

FIRST AMENDMENT TO THE
COMMUNITY DEVELOPMENT BLOCK GRANT
DISASTER RECOVERY
MEMORANDUM OF UNDERSTANDING

THIS FIRST AMENDMENT TO the Community Development Block Grant Disaster Recovery Memorandum of Understanding effective May 6, 2015 (the "MOU") is made and entered into 09/08/2015 and is effective as of 09/09/2015 (the "First Amendment") among the Housing Trust Fund Corporation ("Grantee" or "HTFC"), and the New York State Department of Environmental Conservation (the "Agency"), an administrative agency of the State of New York, and the New York State Environmental Facilities Corporation (the "Corporation"), a public benefit corporation of the State of New York. The foregoing Grantee, Agency and Corporation shall sometimes be referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, the Grantee, the Agency and the Corporation entered into the MOU, the terms of which govern the use of funds from the State of New York's Community Development Block Grant-Disaster Recovery ("CDBG-DR") program to provide grant funding in support of the State of New York's recovery efforts following Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy; and

WHEREAS, the Parties desire to amend the MOU by means of this First Amendment to incorporate additional projects proposed to be funded in part by CDBG-DR funds and to provide for the payment of administrative expenses.

NOW THEREFORE, pursuant to and in consideration of the above, and other mutual covenants and obligations herein contained, it is

STIPULATED AND AGREED as follows:

1. The first sentence of Section IV of the MOU is hereby deleted and replaced with the following sentence:

"It is expressly agreed and understood that the total amount to be paid by the Grantee under this MOU shall not exceed \$15,764,250.00 ("Grant Funds")."

2. A new Paragraph H is added to Section IX of the MOU as follows:

"H. Administrative Expenses

A Disaster Relief Appropriation Act Clean Water State Revolving Fund Capitalization Grant (3W36000314) was awarded to the Agency in the amount of \$283,148,145 (the "Capitalization Grant"). As a condition of receiving the Capitalization Grant, the State is required to contribute a State Match in the amount of \$56,629,629. The total reasonable administrative costs allowed under the Capitalization Grant pursuant to Section 603(d)(7) of the Clean Water Act shall not exceed \$11,325,926, which is 4% of the Capitalization Grant.

The \$11,325,926 consists of \$9,438,271 federal funds and \$1,887,654.00 State Match. In accordance with the requirements of 2 CFR Part 225 and OMB Circular A-87 as each may be amended from time to time, the Corporation may draw from the Grantee the Corporation's administrative costs associated with projects contained in this MOU which amount, in the aggregate, shall not exceed \$1,887,654.00. This paragraph shall not be construed or interpreted to allow for payment of grant funds from the Grantee to exceed the total amount contained in Section IV of this MOU, as it may be amended from time to time."

3. EXHIBIT A of the MOU is hereby amended by adding the following additional projects:

Project 2. Village of Ocean Beach Wastewater Treatment Plant Upgrades.

This project will upgrade the Ocean Beach Wastewater Treatment Plant to provide for flood mitigation and resiliency as more fully described in the environmental review dated February 27, 2015, as may be revised from time to time, which is hereby incorporated by reference.

Project 3. Village of Woodridge Prioritized Inflow and Infiltration Reduction.

This project will rehabilitate a portion of the sewer system in the Village of Woodridge as more fully described in the environmental review dated April 17, 2015, as may be revised from time to time, which is hereby incorporated by reference.

Project 4. Town of Orangetown Inflow and Infiltration Reduction.

This project will rehabilitate a portion of the sewer system within the Town of Orangetown as more fully described in the environmental review dated April 17, 2015, as may be revised from time to time, which is hereby incorporated by reference.

Project 5. Rockland County Sewer District No. 1 Generator & Fuel Oil Storage Tank Replacement and Upgrade Project.

This project will upgrade and replace twenty-two (22) emergency stand-by generators at twenty-one (21) unmanned pumping stations, including the generators, automatic transfer switches, and existing fuel oil tanks in Rockland County as more fully described in the environmental review dated April 30, 2015, as may be revised from time to time, which is hereby incorporated by reference.

Project 6. City of Newburgh Liberty and Grand Street Sewer Improvements.

This project will rehabilitate and improve a portion of the sewer system within the City of Newburgh as more fully described in the environmental review dated March 23, 2015, as may be revised from time to time, which is hereby incorporated by reference.

Project 7. Nassau County Barnes Avenue Sanitary Sewage Flow Diversion Project.

This project will install a new pump station and forcemain and modify an existing pump station to redirect flow away from Barnes Avenue as more fully described in the environmental review dated April 29, 2015, as may be revised from time to time, which is hereby incorporated by reference.

4. EXHIBIT B of the MOU is hereby amended by adding the following additional project budgets:

Project 2. Village of Ocean Beach Wastewater Treatment Plant Upgrades.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$207,576.00. The total budget for this project, including both CDBG-DR funding and other sources is \$830,305.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under Project 2. CDBG-DR funding shall be utilized to fund construction activities only. In no event shall CDBG-DR compensation for this project exceed \$207,576.00.

