

FIRST AMENDMENT
TO
CONTRACT FOR SERVICES

THIS FIRST AMENDMENT to the Contract for Services dated March 25, 2014, is made and entered into November 11th, 2014 (the "First Amendment") between COHNREZNICK LLP, having an office at 1212 Avenue of the Americas, Suite 1200, New York, New York 10036 ("Contractor"), and the HOUSING TRUST FUND CORPORATION, having its principal office at 38-40 State Street, Albany, New York 12207 ("HTFC").

WITNESSETH:

WHEREAS, Contractor was the successful bidder pursuant to a request for proposals issued by HTFC on October 25, 2013 (the "RFP"); and

WHEREAS, HTFC and Contractor entered into a Contract for Services on March 25, 2014, pursuant to which Contractor provides certain services in support of HTFC's administration of the State of New York's Community Development Block Grant-Disaster Recovery ("CDBG-DR") program (the "Agreement"); and

WHEREAS, HTFC's Governor's Office of Storm Recovery ("GOSR") is specifically tasked with administering the State of New York's CDBG-DR program and therefore oversees and administers this particular Agreement; and

WHEREAS, GOSR wishes to obtain additional services from Contractor that are within the scope of services sought under the RFP and provided by Contractor under the Agreement; and

WHEREAS, HTFC and Contractor desire to amend the Agreement by means of this First Amendment in order for GOSR to obtain those additional services;

WHEREAS, GOSR is required by the statutes, regulations, and agency notices governing its administration of the CDBG-DR program to impose certain terms and conditions on its contractors; and

WHEREAS, HTFC and Contractor desire to amend the Agreement by means of this First Amendment in order to impose such terms and conditions;

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. Section 1 of the Agreement, entitled "Scope of Services", is hereby deleted in its entirety and replaced with the following:

1. General Obligations of Contractor.

(a) This Agreement incorporates by reference as if set forth herein Contractor's proposal dated November 20, 2013 and any subsequently submitted documents, communications and representations ("Proposal Documents") utilized by HTFC in evaluating Contractor for award of this Agreement.

(b) This Agreement sets forth the general terms and conditions governing the entire Scope of Services (Exhibit A) that HTFC may seek and the actual Services obligated by HTFC pursuant to a properly executed Task Order. This Agreement alone does not obligate compensation to be paid by HTFC or Services to be performed by Contractor. Services and compensation for such Services shall only be obliged upon the proper and complete execution of a Task Order.

(c) Contractor shall thoroughly familiarize itself with the nature and scope of the Scope of Services under this Agreement and with matters which may affect this Scope of Services, including the Law governing the Scope of Services and this Agreement. "Law" means all existing and future federal, state, and local statutes, laws, codes, ordinances, decrees, rules, regulations, requirements, required permits and licenses, and orders, of any governmental authority, entity, or agency whether federal, state, municipal, local, or other government body or subdivision, including the regulations governing CDBG-DR funds and the requirements for contracting with the State of New York. Any failure by Contractor to thoroughly familiarize itself with and understand such matters shall not relieve Contractor of its obligations under this Agreement or any Task Order hereunder.

(d) Contractor shall perform the Services contained in any Task Order in accordance with applicable law, regulations, professional standards and the terms and conditions contained herein. Contractor will perform work under this contract by competent personnel under the management, supervision, and direction or employment of, Contractor.

(e) Contractor shall commit adequate resources to perform the Services.

2. Section 2 of the Agreement, entitled "Period of Agreement", is hereby deleted in its entirety and replaced with the following:

2. Period of Agreement. This Agreement shall commence as of January 27, 2014 and shall terminate on March 31, 2015, with a mutual option to extend the termination date to September 30, 2015. HTFC may extend this Agreement for up to four (4) one-year terms. Any extension of this Agreement shall be mutually agreed to by the Parties in writing through a modification to the Agreement, as provided for in Appendix I. If the Agreement is not modified, unless otherwise instructed by HTFC, by the end of the period of the Agreement, Contractor shall deliver any and all Property belonging to HTFC to a location designated by HTFC. In addition, Contractor, at no additional cost, shall: (a) reasonably cooperate as requested by HTFC in the orderly transition of the Services to its successor; and (b) undertake the orderly cessation of the Services. For the purposes of this provision, "Property" means all tangible and real property owned or leased by HTFC. HTFC property includes both HTFC-furnished and Contractor-acquired property. HTFC property includes material, equipment, special tooling, special test equipment, and real property. Intellectual property shall be governed by Appendix I, Article 8.

