;
9. Hydrodynamic study/modeling to inform potential interventions including, but not limited to, functionality of new (potential) and existing culverts/breaches, impacts to adjacent communities, and ditch maintenance;
10. Initial site characterization of chemical composition of relevant wetland sediments as per NYSDEC Dredge Technical & Operational Guidance Series (TOGs)². This should include grain size analysis to determine if sediment grain size is above the threshold requiring complete chemical analysis. Determine appropriate upland or other management of any excavated sediments;
11. Marsh monitoring plan to assess the marsh condition pre and post project including, but not limited to, the following:
 - a. Transect monitoring including pictorial and vegetative quadrats
 - b. Water quality, for example temperature, salinity and dissolved oxygen
 - c. Nekton sampling
 - i. Including mosquito larvae sampling using methodology compatible with Suffolk County Vector Control data
 - d. Surface Elevation Tables (SETs) to monitor marsh accumulation
12. Provide an alternatives analysis report that documents the existing conditions of the wetland and NY Rising Buyout parcels, presents recommendations for the wetland

² TOGS 5.1.9 In-Water and Riparian Management of Sediment and Dredged Material

restoration component and public access component, and outlines viable design alternatives for GOSR/NYSDEC consideration prior to determining the project's design directive(s):

- a. Each alternative should include: 1) a description of how the alternative will address the defined problem, 2) an evaluation of environmental impacts, short term construction mitigation measures, permit requirements, pre and post project monitoring plan, sediment sampling plan and 3) a cost estimate; and
13. Identify and present within the alternatives analysis report any additional field or data collection work that will be required to complete subsequent design effort(s).

Design and Construction Phase

The Scope of Work during the design and construction phase will be determined after a qualified firm is selected per this RFQ. Generally, the scope is expected to include, but not be limited to, the following:

1. Develop a comprehensive scope of work for the final design/construction project based on the preferred alternative selected by GOSR and NYSDEC;
2. Develop a budget-level, cost estimate for the scope of work as agreed upon by GOSR and NYSDEC;
3. Submit draft design documents throughout the development of design drawings (30%, 60%, 90%, complete) for review and approval to proceed by GOSR and NYSDEC;
4. Prepare a complete set of Final Contract Documents for the preferred alternative (drawings, specifications, and calculations), including an estimate of probable construction costs for use as the basis for advertising the construction project for bid;
5. Provide complete chemical characterization of sediments based on final design and as per NYSDEC Dredge TOGS. (Note: Removal of material from the berm may not require a complete chemical characterization depending on the results of the grain size analysis to be completed during the Alternatives Analysis and Preliminary Design phase);
6. Prepare and submit any and all required permits;
7. Assist GOSR during the construction bid process by attending the pre-bid site meeting, responding to bidder questions, issuing any necessary addenda, and reviewing bids received to determine technical responsiveness and qualification;
8. Provide a NYSDEC approved monitor, or site manager with appropriate wetland restoration experience, to be onsite at all times of construction to ensure contract compliance, design intent, quality of workmanship, and material acceptance;
9. Attend and present project update at one NYRCR Planning Committee update meeting. This meeting is separate from other meetings referenced in this Scope of Work;
10. Assist GOSR and NYSDEC to carry out and conduct a pre-construction conference;
11. Review Field Orders and Change Orders;

12. Conduct monthly project status meetings with the contractor, including representatives from GOSR and NYSDEC, and prepare and distribute draft and final minutes of these meetings;
13. Coordinate project activities with the activities of GOSR and other parties; and
14. Carry out post-project monitoring plan in the near-term. Long-term site monitoring will be handled by NYSDEC staff.

To avoid duplication of efforts, unless otherwise specified by GOSR in writing, the selected A/E firm will not conduct environmental review activities. It is presumed that GOSR will serve as lead agency for the purposes of The National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act (SEQRA). The selected A/E firm will be required to coordinate with GOSR and its contractors in support of any environmental review activity. Notwithstanding the above, the selected A/E firm will be responsible for securing and complying with all applicable local, state and federal permits.

GOSR reserves the right to modify the Scope of Work.

Change Orders shall not be permitted unless specifically requested and approved in advance by GOSR.