Project: Ocean Beach	Local Bond/Other	SRF - EPA	CDBG-DR
Design/Engineering		\$ 110,556.00	
Construction Costs		\$ 497,673.00	\$ 207,576.00
Other Costs		\$ 14,500.00	
Sub Total		\$ 622,729.00	\$ 207,576.00
Total Cost			\$ 830,305.00

Project 3. Village of Woodridge Prioritized Inflow and Infiltration Reduction.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$198,040.00. The total budget for this project, including both CDBG-DR funding and other sources is \$792,162.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under Project 3. CDBG-DR funding shall be utilized to fund construction activities only. In no event shall CDBG-DR compensation for this project exceed \$198,040.00.

Project: Woodridge	Local Bond/Other	SRF - EPA	CDBG-DR
Design/Engineering		\$ 134,700.00	
Construction Costs		\$ 449,422.00	\$ 198,040.00
Other Costs		\$ 10,000.00	
Sub Total		\$ 594,122.00	\$ 198,040.00
Total Cost			\$ 792,162.00

Project 4. Town of Orangetown Inflow and Infiltration Reduction.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$500,000.00. The total budget for this project, including both CDBG-DR funding and other sources is \$2,000,000.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under Project 4. CDBG-DR funding shall be utilized to fund construction activities only. In no event shall CDBG-DR compensation for this project exceed \$500,000.00.

Project: Orangetown	Local Bond/Other	SRF - EPA	CDBG-DR
Design/Engineering		\$ 15,604.68	
Construction Costs		\$ 1,456,477.00	\$ 500,000.00
Other Costs		\$ 27,918.32	
Sub Total		\$ 1,500,000.00	\$ 500,000.00
Total Cost			\$ 2,000,000.00

Project 5. Rockland County Sewer District No. 1 Generator & Fuel Oil Storage Tank Replacement and Upgrade Project.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$2,372,480.00. The total budget for this project, including both CDBG-DR funding and other sources is \$9,489,921.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under

Project 5. CDBG-DR funding shall be utilized to fund construction activities only. In no event shall CDBG-DR compensation for this project exceed \$2,372,480.00.

Project: Rockland County	Local Bond/Other	SRF - EPA	CDBG-DR
Design/Engineering	\$ 27,018.00	\$ 297,922.00	
Construction Costs	\$ 762,982.00	\$ 6,029,519.00	\$ 2,372,480.00
Other Costs			
Sub Total	\$ 790,000.00	\$ 6,327,441.00	\$ 2,372,480.00
Total Cost			\$ 9,489,921.00

Project 6. City of Newburgh Liberty and Grand Street Sewer Improvements.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$600,375.00. The total budget for this project, including both CDBG-DR funding and other sources is \$2,401,500.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under Project 6. CDBG-DR funding shall be utilized to fund construction activities only. In no event shall CDBG-DR compensation for this project exceed \$600,375.00.

Project: Newburgh	Local Bond/Other	SRF - EPA	CDBG-DR
Design/Engineering	\$ 19,900.00	\$ 271,600.00	
Construction Costs		\$ 1,494,625.00	\$ 600,375.00
Other Costs		\$ 15,000.00	
Sub Total	\$ 19,900.00	\$ 1,781,225.00	\$ 600,375.00
Total Cost			\$ 2,401,500.00

Project 7. Nassau County Barnes Avenue Sanitary Sewage Flow Diversion Project.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$6,370,625.00. The total budget for this project, including both CDBG-DR funding and other sources is \$28,079,900.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under Project 7. CDBG-DR funding shall be utilized to fund construction activities only. In no event shall CDBG-DR compensation for this project exceed \$6,370,625.00.

Project: Nassau County Barnes Road	Local Bond/Other	SRF – EPA	CDBG-DR
Design/Engineering	\$ 2,597,400.00	\$ 2,600,000.00	
Construction Costs		\$16,029,375.00	\$ 6,370,625.00
Other Costs		\$ 482,500.00	
Sub Total	\$ 2,597,400.00	\$19,111,875.00	\$ 6,370,625.00
Total Cost			\$ 28,079,900.00

5. EXHIBIT B of the MOU is hereby further amended by revising the project budget for the Bergen Point Final Effluent Pump Station Project (Project 1) by striking the project as it originally appears in the MOU and replacing it with the following:

Project 1. Bergen Point Final Effluent Pump Station Project.

The commitment of CDBG-DR funding for this project is budgeted at a maximum of and shall not exceed \$3,627,500.00. The total budget for this project, including both CDBG-DR funding and other sources, is \$14,510,000.00. The Agency shall be required to submit a detailed budget for approval prior to the expenditure of any funding pursuant to this MOU. All requests for CDBG-DR reimbursement pursuant to this MOU must comply with all CDBG-DR requirements.

The following constitutes estimates, which shall be reconciled against the detailed budget referenced in the immediately preceding paragraph, for each component of the work under Project 1. CDBG-DR funding shall be utilized to fund construction activities only, as indicated in the table immediately below. In no event shall CDBG-DR compensation exceed \$3,627,500.00.