3. Section 3 of the Agreement, entitled "Compensation", is hereby deleted in its entirety and replaced with the following:

3. General Obligations of HTFC.

(a) HTFC agrees to compensate Contractor for its performance of the Services under any proper and fully executed Task Order at the schedule set forth in the applicable Task Order and at the rates established in Exhibit B (also referred to herein as the "Budget"). Contractor agrees that in no event will HTFC pay Contractor more than \$18,153,149.17 ("Total Fee") for the Services under all Task Orders under this Agreement. Except where authorized in advance by HTFC, Contractor shall not exceed the Total Fee without a properly and fully executed modification placed against this Agreement. HTFC will not be obligated to remit payment to Contractor for any fees or expenses (including termination costs and travel expenses) if to do so would exceed the Total Fee, and Contractor shall not be obligated to continue performance if to do so would cause Contractor's fees to exceed the Total Fee, unless authorized in advance by HTFC or until the Parties properly and fully execute a modification against this Agreement.

(b) HTFC shall, in its sole discretion, determine the extent to which it will use the Services of Contractor. This Agreement does not guarantee any minimum number of hours or amount of funds to be utilized over its term. Except as otherwise authorized herein, all Services and compensation shall be obligated pursuant to a Task Order, which shall include: 1) a Statement of Work that will set forth the specific Services and quantity of such Services; and 2) the compensation and payment schedule of such compensation based upon the fees set forth in the Budget at Exhibit B.

(c) Nothing herein is intended nor shall it be construed as creating any exclusive arrangement with Contractor. Contractor shall not restrict HTFC from contracting with other entities for any or all of the Services contained in the Scope of Services.

4. Section 4 of the Agreement, entitled "Payment Process and Accounting Procedures", is hereby deleted in its entirety and replaced with the following:

4. Payment Process and Accounting Procedures.

(a) Payment for all Services shall be made in United States currency.

(b) Payment will be made upon receipt of an accurate and complete invoice from Contractor for Services rendered, in conformance with the Task Order's payment schedule, if applicable.

(c) HTFC reserves the right to refuse payment on any portion thereof, until such portion is acceptably presented.

(d) Except as may be specifically provided in the Task Order or as otherwise authorized herein, Contractor is solely responsible for all Contractor's costs and any other expenses necessarily and incidentally incurred in order to complete the Services.

(e) Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized by HTFC) to

Housing Trust Fund Corporation
Hampton Plaza
38-40 State Street
Albany, NY 12207

An invoice must include:

- i. Name and address of Contractor;
- ii. Invoice date and number;
- iii. Task Order number;
- iv. Description of Services, quantity of Services, unit or rate of measure of the items delivered;
- v. If applicable, shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- vi. Terms of any discount for prompt payment offered;
- vii. Name and address of official to whom payment is to be sent;
- viii. Name, title, and phone number of person to notify in event of defective invoice; and
- ix. Additional information as reasonably required by HTFC.

(f) All amounts paid by HTFC to Contractor are subject to audit by HTFC, as set forth in Section 11 of this Agreement.

(g) Payment will only be made to Contractor via ACH (Automated Clearinghouse) transfer, i.e., direct deposit to Contractor's account. Contractor must provide HTFC with a completed Designation of Depository for Direct Deposit of HTFC Funds form (a copy of which is attached as Exhibit C). Contractor is solely responsible for the information provided on the form and for updating it as necessary.

(h) Payments are made pursuant to HTFC's Prompt Payments Policy, a copy of which may be obtained from HTFC's Assistant Treasurer at the address indicated above.

(i) Payment received hereunder shall be the full and complete satisfaction of any and every claim resulting from the approved items in such requisition.

(j) HTFC's payment of all or a part of an invoice shall neither relieve Contractor of any of its obligations under this Agreement nor constitute a waiver of any claims by HTFC.

