

Executive Orders Compliance Analysis –
Floodplain Management (EO 11988)
& Wetlands Protection (EO 11990)
Determination

**Project 059-ED-33860-2013 EO 11988 Floodplain Management
and EO 11990 Wetlands Protection Determination**

***Commercial & Economic Development Initiative within NY State Community Development Block
Grant Disaster Recovery Program***

February 8, 2017

Introduction & Overview

The purpose of Executive Order 11988, Floodplain Management, is “to avoid to the extent possible the long- and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” This report contains the analysis prescribed by 24 CFR Part 55.

This project involves Community Development Block Grant Program – Disaster Recovery (CDBG-DR) funding for dock repairs and other in-kind business infrastructure repairs for a single business impacted by Superstorm Sandy. The analysis that follows focuses on floodplain impacts, as there are no direct wetland impacts associated with this project. Based on the “non-substantial” level of work, and other case characteristics, it is concluded that there is a reasonable basis to proceed with funding for this project/activity within the floodplain. Moreover, in the [March 5, 2013 Federal Register Notice](#), HUD expressly recognized that “without the return of businesses and jobs to a disaster-impacted area, recovery may be impossible. Therefore, HUD strongly encourages grantees to envision economic revitalization as a cornerstone to a long-term recovery” (78 FR 14335). Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

Description of Proposed Action & Land Use

Mesick Corp. (Applicant) is a real estate holding company located in the Town of Hempstead, and its street address is 480 Reina Road, Hamlet of Oceanside, Town of Hempstead, Nassau County, New York 11572 (Subject Property). All Island Marine (059-ED-32979-2013) and Bay Park Yacht Harbor (No NY Rising application) are the business tenants operating at the Subject Property. Based on Nassau County Assessment data, this commercial property is Section 43, Block 240, and Lot 7. The Property Description shows a 0.2594-acre lot. This marina facility is located in the southeastern portion of Hempstead, New York along the East Rockaway Channel in Long Island, New York.

HUD Community Development Block Grant-Disaster Recovery (CDBG-DR) funding is proposed for \$38,280.70, of which \$30,325.70 is proposed for reimbursement of completed construction repairs, which included the purchase of dock replacement materials and electrical work to the utility pole on the marine lot. The remaining \$7,955.00 is proposed for reimbursement of completed dock repairs, which included replacing existing dock piles with 19 taller dock piles, which were 45’ and 60’ lengths. These piles were taller than the previous pilings so that docks would not float off the pilings during potential future storms. All construction activities were concluded on or about 08/09/2013 and this action reimburses the Applicant for these completed activities. The permits required for the dock work covers both dock and bulkhead repairs. However, CDBG-DR funding is only being provided for dock repairs. Project activities caused ground disturbance in previously disturbed soils.

Applicable Regulatory Procedure Per EO 11988

The proposed action corresponds with a noncritical action not excluded under 24 CFR §55.12(b) or (c). Funding is permissible for the use in the floodplain if the proposed action is processed under §55.20 and the findings of the determination are affirmative to suggest that the project may proceed.

Based on online data, including data managed and updated by the U.S. Fish & Wildlife Service (USFWS) and NYSDEC there are mapped wetlands adjacent to the Subject Property. The project activities were conducted in the wetlands adjacent to the Subject Property. Thus, in accordance with the decision-making process set forth in 24 CFR Part 55, this analysis focuses on floodplains and wetlands.

According to 24 CFR §55, the activity planned to repair impacted structure occurs in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. Using the total amount of damage reported after Superstorm Sandy, this project does not exceed the substantial improvement threshold of 50% in 24 CFR §55.2(b)(10). This is evidenced by Program materials indicating that there was not a substantial damage determination and improved property value data shows the cost of funded repairs is a small fraction of the total value, which is shown to be approximately \$222,100.00. However, this project involves the removal and replacement of dock pilings and constitutes new construction in wetlands. As such, the full eight-step floodplain/ wetlands determination process in §55.20 is being followed. The following analysis examines each step in a floodplain and wetlands management determination process.

Step 1. Determine Whether the Proposed Action is Located in the 100-year Floodplain (500-year for Critical Actions) or results in New Construction in Wetlands.

The location of the proposed action, per the applicable FEMA flood map Firmette, is within the 100-year floodplain (SFHA - AE Zone). There is an established Base Flood Elevation (BFE) of approximately 10-11 feet across the property. This action does not require a Section 404 permit under the Clean Water Act (see 55.20(a)(1)).

Step 2. Initiate Public Notice for Early Review of Proposal.