Project: Bergen Point	Local Bond/Other	SRF - EPA	CDBG-DR
Design/Engineering	\$ 1,810,000.00	\$ 815,500.00	
Construction Costs		\$ 8,247,000.00	\$ 3,627,500.00
Other Costs		\$ 10,000.00	
Sub Total	\$ 1,810,000.00	\$ 9,072,500.00	\$ 3,627,500.00
Total Cost			\$ 14,510,000

6. Exhibit E to the MOU is hereby repealed and rescinded in its entirety and replaced by a revised Exhibit E, which is attached hereto, and incorporated into and made a part of the MOU

7. All other terms and conditions of the MOU are hereby continued in full force and effect as though set forth herein.

IN WITNESS WHEREOF, this First Amendment has been executed by a duly authorized representative of the parties:

Housing Trust Fund Corporation

By: 
Name: ~~Eis~~ ~~Ma-Hiatt~~ *Dan Greene, Inkum GC*
Title: ~~Int~~ ~~Executive Director of Governor's~~
~~Office of Storm Recovery~~ *GC*

New York State Department of Environmental Conservation

By: 
Name: ~~Nancy W~~
Title: Director, 
Division of Management & Budget Services

New York State Environmental Facilities Corporation

By: 
Name: Sabrina M. Ty
Title: President and Chief Executive Officer

This MOU Amendment has been approved by Grantee's Counsel as to form and its Treasurer as to fiscal sufficiency.

EXHIBIT E

Appendices for Contractors and Subcontractors at all Tiers

Note: This Exhibit has been revised from GOSR's standard Exhibit E, because many of the terms and conditions contained therein are already covered by the Agency's subrecipient's agreement with lower-tiered subrecipients and contractors.

EXHIBIT E

SUPPLEMENTARY CONDITIONS FOR CONTRACTS

Pursuant to Environmental Facilities Corporation Project Financing Agreement ("PFA" or "Subrecipient Agreement")

Instructions for Subrecipient

- (1) Pursuant to the Project Financing Agreement ("Subrecipient Agreement"), these Supplementary Conditions shall be incorporated into all contracts, subcontracts and lower-tiered subcontracts issued under the Subrecipient Agreement. Accordingly, Subrecipient shall:
 - a. Incorporate these Supplementary Conditions into all contracts under this Subrecipient Agreement;
 - b. Require all contractors to incorporate these Supplementary Conditions in all subcontracts; and
 - c. Require all contractors to require their subcontractors incorporate these Supplementary Conditions in all lower-tiered subcontracts.
- (2) Subrecipient shall include this package of Supplementary Conditions as part of the bid packages for all contracts, with the following information added to the Introductory Statement:
 - a. Fill in Project, Project Location, Subrecipient name and address, and Contract Number on the first page of the Introductory Statement.
 - b. Fill in Subrecipient name in the signature block on the second page of the Introductory Statement.
 - c. Attach Insurance Requirements for the Project as Attachment A to the Introductory Statement.
- (3) As part of the bidding process, Subrecipient shall collect the following from all bidders:

- a. Introductory Statement, with bidder's name and address filled in where Contractor's name and address is required, executed by bidder. Per Instruction No. 5, Subrecipient need not execute until a bidder is selected, whereby Subrecipient shall execute with other contract documents.

Subrecipient shall appropriately consider in its award decision the information provided in the above referenced forms as indicia of the bidders' ability to comply with related terms of the prospective contract.

- (4) Upon execution of a contract, Subrecipient shall execute and date the Introductory Statement, and Contractor shall execute the following forms (included in Part 6):
 - a. Form PROC-4 (M/WBE and EEO Policy Statement); and
 - b. Form PROC-8 (EEOC Statement).
- (5) Following execution of a contract, Contractor shall complete and submit the forms included in Part 6 pursuant to the instructions set forth on the forms. Of note:
 - a. The following form is required to be completed weekly and retained:
 - i. Form WH-374 (Federal Payroll Form) – As of September 11, 2014, this form is available at <http://www.dol.gov/whd/forms/wh347.pdf>.
 - b. The following forms have quarterly submission requirements, as set forth in their instructions (except as indicated below):
 - i. Form ADM-123 (Cumulative Payment Statement);
 - ii. Form ADM-146 (Affirmation of Income Payments to MBE/WBE); and
 - iii. Form HUD 60002 (Section 3 Summary Report) – which shall be completed quarterly notwithstanding the annual reporting requirement set forth in its instructions.
 - iv. Form ADM-136 (Monthly Employment Utilization Form).
 - c. The following form has annual submission requirements, as set forth in its instructions:
 - i. Form HUD 2516 (Contract and Subcontract Activity).
- (6) Subrecipient shall instruct all contractors to follow these instructions for all subcontracts and lower-tiered subcontracts.
- (7) Due to the funding nature of the Subrecipient Agreement, both federal and state requirements are required to be flowed down to contractors and subcontractors at all tiers as delineated in this Exhibit E. As a result:

- a. References to any federal or state entity, such as the State of New York or HTFC, shall be construed as follows:
 - i. For contracts – references to any federal or state entity shall refer to the Subrecipient that is procuring goods and/or services under the subject contract. However, the term shall not be construed to refer to the Subrecipient in those instances where a provision relates to a right or activity that is of a governmental nature (e.g., enforcement of laws, audit rights, etc.). If the Subrecipient is a unit of governmental authority (e.g., a state, county, or local government entity), references to the federal or state entity shall be construed to encompass the governmental Subrecipient, as well as cognizant federal or state entities.
 - ii. For subcontracts (at all tiers) – references to any federal or state entity shall refer to the contractor or higher-tiered subcontractor that is procuring goods and/or services under the subject contract. However, the term shall not be construed to refer to the contractor or higher-tiered subcontractor in those instances where a provision relates to a right or activity that is of a governmental nature (e.g., enforcement of laws, audit rights, etc.).
- b. References to “Subrecipient” and “contractor” shall be construed as follows:
 - i. For contracts – references to “Subrecipient” shall be deemed to refer to the municipal government receiving grant funding, and references to “contractor” shall be deemed to refer to the entity contracting with the Subrecipient..
 - ii. For subcontracts (at all tiers) – references to “Subrecipient” shall be deemed to refer to the applicable Contractor, and references to “Contractor” shall be deemed to refer to the applicable subcontractor.