Selected Respondents must be prepared to commence these services within thirty (30) days of the issuance of a Task order, at the direction of GOSR.

4. MINIMUM QUALIFICATIONS OF RESPONDENT

4.1. Requirement of Legal Entities

Respondents that are corporations, partnerships, or any other legal entity, domestic or foreign, shall be properly registered to do business in the State of New York at the time of the submission of their Qualifications to this RFQ. Such Respondents shall attach a certificate of good standing from the New York Secretary of State to their Qualifications.

4.2. Required Qualifications of Respondent

4.2.1. GOSR will consider only those Qualifications that meet any one of the following criteria:

- a) The Respondent must be a Minority and Women-Owned Business Enterprise (MWBE) certified by New York State; or
- b) The Respondent must be a registered joint venture or have a valid legal agreement as a joint venture, with at least one of the entities in the venture being a New York State-certified MWBE or with at least two of the entities in the venture being a New York State-certified MBE and a New York State-certified WBE; or
- c) The Respondent must indicate a commitment to a good faith effort to achieving HTFC's goal of subcontracting no less than 30% of any awarded

job to a New York State-certified M/WBE for each and every project awarded. Refer to section 5.3.6.

4.2.2. Respondent has, or will have prior to commencement of work, all necessary licenses, certifications, approvals, and other needed credentials to perform work in New York State pursuant to this RFQ.

4.2.3. Neither Respondent, nor any person or entity associated or partnering with Respondent, has been the subject of any adverse findings that would prevent GOSR from selecting Respondent. Such adverse findings include, but are not limited to, the following:

- Negative findings from the New York State Inspector General, a federal Inspector General, or from the U.S. Government Accountability Office, or from an Inspector General in another state
- Pending or unresolved legal action from the U.S. Attorney General or from an attorney general in New York or another state
- Pending litigation with New York State, any other state, or a municipality located in New York or another state
- Arson conviction or pending case
- Harassment conviction or pending case
- Local, State, Federal or private mortgage arrears, default, or foreclosure proceedings
- In rem foreclosure
- Sale of tax lien or substantial tax arrears
- Fair Housing violations or current litigation
- Defaults under any Federal, State or locally-sponsored program
- A record of substantial building code violations or litigation against properties owned and/or managed by Respondent or by any entity or individual that comprises Respondent
- Past or pending voluntary or involuntary bankruptcy proceeding
- Conviction for fraud, bribery, or grand larceny
- Listing on the federal or state excluded parties lists

4.2.4. Respondent has adequate financial resources to perform the contract, or the ability to obtain them. Financial records for the past 2 years must be included in the Qualifications.

4.2.5. Respondent is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

4.2.6. Respondent has a satisfactory performance record.

4.2.7. Respondent has a satisfactory record of integrity and business ethics.

4.2.8. Respondent has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them.

4.2.9. Respondent has thoroughly reviewed the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2), all pertinent Federal Register notices, and the New York State Action Plan and all amendments thereto.

4.2.10. Respondent is otherwise qualified and eligible to receive an award under applicable laws and regulations.

4.2.11. Respondent should be an engineering and/or landscape architectural firm authorized to do business in New York State. Respondents must also demonstrate ability to provide the professional engineering services related to the following:

1. Tidal wetland restoration (design and construction oversight and administration);
 - i. E.g. a tidal wetlands restoration ecologist or a marine biologist with demonstrated tidal wetlands restoration experience in the Northeast;
2. Sediment characterization (disposal or reuse alternatives);
3. Hydrodynamic modeling for tidal flow and exchange during flood and storm scenarios – tidal flow restrictions, exchange and elevations are likely key factors for this restoration and its success;
4. Earth moving;
5. Landscape architecture and horticulture;
6. Surveying;
7. Interpretive design and construction; and
8. Permitting and environmental assessment preparation.

The successful Respondent will assist GOSR with engineering, design, bid preparation, pre-construction cost estimation, construction observation and administration of the Oakdale Marsh Restoration and Public Access project, in accordance with HUD and GOSR requirements and timetables. In addition, selected Firm will be responsible for the preparation and submission of permit applications, which must include signature and stamp from the appropriate engineer and/or architect.