Because the proposed project is located in floodplain and wetlands, the Governor's Office of Storm Recovery (GOSR) published an early notice that allowed for public and public agency input on the decision to provide funding for reconstruction and development activities. The early public notice and 15-day comment period is complete. No public comments were received.

The early notice and corresponding 15-day public comment period started on January 20, 2017 with the "Notice of Early Public Review of a Proposed Activity in 100-Year Floodplain and Wetlands" being published in Newsday newspaper, with the 15-day period expiring on February 6, 2017. The notice targeted local residents, including those in the floodplain. The notice was also sent to the following state and federal agencies on January 20, 2017: Federal Emergency Management Agency (FEMA); USFWS; U.S. Environmental Protection Agency (EPA); NYSDEC; and New York State Office of Emergency Management. The notice was also sent to the Town of Hempstead. (See **Appendixes 1 and 2** of this EO 11990 Wetlands Protection and EO 11988 Floodplain Management Determination for the letter distributed to these agencies and the associated newspaper notice affidavit).

Step 3. Identify and Evaluate Practicable Alternatives to Locating the Proposed Action in a 100-year Floodplain (or 500-year Floodplain if a Critical Action) or Wetland.

The Program is structured to provide eligible businesses with loan or grant assistance for activities necessary to restore storm-damaged businesses, including through damage reimbursements, and support for rehabilitation, reconstruction, elevation, and/ or other mitigation activities. This small business suffered damage during Superstorm Sandy and proposed future mitigation work located in wetlands and floodplain, as such potential alternatives must be considered in order to try and mitigate the amount of damage from future flood events.

One potential alternative is to relocate the business out of the 100-year floodplain; however, the marine-centric tenant businesses located on the Subject Property would be difficult to move to a replacement property outside floodplain due to the functionally dependent natures of the businesses. Additionally, these businesses serves local and regional recreational and tourism demand and is a type of land use that could be a compatible form of floodplain development. As such, relocation is not considered a viable option.

Another alternative would be for no action to occur, meaning the Applicant would not be receiving grant funds to restore and sustain business. This option means there would be a potential inability for the business to survive rebuilding after the storms. Furthermore, the ability for the owner to successfully mitigate any future damages from floods would be impeded due to the lack of financial support; which means the property would be more vulnerable. This could greatly impact this business and the surrounding community, as recovery would be greatly impaired due to lack of support. Accordingly, the 'no action' decision would neither support this business's recovery nor help the community recover from the devastating storms.

Due to the number of developed parcels within this community, prohibition of rehabilitation within floodplain is not practicable. The above identified alternatives will be re-evaluated in response to public comments received.

Step 4. Identify & Evaluate Potential Direct & Indirect Impacts Associated with Occupancy or Modification of 100-year Floodplain and Potential Direct & Indirect Support of Floodplain and Wetland Development that Could Result from Proposed Action.

The focus of floodplain evaluation should be on adverse impacts to lives and property, and on natural and beneficial floodplain values. Natural and beneficial values include consideration of potential for adverse impacts on water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge.

According to the FEMA Report - A Unified National Program for Floodplain Management, two definitions commonly used in evaluating actions in a floodplain are "structural" and "non-structural" activities. Per the report, structural activity is usually intended to mean adjustments that modify the behavior of floodwaters through the use of measures such as public works dams, levees and channel work. Non-structural is usually intended to include all other adjustments (e.g., regulations, insurance, etc.) in the way society acts when occupying or modifying a floodplain. These definitions are used in describing impacts that may arise in association with potential advancement of this case.

Natural moderation of floods

As the applicant's property is one of many developed parcels situated within the 100-year floodplain, the continued occupancy may potentially result in future direct impacts to property during certain severe floods and related natural disasters. However, the direct effects to this property would be no greater than those expected to the other adjacent occupied properties within this floodplain.

Living resources such as flora and fauna

This land use may constitute a type of business where, after flooding, materials used in operations could potentially be released into the environment, thereby having unquantifiable potential to impact water quality maintenance and ecological resources. A potential impact that may arise is that materials used or stored on-site would be caused to be released into the environment, such as a result of wind or floodwaters. However, this would be more likely if there are not non-structural and structural floodproofing techniques in place, such as if materials are not stored in water-tight containers, and/ or said containers break or migrate out of a non-enclosed building due to lack of proper preparation. A qualitative evaluation suggests the potential would be relatively small and if such releases do occur, it is likely as part of a potential area-wide impact. In such an instance, floatable debris could contribute to litter and if there were minor amounts of chemicals used on the Subject Property, floodwaters may induce rapid dilution. Given the nature of this business, the potential for an acute or chronic level of water quality impact from the Subject Property is low.