**Governor's Office of Storm Recovery
Supplementary Conditions for Contracts**

INTRODUCTORY STATEMENT

“Project” or “Program”: [Insert]

Project Location: [Insert]

“Subrecipient”: [Insert Name and Address]

“Contractor”: [Insert Name and Address]

Contract Number: [Insert]

“Insurance Requirements”: See Attachment A to Introductory Statement

Housing Trust Fund Corporation (“HTFC” or “Grantee”), acting through the Governor’s Office of Storm Recovery (“GOSR”) has entered into a Memorandum of Understanding with the New York State Department of Environmental Conservation (“Agency”) and the Environmental Facilities Corporation (the “Corporation”) setting forth the terms and conditions applicable to the use of Community Development Block Grant Disaster Recovery (“CDBG-DR”) funds for the construction costs associated with certain public works projects designed to make New York’s storm-impacted wastewater infrastructure more resilient to future storms via the Corporation’s Storm Mitigation Loan Program (“SMLP”). The Corporation has incorporated the terms and conditions of the MOU into the Project Financing Agreement (“PFA” or “Subrecipient Agreement”), which requires SMLP grantees (“Subrecipients”) to incorporate these Supplementary Conditions into all construction contracts funded with SMLP funding.

Subrecipient is a municipal government or other government agency, which will use its own form contracts and other project agreements for the Project. However, as a condition to receiving CDBG-DR grant funds for the Project, Subrecipient is required to include these Supplementary Conditions in each construction contract which it enters into for the applicable project and to require all contractors to include these Supplementary Conditions in every subsequent subcontract and lower-tiered subcontracts so that such provisions are binding upon each contractor, subcontractor and lower-tiered subcontractor. Among other things, as set forth more specifically below, these Supplementary Conditions (a) include GOSR requirements which may not otherwise be included in the contract; (b) define the order of precedence for the interpretation and enforcement of the various parts and provisions of the contract (including these Supplementary Conditions); and (c) add certain other provisions which GOSR deems necessary or desirable for the orderly administration and enforcement of the contract. For purposes of subcontracts, references in these Supplementary Conditions to “Subrecipient” shall be deemed to refer to Contractor, and references to “Contractor” shall be deemed to refer to the applicable subcontractor. For purposes of lower-tiered subcontracts, references in these Supplementary Conditions to “Subrecipient” shall be deemed to refer to the applicable subcontractor, and references to “Contractor” shall be deemed to refer to the applicable lower-tiered subcontractor.

Accordingly, Subrecipient and Contractor have signed below to evidence their agreement to (a) incorporate into the contract these Supplementary Conditions (which shall be deemed “Contract Documents” under the contract), (b) include these Supplementary Conditions in all subcontracts under the contract, and (c) require that all subcontractors reproduce these Supplementary Conditions in all lower-tiered subcontracts under the contract. By signing below, contractor agrees to comply with the terms and

conditions of these Supplementary Conditions and to complete and submit the forms contained herein as required under these Supplementary Conditions and the instructions on the forms. Contractor hereby certifies, affirms, stipulates, represents and warrants to all provisions contained herein requiring such certification, affirmation, stipulation, representation or warranty, as applicable.

DATE: _____

SUBRECIPIENT
[INSERT SUBRECIPIENT NAME]

By: _____
Name:
Title:

CONTRACTOR
[INSERT CONTRACTOR NAME]

By: _____
Name:
Title:

Attachment A to Introductory Statement

INSURANCE REQUIREMENTS

In addition to the insurance requirements the Subrecipient imposes on contractors and/or subcontractors in the usual course of business, commensurate with the activity at issue herein, Subrecipient shall require the following of contractors and their subcontractors performing work under this Agreement:

Contractor shall ensure that, with respect to any insurance-related obligations imposed upon Contractor and/or its subcontractors, the Housing Trust Fund Corporation (“HTFC”) shall have and enjoy each and all of the same protections, rights and benefits as the Subrecipient. Without limiting the generality of the foregoing, each and all of the insurance-related protections, rights, and benefits of the Subrecipient vis-à-vis the Contractor and/or its subcontractors shall be “flowed up” to HTFC and shall include HTFC to the same extent as the Subrecipient, including but not limited to HTFC being indemnified, defended, and held harmless by Contractor and its subcontractors, being named as an additional insured on all of Contractor’s or its subcontractor’s policies of insurance, and being provided copies of all such policies and other evidence of insurance.

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PART 1 ORDER OF PRECEDENCE OF DOCUMENTS

Establishes the priority of the requirements set forth within the Parts of these Supplementary Conditions and the priority of these Supplementary Conditions with respect to the remainder of the contract.

PART 2 COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY SUBRECIPIENT AGREEMENT – REQUIRED TERMS FOR CONTRACTS (“REQUIRED TERMS”)

Sets forth the required contract language to be inserted into the contract and all subcontracts under the contract to satisfy the requirements of the Subrecipient Agreement.

PART 3 HUD GENERAL PROVISIONS

Sets forth the HUD requirements applicable to the contract and all subcontracts under the contract pursuant to the Subrecipient Agreement.