5. SELECTION CRITERIA AND REGULATORY REQUIREMENTS

5.1. Evaluation Methodology

Qualifications responsive to the requirements of this RFQ will be evaluated and scored in accordance with the GOSR internal evaluation criteria. Qualifications that are materially deficient in meeting the submission requirements of this RFQ or have omitted material documents may be eliminated from consideration at the sole discretion of GOSR.

Through its Evaluation Committee, GOSR will select the most highly qualified Respondent whose Qualifications receives the greatest number of points, subject to negotiation of fair and reasonable compensation.

5.2. Evaluation Criteria

Qualifications will first be checked against the minimum qualifications. Qualifications meeting the minimum requirements will be further assessed and scored against the following evaluation criteria.

Evaluation Criteria	Points Available
Relevant Experience	25 points
Approach and Methodology	25 points
Staffing Plan	15 points
Resilient & Sustainable Design	10 points
Ability to Conform to GOSR's Deadline Schedule	15 points
Commitment to Compliance with Regulations	10 points
TOTAL POINTS AVAILABLE	100

GOSR shall initiate negotiations with the Respondent determined to be most highly qualified (highest ranked technical score) to provide the needed services. GOSR shall negotiate with the firm to provide such services at a compensation which GOSR determines to be fair and reasonable. If a satisfactory, fair and reasonable agreement cannot be negotiated with the firm considered most qualified, then GOSR shall terminate negotiations with that firm and similarly negotiate with the second most qualified firm. This process may be repeated until a satisfactory, fair and reasonable contract has been negotiated. GOSR reserves the right to terminate the RFQ if no satisfactory, fair and reasonable contract can be negotiated with any available Respondent or if GOSR determines for any other reason that it is in the State's best interest to terminate the process.

5.3. Format and Content of the Qualifications

The Respondent's Qualifications shall be submitted in the following format and sequence to ensure that it receives full consideration during evaluations and that the evaluations are handled in an efficient and consistent manner. All pages should be consecutively numbered.

5.3.1. Cover Letter and Table of Contents

The Qualifications submission shall include cover letter certifying that the information submitted in and with the Qualifications is true and accurate, and that the person signing the cover letter is authorized to submit the Qualifications on behalf of the Respondent. The cover letter shall also specify the primary contact person for the Respondent (name, title, location, telephone number, and email address). The Qualifications shall include a table of contents that clearly identifies the location of all material within the Qualifications by section and page number.

5.3.2. Executive Summary

The Qualifications shall include an executive summary that contains a description of the Respondent's legal status (e.g., individual practitioner, partnership, limited liability company, corporation, non-profit organization, charitable institution, etc.), background, mission, and an explanation of the types of services the Respondent provides that relate to this RFQ. The Summary shall briefly describe any significant changes to the management and/or structure of the Respondent that are related to the work contained in this RFQ, including any mergers that occurred in the last five (5) years.

Respondent shall provide financial statements for the previous two (2) years.

Respondent shall submit a completed Respondent Overview form (page 1 of the RFP Appendices) which includes the name, address, telephone, fax, and email of the Respondent and the names of all principals and staff that will be providing the services in connection with the Oakdale Marsh Restoration and Public Access Project, as well as all subcontractors and sub-consultants proposed.

5.3.3. Subconsultants

Identify any subconsultants, including a summary of the organization, experience and technical skills. Respondent shall not employ, contract with, or use the services of any consultant for the work of this Project (except such third parties which may be used by the Respondent in the normal course of business, such as couriers, imaging services, etc.) without obtaining the prior written approval of GOSR.

5.3.4. Disclosure

Disclose all allegations or claims of substandard work, unethical or illegal practices or debarment or suspension from state- or federally-funded projects, and provide documentation as to the resolution of these matters. Respondent must not be suspended or debarred from participation in state- or federally-funded projects. Respondent must include Vendor Responsibility Questionnaires ("VRQ") as per section 5.7 of the RFQ.

5.3.5. Relevant Experience

Identify and describe previous projects that demonstrate relevant experience and identify public sector clients for whom Respondent has provided similar work in the past five years. For each project described, provide current contact information for the individual(s) with whom Respondent worked.

5.3.6. Approach and Methodology

Demonstrate Respondent's understanding of the scope, including a detailed work plan to complete the design services.