Impacts to Property & Lives

The action does present potential to impact commercial occupancy of the floodplain, but it does not

impact residential structures or directly cause modification of the 100-year floodplain. The project does not alter the floodplain because it does not in any way directly or physically modify the floodplain elevation through new ground disturbance – it only repairs the existing structure(s) in-kind. Moreover, supporting the recovery of small businesses is an essential component of recovery in storm-affected communities, as recognized by the [March 5, 2013 Federal Register Notice](#).

The Subject Property is a marina facility located in a mixed commercial and residential section of Hempstead, New York. The repairs restored and revitalized the Subject Property's waterfront through repairs and replacement of dock infrastructure for the continued existence of the marina business. According to Nassau County's [Multi-Jurisdictional Hazard Mitigation Plan](#), 2014, 9.46% of the population (page 71) and 20% of the improved property of Oceanside is located in the 100-year floodplain (page 57), and 52% of the land is in High or Moderate Flood Risk (page 109). Considering the context of the area, this action represents an activity at only one parcel among others that are located within the contiguous floodplain. Thus, funding this project/ activity does constitute indirect continued support of floodplain occupancy and development for this business. In the event of severe flooding and associated natural hazards in the future, there is potential for further damage to this property, business disruption, and impacts to this small business.

The rehabilitation of the Subject Property sustains area property values and community character within a district and neighborhood that has been settled for a long time. It enables continued viability of this small business, which might otherwise degrade, or cease to exist, without support in rehabilitating facilities, restarting business operations, and/ or recouping some revenue lost as a result of the disaster. Similarly, the proposed investment supports the area by sustaining an asset. With sustained operations here, the market is not disrupted in that customers and tenants are required to travel greater distances. Support to sustain this business also helps ensure a diverse economic base. If this project were not funded, there probably would be other undefined, undesirable indirect impacts to lives and the area economy, on a short- and long-term basis, such as relating to economic multipliers and support that this business provides to surrounding businesses, as it purchases products and services.

Cultural resources such as archaeological, historic & recreational aspects

Per County Assessment data, the impacted property was constructed in 1980. There are no recorded historic properties listed on or deemed eligible for the State and National Register of Historic Places located on or adjacent to the Subject Property. The historic properties determination applied is that there would be no or limited effect as a result of the funded rehabilitation. Without support, building resources could degrade and there could be loss of development character and identity for the building and the area.

According to the Outdoor Industry Association's two-page fact sheet [New York: The Outdoor Recreation Economy](#), outdoor recreation generates \$33.8 Billion in consumer spending and 305,000 direct jobs within the State. This is an important sector of the regional economy and the subject business is an example of a constituent part of this aspect of the economic base. It is presumed that market demand for the tenant marinas are strong and if the service here were disrupted, consumer demand could not easily shift to other facilities located in the floodplain because of finite supply.

Agricultural, aquacultural, & forestry resources

The Nassau County area has several agricultural sites located in the flood zone, as well as undeveloped woodlands. There is substantial agriculture and fishing industry in Nassau and Suffolk Counties on Long Island, including aquaculture in the form of oyster farming. While there appears to be a higher concentration of aquaculture on Eastern Long Island, per the 2012 State Comptrollers Report [Agriculture in Long Island](#) and [Agricultural Production by Commodity Group in Long Island](#) (2007), aquaculture represents 2.9% of the economy at a \$7.5 million sales revenue. It is possible that if there is a materials release from this property, it could potentially affect natural resources including agricultural and forestry.

However, while it is conceivable that flooding of a business like this could be part of a cumulative influence on such resources, the impact attributable to this use could not have been quantitatively derived, and the potential impact, with planning for and practice of non-structural management practices, is considered minor.

Wetland Evaluation

The purpose of wetland evaluation is to consider factors relevant to a proposal's effect on the survival and quality of the wetland. These factors should include public health (including water supply and water quality), maintenance of natural systems, cost increases attributed to construction in wetland, and other uses of wetland in the public interest.

Public health, safety, and welfare, including water supply, quality, recharge, and discharge; pollution; flood and storm hazards and hazard protection; and sediment and erosion.