PART 4 PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN REQUIREMENTS AND PROCEDURES FOR CONTRACTS WITH HTFC (“HTFC M/WBE REQUIREMENTS”)

Sets forth the HTFC M/WBE requirements applicable to the contract and all subcontracts under the contract pursuant to the Subrecipient Agreement.

PART 5 STANDARD CLAUSES FOR CONTRACTS WITH THE HOUSING TRUST FUND CORPORATION (“HTFC STANDARD CLAUSES”)

Sets forth the HTFC standard clauses applicable to the contract and all subcontracts under the contract pursuant to the Subrecipient Agreement.

PART 6 REPORTING

Sets forth the GOSR requirements for reporting through Elation Systems, inc. for all Contractors, Subrecipients, and Subrecipient’s Contractors.

PART 1

ORDER OF PRECEDENCE OF DOCUMENTS

PART 1

ORDER OF PRECEDENCE OF DOCUMENTS

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) The Instructions for Subrecipient; then
- (2) The HUD General Provisions (Part 3); then
- (3) The HTFC M/WBE Requirements (Part 4); then
- (4) The HTFC Standard Clauses (Part 5); then
- (5) The Required Contract Terms (Part 2);

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. Any question as to which requirements control in a particular instance which cannot be resolved by Contractor and Subrecipient shall be submitted in writing (indicating the issue and the applicable provisions) by Subrecipient to GOSR, which shall decide the applicable question.

PART 2

**COMMUNITY DEVELOPMENT BLOCK GRANT
DISASTER RECOVERY SUBRECIPIENT AGREEMENT**

REQUIRED TERMS FOR CONTRACTS

PART 2

COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY SUBRECIPIENT AGREEMENT

REQUIRED TERMS FOR CONTRACTS

A. Insurance & Bonding

Contractor shall carry, and shall cause its subcontractors and sub-subcontractors to carry, the insurance coverage set forth in Attachment A - Insurance Requirements attached heretoto the Introductory Statement to these Supplementary Conditions.

B. Civil Rights

1. **Compliance**

Contractor agrees to comply with the New York State Human Rights Law and with Title VI of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

2. **Nondiscrimination**

Contractor agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCD Act are still applicable.

3. **Land Covenants**

The Subrecipient Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under the Subrecipient Agreement, Contractor shall cause or shall require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that Grantee and the United States are beneficiaries of, and entitled to enforce, such covenants. 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, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

Contractor agrees to comply with all Federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against individuals with disabilities or handicaps in any federally assisted program. Subrecipient shall provide Contractor with certain guidelines for compliance with that portion of the regulations in force during the term of the contract.

C. Affirmative Action

1. Approved Plan

Contractor agrees that it shall be committed to carry out, pursuant to Subrecipient's specifications, an Affirmative Action Program in keeping with the principles as provided in Executive Order 11246 of September 24, 1965. Subrecipient shall provide certain Affirmative Action guidelines to Contractor to assist in the formulation of such program. Contractor shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. Minority- and Women-Owned Businesses (M/WBE)

a. Reserved

b. HTFC Requirements

Pursuant to New York State Executive Law Article 15-A ("Article 15-A"), HTFC recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and/or women-owned business enterprises ("M/WBEs") in the performance of certain HTFC-funded subrecipient agreements, and all HTFC-funded contracts and subcontracts. HTFC values affording M/WBEs the opportunity to participate in the performance of these subrecipient agreements, contracts and subcontracts to be awarded under this project. Accordingly, Contractor certifies that it has made and will continue to make good-faith efforts to promote and assist the participation of certified M/WBEs through the use of non-governmental sub-subrecipients, contractors and their subcontractors at all tiers on this project, in an amount equal to twenty percent (20%) in the aggregate of minority-owned business enterprises ("MBE") and women-owned business enterprises ("WBE") of the total dollar value of this project. This participation goal is applicable to the contract as set forth in Part 4 of these Supplementary Conditions and will be monitored by HTFC.

Contractor and its subcontractors at all tiers shall comply with the aforementioned M/WBE requirements as set forth in the Participation by Minority Group Members and Women Requirements and Procedures for Contracts with Housing Trust Fund Corporation, attached hereto as Part 4 of these Supplementary Conditions, and in the New York State Environmental Facilities Corporation's (EFC) NY State Revolving Fund MWBE / EEO / DBRA Bid Packet for Construction Contracts effective October 1, 2014 (the "EFC Bid Packet"). In accordance with those requirements, Contractor shall submit and shall require all covered subcontractors at all tiers to submit the required M/WBE documentation, including utilization plans and quarterly reports, as required in the EFC Bid Packet, and EFC shall provide such documentation to Subrecipient on a quarterly

basis.

3. Reserved

4. Retention

Contractor shall retain all records pertinent to these Required Terms for a period of six (6) years. The retention period begins on the date of the submission of Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Subrecipient Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then all such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

5. Access to Records

Contractor shall furnish and cause each of its subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by Subrecipient, Grantee, HUD or its agent, the Comptroller General of the United States, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

D. Employment Restrictions

1. Labor Standards

Contractor agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to Subrecipient and Grantee for review upon request. If Contractor is engaged under a contract in excess of \$2,000.00 for construction, renovation, or repair work financed in whole or in part with assistance provided under the Subrecipient Agreement, 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 Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR 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 intended 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.