5.3.7. Staffing Plan

Identify key personnel to provide services and the proposed staffing plan. Outline the resumes of key personnel who will be assigned to the project, including their education, years of relevant experience and functions on this project.

5.3.8. Resilient & Sustainable Design

GOSR is committed to promoting sustainability and resiliency through resilient and green design in building and infrastructure projects funded through the NY Rising Community Reconstruction program. Engineering and design work should incorporate sustainability measures, resilient techniques, and green infrastructure practices where possible. Respondents should include in their submission a brief description of the green and resilient projects on which they have worked, and if applicable, how that experience may be applied to this project. Previous experience in such design will be considered in the evaluation of responses.

5.3.9. Ability to Conform to GOSR's Deadline Schedule

Demonstrate Respondent's capacity to provide services in the required timeframe. Describe firm's workload and the impact on its current capacity to perform services on this project, and describe specifically how the firm will comply with the required delivery schedule set forth in Schedule I.

5.3.10. Commitment to Compliance with Regulations

Respondents are solely responsible for familiarizing themselves, and ensuring that they comply, with the laws applicable to the work to be performed under this RFQ.

All Respondents must comply with the below legal and regulatory requirements. In addition, all Respondents must complete and submit all applicable forms in the Appendices. For the purpose of this RFQ, Respondents shall submit with their Qualifications the following forms:

- Form HUD-60002 Section 3 Summary Report

- Form PROC-1 Equal Employment Opportunity Staffing Plan
- Form PROC-2 M/WBE Utilization Plan
- Form PROC-4 M/WBE and EEO Policy Statement
- Form PROC-8 EEOC Statement
- Attachment - Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance

Respondents who demonstrate a commitment to complying with all applicable Federal, State, and local regulations, including M/WBE, SDVOB, and Section 3 income requirements, will receive the most points.

5.3.10.1. New York State Law

Pursuant to New York State Executive Law Article 15-A, Article 17-B, and 5 NYCRR 140-145, GOSR recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises, service-disabled veteran-owned business (SDVOB) enterprises, and the employment of minority group members, women, and service-disabled veterans in the performance of GOSR contracts. GOSR encourages firms that are M/WBE certified and SDVOBs in New York State, or any other city or state, or the federal government, to respond to this RFQ.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises 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 minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises 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 statewide 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 GOSR establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBE") and the employment of minority group members and women in the performance of New York State contracts.

5.3.10.2. Business Participation Opportunities for MWBEs

GOSR is committed to achieving significant MWBE participation in its contracts and will use good faith efforts to ensure that qualified MWBE firms are included in the selection of a firm to provide the above described services. For purposes of this solicitation, HTFC hereby establishes an overall goal of

30% for MWBE participation - 15% for New York State certified minority-owned business enterprises (“MBE”) participation and 15% for New York State certified women-owned business enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).

Respondents that are not M/WBEs are strongly encouraged to consider partnering, or making other joint venture arrangements, with certified M/WBE firms to achieve the prescribed goals and to give M/WBE firms the opportunity to participate in the above-described services performed under the contract(s) awarded to the successful Respondent(s).

A Contractor who is selected for the subject 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 GOSR may withhold payment pending receipt of the required MWBE documentation. 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 GOSR may withhold payment from the Contractor as liquidated damages or other appropriate sanctions.

The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how GOSR will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

Include the following in the Respondent’s submission:

- a) If the Respondent is a New York State-certified M/WBE firm, provide documentation evidencing registration. For M/WBE firms that are not certified but have applied for certification, provide evidence of filing, including the filing date.
- b) A description of the instances, if any, in which the Respondent has worked with M/WBE firms on previous transactions by engaging in joint ventures or other partnering or subcontracting arrangements. Submissions should include the nature of the engagement, how such arrangement was structured, and a description of how the services and fees were allocated.
- c) A statement of the Respondent’s willingness, if any, to engage in M/WBE partnering or mentoring arrangements with an M/WBE firm selected by the Respondent. Such statement should include an explanation of how the Respondent would suggest structuring such an arrangement and allocating services and fees between the firms participating in the arrangement.
- d) Provide a plan for ensuring the participation of minority group members and women in accordance with the Participation by Minority Group

Members and Women Requirements and Procedures for Contracts with HTFC, attached hereto as Appendix III.