5. The reference in Section 7(a) of the Agreement to "Appendices I and II" is hereby amended to "Appendices I-III." The reference in Section 7(b) of the Agreement to "Appendix II" is hereby amended to "Appendices I-III."
6. Section 8 of the Agreement, entitled "Entire Agreement", is hereby deleted in its entirety.
7. The following Sections 8 through 15 are hereby inserted:
 8. Contractor Representations. Contractor represents that:
 - (a) Contractor is a company in good standing and qualified to carry on business in the State of New York and has the approval, capacity, and authority to enter into this Agreement and to perform the obligations of Contractor under this Agreement;
 - (b) To the best of its knowledge, this Agreement does not result in a conflict with any other agreements of Contractor;

(c) Contractor possesses the business, professional, and technical expertise, and training required to perform the Services;

(d) Contractor has or shall obtain, or cause to be obtained, all personnel necessary, with appropriate education, experience and expertise, to undertake and provide the Services.

(e) Contractor possesses the equipment, facilities, and employees to perform the obligations under this Agreement;

(f) Contractor and/or its facilities, employees, or agents, have been issued, as of the date of this Agreement and throughout the term of the Agreement, all material permits, licenses, certificates, or approvals required by applicable Law necessary to perform the Services; and

(g) That all documents, including, but not limited to, invoices, billings, back-up information for invoices, and reports submitted by Contractor to HTFC in connection with the Services are complete and accurate to the best of the knowledge of Contractor. Contractor agrees to promptly notify HTFC upon discovery of any instances where Contractor becomes aware of any discrepancies in relation to documents under this Section.

9. Inspection & Acceptance. Contractor shall only tender for acceptance those items that conform to the requirements of this Agreement. HTFC reserves the right to inspect or test any deliverables or Services that have been tendered for acceptance. HTFC may require repair or replacement of nonconforming Services at no increase in compensation. If repair/replacement or reperformance will not correct the defects or is not possible, HTFC may seek an equitable price reduction or adequate consideration for acceptance of nonconforming Services. HTFC/GOSR must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

10. Termination of Agreement.

(a) Termination for Cause. If, through any cause, Contractor shall fail to fulfill in a timely and proper manner his obligations under this Agreement, or if Contractor shall violate any of the material covenants, agreements, or stipulations of this Agreement, HTFC shall thereupon have the right to terminate this Agreement by giving written notice to Contractor of such termination and specifying the effective date thereof, at least five (5) business 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 Contractor under this Agreement shall, at the option of HTFC, become HTFC's property and Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, Contractor shall not be relieved of liability to HTFC for damages sustained by HTFC by virtue of any breach of the Agreement by Contractor, and HTFC may withhold any payments to Contractor for the purpose of set-off until such time as the exact amount of damages due HTFC from Contractor is determined.

(b) Termination for Convenience. HTFC may terminate this Agreement at any time by giving at least ten (10) business days' notice in writing to Contractor. If this Agreement is terminated by HTFC as provided herein, Contractor will be paid for the time provided and expenses incurred up to the termination date.

(c) Upon termination of this Agreement, Contractor, at no additional cost, shall: reasonably cooperate at the request of HTFC in the orderly transition of the Services to its successor; and undertake the orderly cessation of the Services.

11. Audit and Inspection Rights. HTFC's access to records, audit and inspection rights are subject to the provisions set forth in Appendices I and II. Notwithstanding the time periods set forth therein, Contractor shall maintain all records connected with this Agreement for a period of at least six (6) years following the date of final payment or the close-out of all pending matters or audits related to this Agreement, whichever is later. Contractor shall not be liable for destruction of Contractor's files consistent with the terms of this Agreement and its policies.

12. Indemnity & Insurance.

Indemnity: Contractor shall and hereby agrees to hold harmless, defend (with counsel acceptable to HTFC) and indemnify HTFC and each and all of its successors, affiliates, or assigns, and any of their employees, officers and directors from and against any and all damages, costs, attorneys' fees, claims, expenses, injuries, property damage, causes of action, violations of law, violations of this Agreement, and losses of any form or nature arising from or related to the negligence of the Contractor in performance of this Agreement, the Services or Scope of Services, any Task Order(s), or any willful misconduct of Contractor or any subcontractor or supplier of any level or tier in connection with this Agreement, the Services or Scope of Services, or any Task Order(s). This indemnity shall expressly include, but is not limited to, the obligation of Contractor to reimburse HTFC for attorneys' fees and other litigation or dispute resolution costs incurred in any successful enforcement action of this Agreement by HTFC, or any portion thereof, against Contractor. This clause shall survive indefinitely the termination of this Agreement for any reason. In no event shall either party be liable to the other for any consequential, incidental, indirect, punitive or special damages in connection with any claims resulting from this Agreement.