The project location is in wetlands that are classified SA marine waters (NYSDEC) and estuarine/ marine deep-water (USFWS). These wetlands are not freshwater wetlands and, therefore, are not directly used for water supply. However, these wetlands along the coast can serve to absorb the force of storm waters and tidal erosion. These areas help protect upland soil and freshwater resources. The scope of work for this project involved in-kind work to replace existing dock pilings with taller pilings. This work is not suspected to pose a threat to public health and safety, or to increase flood and storm hazards. The proposed action does not include reshaping or filling of the wetland, merely replacing the existing dock pilings with newer, taller pilings. These reinforcing actions make this property and surrounding area safer from future damages as the floating docks will not be easily removed from the pilings during storm events. The proposed action does not decrease the area of the wetland, merely restores business infrastructure to pre-storm conditions.

Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna; species and habitat diversity and stability; natural hydrologic function; wetland type; fish; wildlife; timber; and food and fiber resources.

The proposed action does not further affect the natural systems/ wetlands at this preexisting developed marina parcel, which is located in an area that is primarily developed with other marinas, commercial properties, and residential properties. The proposed work is to replace existing dock pilings with taller pilings. The Applicant shall comply with all best management practices and permit conditions that are set forth in the applicable federal, state, and local environmental permits, when and as they are acquired. As the work does not increase the area of the marina and does occur in the footprint of the previously existing basin, it is presumed that there is not new adverse impacts on the existing flora/ fauna, habitat, natural hydrologic function, or natural resources at the location.

Cost increases attributed to wetland-required new construction and mitigation measures to minimize harm to wetlands that may result from such use.

The proposed scope of work does not involve changing the area of the wetland by dredging, diking, filling, or by some other means. Consequently, there are no cost increases attributed to necessary mitigation measures to minimize harm to wetlands that may result from such use.

Other uses of wetland in the public interest, including recreational, scientific, and cultural uses.

This functionally dependent marina offers the public recreational access to waterways in the area. According to the Outdoor Industry Association's two page fact sheet New York The Outdoor Recreation Economy, outdoor recreation generates \$338 Billion in consumer spending and 305,000 direct jobs within the State. This is an important sector of the regional and local economy and the subject business is an example of a constituent part of this aspect of the economic base. It is presumed that market demand for marina services is strong and if the service here were disrupted, consumer demand could not simply shift to other marinas located in wetlands and floodplains because of finite supply.

Step 5. Where Practicable, Design or Modify the Proposed Action to Minimize the Potential Adverse Impacts To and From the 100-Year Floodplain and to Restore and Preserve its Natural and Beneficial Functions and Values.

Given that the rehabilitation proposed to be funded by this program is very limited and does not rise to the level of substantial reconstruction, and considering the individual property scale, it is not financially feasible to specify mitigation measures such as elevating the buildings on the property, dry floodproofing the buildings or in-water infrastructure, or promoting strategic retreat such as through government acquisition. However, it is reasonable to promote business owner awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential events could convey, including through potential for future physical damage to property, buildings, supplies, and equipment.

It is reasonable to promote business owner awareness of actions they can take to define and prepare for the impacts of many hazards they may face. There are free resources available to aid such preparedness planning found at the link: <http://www.ready.gov/business>. Also, the applicant could consider participating in The Clean Marina Initiative, an incentive-based program promoted by the National Oceanic and Atmospheric Administration that offers information about engaging in marina-specific operating and maintenance procedures in order to protect coastal water quality.

Step 6. Reevaluate the Alternatives and Proposed Action.

The action to fund business infrastructure rehabilitation and business continuity at this small business is still practicable in light of exposure to flood hazards in the floodplain, possible adverse impacts on the floodplain, the extent to which it may aggravate current hazards to other floodplains, and the potential to disrupt natural and beneficial functions and values of floodplains. Moreover, the [March 5, 2013 Federal Register Notice](#) strongly recommends that the grantee engage in a robust policy for ensuring small business recovery affected by the storm events, as such recovery is essential to the continued vitality of surrounding communities. Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

Step 7. Issue Findings and Public Explanation.

It is the finding of this report that there is no better alternative than to provide funding for the repairs at this small business. The location within floodplain cannot be avoided due to requirements of a marina and land economics, in terms of the high expected cost of land outside floodplain and the high development costs of relocating the business. However, not funding any actions would mean that this small business would struggle to recover, much less be able to mitigate any future damages. A final notice, formally known as “Combined Public Explanation of a Proposed Activity in a 100-year floodplain & wetland, and Notice of Intent to Request Release of Funds (*NOI-RROF*)” was published in accordance with 24 CFR 55, for a 7-day comment period. (See **Appendix 3** of this EO 11988 Floodplain Management and EO 11990 Wetlands Protection Determination for the letter distributed to the associated agencies and the associated newspaper notice affidavit). The 7-day comment period started with the Final Notice publishing in the Newsday newspaper on February 13, 2017 and the 7-day period expires at 5pm on February 21, 2017.