5.3.10.3. Section 3 of the Housing & Urban Development Act of 1968

In addition to the above diversity requirements, and pursuant to Section 3 of the Housing & Urban Development Act of 1968, GOSR is committed to ensuring that employment and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

A “Section 3 resident” is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County where the Section 3 covered assistance is expended. A “Section 3 business concern” is a business that can provide evidence that they meet one of the follow criteria: 1) 51 % or more owned by Section 3 residents; or 2) at least 30% of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire; or 3) provides evidence, as required, of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to business concerns that meet one of the preceding two qualifications.

Further requirements for Section 3 contracts are detailed in Section 30 of Appendix I, “HUD General Provisions.”

5.3.10.4. Business Participation Opportunities for Service-Disabled Veteran-Owned Business (SDVOBs)

GOSR is committed to achieving significant SDVOB participation in its contracts and will use good faith efforts to ensure that qualified SDVOB firms are included in the selection process. This is in addition to the MWBE utilization requirements. In accordance with New York State Executive Law Article 17-B, governing NYS contracting requirements, HTFC hereby establishes a utilization goal of 6% for SDVOB participation. Respondents to this RFQ and any subsequent contracts will be strongly encouraged and expected, to the maximum extent practical and consistent with the legal requirements of the State Finance Law and the Executive Law, to use responsible and responsive SDVOBs in the fulfilment of the requirements of the contract that are of equal quality and functionality to those that may be obtained from non-SDVOBs. A Contractor who is selected for the subject Contract must document its good faith efforts to provide meaningful participation by SDVOBs in the performance of the contract and the Contractor agrees that GOSR may withhold payment pending receipt of the required SDVOB documentation.

5.4. Price Proposal

Complete the Price Proposal Form – Rates (Attachment 1):

- a) Other than adding additional rows to the chart in the Price Proposal Form, as needed, please do not alter the template.
- b) Include one rate for each labor category noted on the Price Proposal Form. A single blended rate for all titles cannot be proposed and will not be evaluated.
- c) The Price Proposal Form must include the hourly rate (U.S. dollars) for each title described. Each rate must be presented as a fixed dollar amount.
- d) Rates included in the Price Proposal Form should be the Respondent’s lowest discounted governmental rates.
- e) Hourly fees are all inclusive rates and must include any reproduction, travel, postage, or other expenses.
- f) The Price Proposal Form must include a Not to Exceed Total Price.
- g) The Price Proposal Form should be signed by the individual who signs the Proposal cover page.

Respondents that regularly use pricing models other than what is required above may elect to submit an Alternate Cost Structure (“ACS”) in addition to their completed Price Proposal Form. The ACS should clearly describe the pricing model used and provide a clear explanation of how the rates proposed on the Price Proposal Form correlate to the described ACS fees. This information may be used, at the sole discretion of GOSR, when negotiating a contract with the selected Respondent. Respondents that do not submit a complete Price Proposal Form will not be evaluated. GOSR reserves the right to select any payment structure that is in the best interest of the State of New York.

5.5. Finalist Interview

GOSR reserves the right, at its sole discretion, to invite qualified Respondents to a finalist interview at a time and place chosen by GOSR. If GOSR elects to conduct finalist interviews, Respondents will be required to give a strictly timed presentation. This presentation should highlight marsh restoration and public access improvement services provided for similar organizations. GOSR may alter the scoring of a qualified Respondent’s Qualifications based upon the presentation. GOSR, at its sole discretion, may choose the time and place of this interview. Respondents are responsible for all costs or expenses incurred to attend such interview.

5.6. Basis for Contract Award

GOSR will select the Respondent whose Qualifications receives the greatest number of points, subject to negotiation of fair and reasonable compensation. Refer to section 5.2.

5.7. Vendor Responsibility

Respondents shall complete and include in the Qualifications a Vendor Responsibility Questionnaire (“VRQ”) for both itself and for proposed partner(s), sub-consultants, and sub-contractor(s). The form can be found at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm. Select the VRQ that best matches the business type (either For-Profit or Not-For-Profit) and

business activity (Construction or Other). Do not send the completed VRQ to the Office of the State Comptroller (“OSC”) or refer to the OSC database unless specifically requested.