(a) Insurance: Contractor shall procure and maintain without interruption, at its sole cost and expense, insurance of the type, and with limits and deductibles, as follows:

- i. Commercial General Liability Insurance. Providing both bodily injury (including death) and property damage insurance in a limit not less than Two Million Dollars (\$2,000,000) aggregate and One Million Dollars (\$1,000,000) per occurrence. Such insurance is to be written on an occurrence basis. HTFC shall be named as an additional insured.

- ii. Automobile Liability and Property Damage Insurance. In an amount not less than One Million Dollars (\$1,000,000) combined single limit for both Bodily Injury and Property Damage.
- iii. Worker's Compensation. Covering employers' liability and disability benefits as required by the State of New York.
- iv. Excess Liability Insurance. Not less than Eight Million Dollars (\$8,000,000).

Contractor shall provide Certificates of Insurance to HTFC prior to the commencement of work and shall provide full and complete copies of the actual policies and all endorsements upon request. Subcontractors under this Agreement shall only be subject to b(i)-(iii) of this Section; however Contractor shall require subcontractors to maintain greater limits and/or other or additional insurance coverages if greater limits and/or other or additional insurance coverages are generally imposed by Contractor given its normal course of business for subcontracts for similar services to those being provided by the subcontractor at issue.

13. Assignment and Subcontracting.

(a) The Parties' rights regarding assignment and subcontracting are subject to terms of Appendix II. The right to assign this Agreement or subcontract any of the Services under a Task Order to this Agreement is generally prohibited without prior written approval of HTFC.

(b) Any change of control by Contractor shall be deemed an assignment that requires prior written consent. A "change of control" includes any merger, consolidation, sale of all or substantially all of the assets or sale of a substantial block of stock of Contractor.

(c) As part of any subcontract hereunder, after Contractor receives written approval, Contractor must incorporate the terms of this Agreement in its subcontract, including those Insurance requirements which are applicable to subcontractors pursuant to Section 12(b), so that the terms apply in the same manner and with the same effect as set forth in this Agreement and Task Orders hereunder. If Contractor does subcontract

out any portion of the Services, after notice and consent are given, nothing contained in this Agreement or otherwise, shall create any contractual relationship between HTFC and Contractor's subcontractors, and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to HTFC for the acts and omissions of its subcontractors of any level or tier and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of Contractor and for persons directly employed by Contractor.

(d) Contractor's obligation to pay its subcontractors is an independent obligation from HTFC's obligation to make payments to Contractor. As a result, HTFC shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

14. Compliance with Law.

(a) Contractor shall comply with all Law applicable to this Agreement and the Services performed hereunder.

(b) Contractor shall promptly notify HTFC in writing upon discovery of any failure, or any allegation of any failure, of Contractor to comply with any applicable Law relevant to the performance of Services or any requirement of this Agreement.

(c) Duties and obligations imposed by the Agreement, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed by applicable Law.

15. Miscellaneous Provisions.

(a) Force Majeure. Any delay or failure of either party to perform its obligations hereunder shall be suspended if, and to the extent, caused by the occurrence of a Force Majeure. In the event that either Party intends to rely upon the occurrence of a force majeure to suspend or to terminate its obligations, such Party shall notify the other Party in writing immediately, or as soon as reasonably possible, setting forth the particulars of the circumstances. Written notices shall likewise be given after the effect of such occurrence has ceased.

“Force Majeure” means riots, wars, civil disturbances, insurrections, acts of terrorism, epidemics, acts of nature whose effects preventing safe passage of vehicles upon state or federal highways for a continuing period of not less than fourteen (14) days and federal or state government orders, any of which is beyond the reasonable anticipation of the applicable Party and which prevents performance of this Agreement, but only to the extent that due diligence is being exerted by the applicable Party to resume performance at the earliest possible time.