2. **“Section 3” Clause**

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided under the Subrecipient Agreement and binding upon Grantee, Subrecipient, Contractor, and any of Contractor’s subcontractors and lower-tiered subcontractors. Failure to fulfill these requirements shall subject Grantee, Subrecipient, Contractor, and any of Contractor’s subcontractors and lower-tiered subcontractors, as well as their successors and assigns, to those sanctions specified by the agreement through which Federal assistance is provided. Contractor certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

Contractor further agrees to comply with these “Section 3” requirements and to include the following language in all subsequent contracts and subcontracts executed under the contract:

“The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

Contractor further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-DR funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-DR funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

Contractor certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

Contractor agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Contracts

Contractor will take appropriate action, pursuant to any such agreement, upon a finding that a subcontractor or lower-tiered subcontractor is in violation of regulations issued by HUD. Contractor will not subcontract with any entity where it has notice or knowledge that the entity has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

d. Reporting

Irrespective of any applicable Federal reporting requirements, Contractor shall submit quarterly reports along with any supporting documentation, in a form acceptable to Subrecipient, of its Section 3 compliance efforts to Subrecipient. 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 Subrecipient. Notwithstanding the provision of such reports and supporting documentation, Contractor shall maintain copies of all reports and supporting documents as set forth in these Required Terms.

PART 3

HUD GENERAL PROVISIONS

PART 3

HUD GENERAL 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”).

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

The State reserves its right 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 the State. The Contractor shall cooperate with all State 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. ACCESS TO RECORDS

The State, the U.S. Department of Housing and Urban Development, 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.

6. 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 six (6) years following the date of final payment and close-out of all pending matters related to this contract.

7. RESERVED

8. 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 CFR 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

9. 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).

10. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, 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.

11. 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.

12. SECTION 504 OF THE REHABILITATION ACT OF 1973

The Contractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), 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.

13. 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.

14. 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.

15. CONFLICTS OF INTEREST

The Contractor shall notify the State 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 the State is able to assess such actual or potential conflict. The Contractor shall provide the State any additional information necessary for the State to fully assess and address such actual or potential conflict of interest. The Contractor shall accept any reasonable conflict mitigation strategy employed by the State, 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.

16. 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:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) 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
- (vii) Any arbitrary action in the procurement process.

The Contractor represents to the State 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 HUD General 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.

17. 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 the State.

18. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless the State 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.

19. 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; Title 18 U.S.C. § 874; and Title 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.

20. 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.

21. RESERVED

22. 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, the State 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 the State, become the State'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 the State for damages sustained by the State by virtue of any breach of the contract by the Contractor, and the State may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the State from the Contractor is determined.

23. TERMINATION FOR CONVENIENCE (Applicable to contracts exceeding \$10,000)

The State 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 the State as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

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.

Equal Opportunity for Workers With Disabilities

1. 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:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;

- vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor;
 - vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - viii. Activities sponsored by the contractor including social or recreational programs; and
 - ix. Any other term, condition, or privilege of employment.
2. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
 3. 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.
 4. 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).
 5. 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.
 6. 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. RESERVED

26. 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 24 CFR 85.36 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 equal opportunity 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 equal opportunity 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).

27. CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS
(Applicable to contracts exceeding \$100,000)

The Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 1857 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*, and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 15 and 32, as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, 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. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (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 paragraph (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.

28. RESERVED

29. 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:

- (1) *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.
- (2) *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.
- (3) *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.

30. 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, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 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).

PART 4

**PARTICIPATION BY MINORITY GROUP MEMBERS
AND WOMEN**

**REQUIREMENTS AND PROCEDURES
FOR CONTRACTS WITH
HOUSING TRUST FUND CORPORATION**

PART 4

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN

REQUIREMENTS AND PROCEDURES FOR CONTRACTS WITH HOUSING TRUST FUND CORPORATION

I. General Provisions

The Corporation is required to implement the provisions of New York State ("State") Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value: (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

II. Contract Goals

For purposes of this procurement, the Corporation hereby establishes an overall cumulative goal of 20% for Minority and Women-Owned Business Enterprises ("MWBE") participation (based on the current availability of qualified Minority-Owned Business Enterprises ("MBE") and Women-Owned Business Enterprises ("WBE")).

III. Equal Employment Opportunity (EEO)

A. In addition to EFC's EEO requirements, Contractor shall comply with the following provisions of Article 15-A:

1. The Contractor shall submit an EEO policy statement (Form PROC-8) to the Corporation within seventy two (72) hours after the date of the notice by Corporation to award the Contract to the Contractor.

IV. Minority and Women-Owned Business Enterprises ("MWBE")

A. The Contractor shall comply with all MWBE requirements set forth in the New York State Environmental Facilities Corporation's ("EFC") NY State Revolving Fund MWBE / EEO / DBRA Bid Packet for Construction Contracts effective October 1, 2014 (the "EFC Bid Packet"), provided that the MWBE participation goals shall be as set forth in Section II above, and further provided that such MWBE requirements shall apply to contracts at the values set forth in Section I above. In addition to the documentation required from Contractor pursuant to the EFC Bid Package (which EFC shall submit to HTFC on a quarterly basis), Contractor shall submit the M/WBE and EEO Policy Statement (PROC-4) to HTFC upon execution of this Contract, and Contractor shall submit the following forms to New York State Homes and Community Renewal on a quarterly basis: Cumulative Payment Statement (Form ADM-123), Affirmation of Income Payments to MBE/WBE (Form ADM-146) and Monthly Employment Utilization Form (Form ADM-136).