5.8. Affirmation of Understanding Form

Complete and sign the Affirmation of Understanding and Agreement Pursuant to State Finance Law § 139-j (3) and § 139-j (6) (b), attached hereto as Appendix A (a form in Appendices).

5.9. Offeror Disclosure of Prior Non-Responsibility Determinations Form

Complete and sign the Offeror Disclosure of Prior Non-Responsibility Determinations, attached hereto as Appendix B (a form in Appendices).

5.10. Non-Collusive Bidding Certification

Complete and sign the Non-Collusive Bidding Certification (a form in Appendices).

5.11. General Federal Grant Requirements

Because the contract is being funded with federal funds, the contract shall be governed by certain federal terms and conditions for federal grants, such as the Office of Management and Budget’s (“OMB”) applicable circulars. Respondent shall provide a description of experience with such grant requirements and affirmatively represent and certify that the Respondent shall adhere to any applicable federal requirements. Any funds disallowed by any federal government entity shall be disallowed from the fee or compensation to Respondent.

5.12. HUD General Provisions

Because the contract is being funded with HUD funds, the contract shall be governed by certain general HUD terms and conditions, attached hereto as Appendix I. Respondent shall provide a description of experience with such requirements and affirmatively represent and certify that the Respondent shall adhere to the terms and conditions set forth at Appendix I, and any subsequent changes made by HUD.

5.13. Standard Clauses for Contracts with HTFC

Because the ultimate contract will be between the Respondent and HTFC, the contract shall be governed by certain standard HTFC terms and conditions, attached hereto as Appendix II. Respondent shall provide a description of experience with such requirements and affirmatively represent and certify that the Respondent shall adhere to the terms and conditions set forth at Appendix III, and any subsequent changes deemed appropriate by HTFC.

5.14. Iran Divestment Act

Every bid or proposal made to HTFC/GOSR pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid or proposal, each Respondent and each person signing on behalf of any Respondent certifies, and in the case of a joint bid or proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. A Proposal that fails to certify compliance with this requirement may not be accepted as responsive.

ATTACHMENTS AND APPENDICES

Attachment 1 – Insurance Requirements

Attachment – Use of Service-Disabled Veteran-Owned Business Enterprises in Contract
Performance

Appendix A (Form) – Affirmation of Understanding and Agreement Pursuant to State Finance
Law § 139-j (3) and § 139-j (6) (b)

Appendix B (Form) – Offeror Disclosure of Prior Non-Responsibility Determinations

Appendix I – HUD General Provisions

Appendix II – Standard Clauses for Contracts with the Housing Trust Fund Corporation Appendix

III – Diversity Forms

Appendix IV – Construction Requirements and Procedures for Contracts with Housing Trust
Fund Corporation

Appendix A – Standard Clauses for NYS Contracts

Attachment 1

Price Proposal Form

Rates

Firm Name: _____

Title	Hourly Rate	Estimated # of Hours	Extended Rate
Not to Exceed Total			

[Note: Add as many rows as needed for relevant and related labor categories. For all labor categories, the Respondent must provide a description of such, inclusive of the education and experience qualifications in its “Staffing Plan” as per section 5.3.7.]

Name and Title: _____

Signature: _____

Date: _____

Attachment 2

Insurance Requirements

Respondent shall procure and maintain, at its sole cost and expense, in full force and effect without interruption during all periods of services covered by any Contract or Task Orders entered into with a selected Respondent, insurance of the type, and with the limits and deductibles, as set forth below. Any proposed alternate insurance requirements may be submitted with the Qualifications and/or may be negotiated during the contracting phase, should an entity be selected. It shall be in GOSR's sole discretion to accept or reject alternative insurance requirements.