(b) Calendar Days. Any reference to the word “day” or “days” herein shall mean calendar day or calendars days, respectively, including weekends and Federal Holidays unless otherwise expressly provided. To the extent a deadline falls on a weekend or Federal Holiday, the next business day shall be the applicable deadline.

(c) No Third Party Beneficiary. This Agreement is intended solely for the benefit of the Parties hereto, and no third party has any right or interest in any provision of this Agreement or as a result of any action or inaction or any party in connection therewith.

(d) Authorization. Contractor, or the representative(s) signing this Agreement on behalf of Contractor, represents and warrants that Contractor has full power and authority to enter into this Agreement and to perform the obligations set forth herein, and that the representatives signing this Agreement have the authority to execute this Agreement on behalf of Contractor and to bind Contractor to its contractual obligations hereunder.

(e) Survivability. Notwithstanding any other provisions of this Agreement or a Task Order hereunder, or any general legal principles to the contrary, any provision of this Agreement, including all Appendices, exhibits, Task Orders, modifications and any other related Agreement document that imposes or contemplates continuing obligations on a Party will survive the expiration or termination of this Agreement.

(f) Notices. Notwithstanding the Notice requirements in Appendix II, all notices and other communications given hereunder shall be 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:

(i) if to CONTRACTOR, as follows:

CohnReznick LLP
Attn: Timothy G. Bender
Partner
7501 Wisconsin Avenue
Suite 400E
Bethesda, MD 20814



and (ii) if to HTFC, to the attention of and at the following address:

HTFC
Attn: Lisa Bova-Hiatt
General Counsel
Governor's Office of Storm Recovery
25 Beaver Street
New York, NY 10004



(g) Order of Precedence. This Agreement and all attachments and exhibits hereto, and all referenced documents, constitute the entire agreement between the Parties with respect to the matters herein, and integrates, merges, and supersedes all prior negotiations, representations, or agreements relating thereto, whether written or oral, except to the extent they are expressly incorporated herein. The provisions of this Agreement and the accompanying documents shall be construed and interpreted as consistent whenever possible. Unless otherwise stated elsewhere in this Agreement, any conflicts in this Agreement and the accompanying documents shall be resolved in accordance with the following descending order of precedence:

- i. Appendix I – HUD General Provisions
- ii. Appendix II – Standard Clauses for Contracts with the Housing Trust Fund Corporation
- iii. Appendix III – Diversity Forms

- iv. Appendix IV – Construction Requirements and Procedures for Contracts with Housing Trust Fund Corporation (if applicable)
- v. The applicable Task Order
- vi. This Agreement
- vii. Exhibit A – Scope of Services
- viii. Exhibit B – Budget
- ix. Proposal Documents
- x. Exhibit C – Designation of Depository for Direct Deposit of HTFC Funds

- 8. All Appendices to the Agreement are hereby deleted in their entirety and replaced with the attached “Appendices for Contracts”, which includes Appendices I-IV.
- 9. Exhibit A to the Agreement is hereby supplemented with (1) Exhibit 1 to Task Order #2; and (2) Exhibit 1 to Task Order #3, copies of which are attached hereto.
- 10. The first sentence of the second paragraph of Exhibit B to the Agreement is hereby deleted and replaced with the following: “The maximum funds available for services rendered under this Agreement is \$18, 153,149.17.”
- 11. Exhibit B to the Agreement is hereby supplemented with (1) Attachment A to Task Order #2; (2) Attachment B to Task Order #2; (3) Attachment A to Task Order #3; and (4) Attachment B to Task Order #3, copies of which are attached hereto.
- 12. All other terms and conditions, including appendices, attachments, exhibits, riders and Letter Agreements to the Agreement are hereby continued in full force and effect as though set forth herein.

IN WITNESS WHEREOF, the parties executed this First Amendment on the day and year first above written.

CohnReznick LLP

[Redacted signature area]

By: _____
Name: Timothy G Bender
Title: Partner

Housing Trust Fund Corporation

[Redacted signature area]

By: _____
Name: James Kubin
Title: Executive Director
11/12/14