PART 5

**STANDARD CLAUSES FOR CONTRACTS
WITH THE HOUSING TRUST FUND CORPORATION**

PART 5

**STANDARD CLAUSES FOR CONTRACTS
WITH THE HOUSING TRUST FUND CORPORATION**

Housing Trust Fund Corporation
38-40 State Street, Albany, New York 12207

New York State Finance Agency, 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
641 Lexington Avenue, New York, New York 10022, (212) 688-4000

May, 2014

STANDARD CLAUSES FOR AGENCY CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "Contract") agree to be bound by the following clauses which are hereby made a part of the Contract (the word "Contractor" herein refers to any party other than the State of New York ("State"), whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. ACCOUNTING RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance of work done for the Agency or Agencies under this Contract (hereinafter, collectively, "the Records") consistent with generally accepted bookkeeping practices. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The Agency or Agencies involved in this Contract and any person or entity authorized to conduct an examination shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The Agency or Agencies shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the Agencies' Senior Vice President and Counsel, in writing, that said records should not be disclosed; (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Agency's or Agencies' right to discovery in any pending or future litigation.

2. CONFLICTS OF INTEREST. The Contractor shall not accept any engagement in conflict with the Agency's or Agencies' interest in the subject matter of this Contract.

The Servicer shall not offer to any employee, member or director of the Agency or Agencies' any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

3. SUBCONSULTANTS. The Contractor shall not employ, contract with, or use the services of any consultant for the work of this Contract (except such third parties which may be used by the Contractor in

the normal course of business, such as couriers, imaging services, etc.) without obtaining the prior written approval of the Agency or Agencies.

4. NON-ASSIGNABILITY. This Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent in writing of the Agency or Agencies and any attempts to assign the Contract without the Agency or Agencies' written consent are null and void. However, this Contract shall be binding upon and inure to the benefit of the Agency or Agencies and its successors and assigns.

5. INDEMNITY. The Contractor shall indemnify and hold the Agency or Agencies and their employees, officers, Members and Directors (collectively, the "Indemnities") harmless from and against all claims, demands, liability, loss, cost, damage or expense, including attorney's fees, which may be incurred by the Indemnities because of negligence or malfeasance on the part of the Contractor arising out of this Contract.

6. RESERVED.

7. RESERVED.

8. PROPRIETARY INFORMATION. All memoranda, analyses, spreadsheets and other pertinent documents or writings, including reports and financial statements developed or prepared by, or for, the Contractor in connection with the performance of this Contract are "Proprietary Information" and shall be, and remain, the property of the Agency or Agencies. All original documents constituting Proprietary Information shall be delivered to the Agency or Agencies by the Contractor, or any subcontractor, or any other person possessing them, upon the termination of this Contract or upon the earlier request of the Agency or Agencies, except that the Contractor may retain copies for its files. Proprietary Information may not be utilized, disclosed or otherwise made available to other persons by the Contractor without the prior written approval of the Agencies' Senior Vice President and Counsel. The provisions of this section shall be in addition to, and not in derogation of, any duty imposed upon the Contractor by any law, regulation or rule governing professional conduct respecting confidentiality.

9. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices submitted for payment for the sale of goods or services or the lease of real or personal property to the Agency or Agencies must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the Agency or Agencies is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by Agency or Agencies to purchase the goods or services or lease the real or personal property covered by this Contract or lease. The information is maintained by

Disbursement Manager at the Agency or Agencies, 641 Lexington Avenue, New York, New York 10022, under the name "Vendor Federal Social Security and Federal Employee Identification Numbers."

10. CONTRACTUAL RELATIONSHIP. It is expressly understood that the relationship between the Agency or Agencies and the Contractor is an independent contractual relationship and neither the Contractor, its employees, nor its subcontractors shall be considered employees of the Agency or Agencies for any purpose. In addition, the Contractor shall execute the Certificate of Interest attached hereto as Exhibit A and incorporated herein.

Please refer to the following link on the Agency's web site to view each of the Agency's Prompt Payment Policies at <http://www.nyshcr.org/Agencies/HTFC/Publications/PromptPaymentsReport2012.pdf> or <http://www.nyshcr.org/AboutUs/Procurement/ContractInformation.htm>.

11. ENTIRE AGREEMENT. This Contract constitutes the entire agreement between the Contractor and the Agency or Agencies with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements. In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Part, the terms of this Part shall control.

12. MODIFICATION. Waiver, discharge, amendment, supplement, extension or other modification of this Contract shall be subject to prior approval by the Agency or Agencies and may be effected only by an instrument in writing signed by the parties to this Contract.

13. SECTION HEADINGS. The caption of sections in this Contract are inserted solely for convenience of reference and are not intended to define, limit, or describe the scope of this Contract or any provision hereof or to otherwise affect this Contract in any way. The section headings shall not be considered in any way in construing this Contract.

14. COUNTERPARTS. This Contract may be executed in any number of counterparts. Each such counterpart shall be deemed to be a duplicate original. All such counterparts shall constitute but one and the same instrument.

15. GOVERNING LAW. This Contract has been executed and delivered in, and shall be construed and enforced in accordance with the laws of, the State of New York. In the event of conflict between New York State law and federal laws and regulations, the latter shall prevail.