Insurance Requirements:

- i. Commercial General Liability Insurance. In an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, bodily injury (including death) and property damage combined; One Million Dollars (\$1,000,000.00) per occurrence for personal and advertising injury; Two Million Dollars (\$2,000,000.00) products/completed operations aggregate; and Two Million Dollars (\$2,000,000.00) per location aggregate. Such insurance shall be written on an "occurrence" basis and shall apply on a primary, non-contributory basis irrespective of any other insurance, whether collectible or not. The policy(ies) shall be endorsed to name GOSR, HTFC, the State of New York, and all "benefitted parties" as "Additional Insureds". "Benefitted parties" are defined as homeowners, businesses, or other Program applicants who may be determined to be third party beneficiaries of the Contract between Respondent and GOSR/HTFC and as to whom the indemnity provisions of such Contract are expressly extended in like manner and degree as to GOSR/HTFC.
- ii. Comprehensive Automobile Liability. In an amount not less than One Million Dollars (\$1,000,000.00) combined single limit for both bodily injury and property damage covering all owned, non-owned and hired

vehicles utilized in or related to Respondent's activity or performance under the Contract or any Task Orders.

- iii. Workers' Compensation Insurance and Disability Benefits Insurance. Covering employers' liability, workers compensation coverage, and disability benefits coverage as required by the provisions of the Workers' Compensation Law (WCL) of the State of New York.
- iv. Standard "All Risk" Property Insurance covering all equipment and material (owned, borrowed or leased by Respondent or its employees) utilized and/or related to Respondent's activity or performance under the Contract or Task Orders, to the full replacement value, and which shall allow for a waiver of subrogation in favor of HTFC. Respondent hereby agrees to waive its right of subrogation against HTFC. Failure of the Respondent to secure and maintain adequate coverage shall not obligate HTFC, its agents or employees, for any losses.
- v. Excess Liability Insurance. In an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) per location aggregate limit, applying on a primary, non-contributory basis irrespective of any other insurance, whether collectible or not, and applying in excess over all limits and coverages noted in paragraphs (i) and (ii) above. This policy shall be written on an "occurrence" basis and shall be endorsed to name GOSR, HTFC, the State of New York, and all "benefitted parties" (as hereinbefore defined) as "Additional Insureds".

In addition-

- vi. If Respondent is providing Professional Services (other than as a Pollution Mitigation and/or Abatement Contractor- see vii below), Professional Liability Insurance. In an amount not less than Two Million Dollars (\$2,000,000.00) per claim limit, providing coverage for damages arising out of the acts, errors or omissions of the Respondent and/or those acting under the Respondent's direction or control and/or those for whose acts

the Respondent may be liable, and relating to the professional services rendered. In the event that coverage under such policy is terminated upon or after completion of the project, then an extended reporting period of not less than two (2) years will be purchased by Respondent.

- vii. If Respondent is providing Professional Services as a Pollution Mitigation and/or Abatement Contractor, Professional Liability Including Pollution Legal Liability Insurance. In an amount not less than Two Million Dollars (\$2,000,000.00) per claim limit, providing coverage for damages arising out of the acts, errors or omissions of the Respondent and/or those acting under the Respondent's direction or control and/or those for whose acts the Respondent may be liable, and relating to the professional services rendered. In the event that coverage under such policy is terminated upon or after completion of the project, then an extended reporting period of not less than two (2) years will be purchased by the Respondent. HTFC, the State of New York, and all "benefitted parties" (as hereinbefore defined) shall be named as "Additional Insureds" on the Pollution Legal Liability coverage.

All policies shall be written with insurance companies licensed to do business in New York and rated not lower than A+ in the most current edition of AM Best's Property Casualty Key Rating guide. All policies will provide primary coverage for obligations assumed by Respondent under any Contract or Task orders, and shall be endorsed to provide that HTFC shall receive thirty (30) days prior written notice in the event of cancellation, non-renewal or material modification of such insurance.

The Respondent shall provide Certificates of Insurance to HTFC prior to the commencement of work, and prior to any expiration or anniversary of the respective policy terms, evidencing compliance with all insurance provisions set forth above, and shall provide full and complete copies of the actual policies and all endorsements upon request. Failure to provide adequate or proper certification of insurance, specifically including GOSR, HTFC, the State of New York, and all

“benefitted parties” (as hereinbefore defined) as “Additional Insureds”, shall be deemed a breach of contract.