16. NOTICES. All notices and other communications given hereunder shall not be effective for any purpose whatsoever unless in writing and delivered by hand or mailed by United States first class registered or certified mail, return receipt requested. Notice shall be deemed to have been given, if delivered by hand, when actually received by the party being notified, or, if mailed, when addressed: (a) if to the Contractor, to the attention of the Contractor's authorized signatory of this Contract at the address specified for the Contractor on page one of this Contract, or at such other address as to which the Contractor shall have notified the Agency or Agencies, and (b) if to the Agency or Agencies, to the attention of the Senior Vice President and Counsel, at the address for the Agency or Agencies on page one this Contract, or at such other address of which the Agency or Agencies shall have notified the Contractor.

17. SEVERABILITY. All rights, powers and remedies provided herein may be exercised only to the extent that they do not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Contract invalid, unenforceable or not entitled to be recorded, registered, or filed under applicable law. If any provision or term of this Contract or any portion of a provision shall be

held to be invalid, illegal or unenforceable, only such provision or part thereof shall be affected by such holding and this Contract shall be construed as if such invalid, illegal or unenforceable provision or part thereof had not been contained herein.

18. WORKERS' COMPENSATION. This Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

19. NO ARBITRATION. Disputes involving this Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

20. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), the Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service of process hereunder shall be complete upon the Contractor's actual receipt of process or upon the Agency's or Agencies' receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify the Agency or Agencies, in writing, of each and every change of address to which service of process can be made. Service of process by the Agency or Agencies to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

21. NON-COLLUSIVE BIDDING CERTIFICATION. If this Contract was awarded based upon the submission of a bid or proposal, the Contractor affirms, under penalty of perjury, that the prices in its bid or proposal were arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, or as to any matter relating to such prices with any other Contractor or with any competitor. The Contractor further affirms that, at the time the Contractor submitted its bid or proposal, an authorized and responsible person executed and delivered a non-collusive bidding certification to the Agency or Agencies on the Contractor's behalf.

22. LOBBYING REFORM LAW DISCLOSURE. If the procurement of the goods or services provided herein were applicable to Lobbying Reform Law Disclosure as pursuant to State Finance Law §§139-j and 139-k, the Agency or Agencies reserves the right to terminate this Contract in the event it is found that the certification filed by the Offeror/Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Agency or Agencies may exercise their termination right by providing written notification to the Contractor.

23. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either: (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

24. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business

Albany, New York 12245
Telephone: 518-292-5100
Email: opa@esd.ny.gov

Fax: 518-292-5884

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, New York 10017
Telephone: 212-803-2424
Email: <https://nynewnycontracts.com/FrontEnd/VendorSearchPublic.asp>.

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or Contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this Contract and agrees to cooperate with the State in these efforts.

25. GENERAL RESPONSIBILITY LANGUAGE. The Contractor shall at all times during Contract term remain responsible. The Contractor agrees, if requested by the Agencies, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

For purposes of this Agreement, Contractor responsibility generally means that the Contractor has the integrity to justify the award of public dollars and the capacity to perform the requirements of this Contract fully. In connection herewith, to the extent that the Agencies may make certain determinations with respect to Contractor responsibility, wherein the Agencies determine whether it has reasonable assurances that a Contractor is responsible, is an important part of the procurement process, promoting fairness in contracting, mitigating contract issues, and protecting the Contractor and the Agencies against failed contracts. In making such a responsibility determination, the Agencies shall evaluate the Contractor's responsibility with respect to four factors: (i) financial and organizational capacity; (ii) legal authority to do business in New York State; (iii) integrity; and (iv) previous performance.

26. SUSPENSION OF WORK (for Non-Responsibility). The Agencies reserve the right to suspend any or all activities under this Contract, at any time, when the Agency discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the 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 Agencies issue a written notice authorizing a resumption of performance under the Contract.

27. TERMINATION (for Non-Responsibility). Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency staff, the Contract may be terminated by the Agencies at the Contractor's expense where the Contractor is determined by the Agencies to be non-responsible. In such event, the Agencies may complete the contractual requirements in any manner they deem advisable and pursue available legal or equitable remedies for breach.

28. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the Agency.

During the term of the Contract, should the Agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The Agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

PART 6
REPORTING

PART 6

REPORTING

Elation Systems, Inc. is a provider of cloud-based diversity and labor compliance reporting and management services. The Governor's Office of Storm Recovery (GOSR) has adopted this web-based compliance management system to help all of its Contractors, Subrecipients, and Subrecipient's Contractors receiving federal funds to adhere to HUD Labor Compliance (Davis-Bacon), Minority and Women Owned Business (MWBE) and Section 3 reporting requirements.

Contractors, Subrecipients, and Subrecipient's Contractors must comply with instructions from GOSR on how and when to meet all reporting requirements, and how to utilize Elation to satisfy those requirements.

To this end, all Contractors, Subrecipients, and Subrecipient's Contractors must register with Elation Systems and attend an online training on the use of this tool. GOSR offers a series of virtual training events. GOSR requires all parties receiving federal funds through GOSR programs to use the Elation Systems application to make reporting requirements easier, faster and simpler to complete.

Prior to participating in training, it is necessary to create an Elation account. An account may be created at <https://www.elationsys.com/app/Registration/>.

Questions related to reporting requirements should be directed to GOSR's Monitoring and Compliance team at stormrecovery.dl.gosr-monitoring&compliance@stormrecovery.ny.gov.