An Accord Certificate of Insurance is an acceptable form to submit evidence of all forms of insurance coverage except Workers’ Compensation Insurance and Disability Benefits Insurance. For evidence of Workers’ Compensation Insurance, the Respondent must supply one of the following forms: Form C-105.2 (Certificate of Workers’ Compensation Insurance issued by a private carrier), Form U-26.3 (Workers Compensation Insurance issued by the State Insurance Fund), Form SI-12 (Certificate of Workers’ Compensation Self- insurance), Form GSI-105.2 (Certificate of Participation in Workers’ Compensation Group Self-Insurance), or CE-200 (Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage). For evidence of Disability Benefits Insurance, the Respondent must supply one of the following forms: Form DB-120.1 (Certificate of Disability Benefits Insurance), Form DB-155 (Certificate of Disability Benefits Self-Insurance), or CE-200 (Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage).

Subcontractors shall only be subject to (i)-(iv) of this Section, except that (vi)-(vii) shall apply where applicable. However, Respondent 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 Respondent given its normal course of business for subcontracts for similar services to those being provided by the subcontractor at issue; or (b) reasonable and customary in the industry for similar services to those anticipated hereunder.

Indemnification Provisions:

Respondent will also be required to agree to the following indemnification provision:

Respondent shall, and hereby agrees, to hold harmless, defend (with counsel acceptable to HTFC), and indemnify GOSR, HTFC, and its successors, affiliates, or assigns, and any of their employees, officers, directors, attorneys, consultants,

agents, managers, representatives, and affiliates (collectively, "HTFC"), from and against any and all losses, expenses, claims, demands, damages, judgments, liabilities or alleged liabilities, costs of any form or nature whatsoever (including reasonable attorneys' fees), resulting from, arising out of, or in consequence of any action or cause of action in connection with any Contract or Task Orders including, but not limited to, property damage, any injuries or death sustained by any persons, employees, agents, invitees and the like, any infringement of copyright, royalty, or other proprietary right in consequence of any design(s) created and/or specifications prepared in accordance with any Contract or Task Orders (arising out of Respondent's or subconsultants' unauthorized use of any intellectual property or otherwise), any materially untrue or incorrect statement or representation of Respondent or subconsultants with respect to the services (for purposes of receiving the contract or any task orders), any injuries or damages resulting from defects, malfunction, misuse, etc. of Respondent-provided equipment and materials, any violations of law, violations of this Agreement, or the conduct (including any acts, omissions, malfeasance, or willful misconduct) of Respondent or any subcontractor or supplier of any level or tier or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable.

This indemnity shall expressly include, but is not limited to, the obligation of Respondent to indemnify and reimburse HTFC for any and all attorneys' fees and other litigation or dispute resolution costs incurred, or to be incurred, in HTFC's enforcement of this Agreement, or any portion thereof, against Respondent or otherwise arising in connection with any Contract or Task Orders. This clause shall survive indefinitely the termination of any Contract or Task Orders for any reason.

It is expressly understood and agreed that the risk of loss for property damage during the course of construction or other work passes to HTFC only after completion of the work enumerated in any Contract or Task Orders. Accordingly, all of the indemnity provisions of this section 11(a) shall also apply to any losses sustained prior to the passing of risk of loss to HTFC. This clause shall survive indefinitely the termination of any Contract or Task Orders for any reason.

For construction, environmental remediation/mitigation, or other work in which HTFC has entered into this contract to perform the work on behalf of homeowners, businesses, Program Applicants or others who may be determined to be third party beneficiaries of this contract (“benefitted parties”), all of the indemnity provisions of this section 11(a) shall expressly extend to such “benefitted parties” in like manner and degree as to HTFC.

Notwithstanding the foregoing provisions of this section Respondent remains liable, without monetary limitation, for direct damages for personal injury, death or damage to real property or tangible personal property or intellectual property attributable to the negligence or other tort of Respondent, its officers, employees or agents, or those for whose acts Respondent may be liable. Respondent’s indemnities and obligations under the Contract shall not be limited or defined by the amount of required insurance or by any limitations or restrictions on the amount or type of damages, compensation or benefits payable to, by or for Respondent under workers’ compensation acts, disability benefit acts, or any other Laws relating to employee benefits. No Indemnitee’s right to indemnity under the Contract shall be diminished, waived, or discharged by the exercise of any other remedy allowed under the Contract or by Law.