Step 8. Continuing Responsibility of Responsible Entity & Recipient.

The Governor's Office of Storm Recovery (GOSR), operating under the auspices of the New York State Homes and Community Renewal's (NYSHCR) Housing Trust Fund Corporation, is the responsible entity. The responsible entity will make available educational materials regarding best practices for businesses located in floodplains. It will also require the business to demonstrate proof of current flood insurance. It is acknowledged there is a continuing responsibility by the responsible entity to ensure, to the extent feasible and necessary, compliance with the steps herein.

Appendix 2

**Notice of Early Public Review
Floodplain Management
Executive Order 11988 & Protection of Wetlands
Executive Order 11990**



**EARLY NOTICE OF A PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN AND WETLANDS**

**MESICK CORP. (059-ED-33860-2013)
480 REINA ROAD, HAMLET OF OCEANSIDE, TOWN OF HEMPSTEAD
NASSAU COUNTY, NEW YORK 11572**

JANUARY 20, 2017

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), has received a request to use Community Development Block Grant – Disaster Recovery (CDBG-DR) funding from the NY Rising Small Business Recovery Program for reimbursement of completed construction repairs at Mesick Corp., case #059-ED-33860-2013, (hereinafter, the "Proposed Activity") and is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with U.S. Department of Housing and Urban Renewal (HUD) regulations (24 CFR Part 55). There are three primary purposes for this notice. First, to provide the public an opportunity to express their concerns and share information about the Proposed Activity, including alternative locations outside of the floodplain and wetlands. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains and wetlands facilitates and enhances governmental efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the government determines it will participate in actions taking place in the floodplain and wetlands, it must inform those who may be put at greater or continued risk. Funding for the Proposed Activity will be provided by the HUD CDBG-DR program for storm recovery activities in New York State.

The Proposed Activity is needed to address flooding from Superstorm Sandy, which resulted in a storm surge of up to 30 inches on portions of the project area.

The Proposed Activity involves reimbursement for electrical repairs, dock repairs, and the replacement of 19 dock pilings. Existing pilings were replaced with taller pilings in a deeper part of the marina so that docks would not float off the pilings during potential future storms.

Completed project activities would have resulted in permanent impacts to approximately 0.2 acres of wetlands and approximately 0.2 acres of 100-Year Floodplain. The permanent impacts are associated with piling replacement, electrical repairs, and dock repairs.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the National Wetland Inventory and New York State Department of Environmental Conservation (NYSDEC) data have been prepared and are available for review with additional information at: <http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Lori A. Shirley, Certifying Officer, Governor's Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207; email: NYSCDBG_DR_ER@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information, call (518) 474-0755. All comments received by 5pm on February 6, 2017 will be considered.

Appendix 3

**Notice of Early Public Review Affidavit
Floodplain Management
Executive Order 11988 & Protection of Wetlands
Executive Order 11990**

NEWSDAY AFFIDAVIT OF PUBLICATION

TECTONIC
PO BOX 37
MOUNTAINVILLE, NY 10953

STATE OF NEW YORK)

Legal Notice No. 0021243840

:SS.:

COUNTY OF SUFFOLK)

Jamie Asuncion of Newsday Media Group., Suffolk County, N.Y., being duly sworn, says that such person is, and at the time of publication of the annexed Notice was a duly authorized custodian of records of Newsday Media Group, the publisher of NEWSDAY, a newspaper published in the County of Suffolk, County of Nassau, County of Queens, and elsewhere in the State of New York and other places, and that the Notice of which the annexed is a true copy, was published in the following editions/counties of said newspaper on the following dates:

Friday January 20, 2017 Nassau

SWORN to before me this
26 Day of January, 2017.



CHRISTOPHER LAWSON
Notary Public – State of New York
No. 01LA6348406
Qualified in Suffolk County
My Commission Expires September 26, 2020



Ad Content

Legal Notice # 21243840

**EARLY NOTICE OF A PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN AND WETLANDS
MESICK CORP. (059-ED-33860-2013)
480 REINA ROAD, HAMLET OF OCEANSIDE,
TOWN OF HEMPSTEAD
NASSAU COUNTY, NEW YORK 11572
JANUARY 20, 2017**

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Completed project activities would have resulted in permanent impacts to approximately 0.2 acres of wetlands and approximately 0.2 acres of 100-Year Floodplain. The permanent impacts are associated with piling replacement, electrical repairs, and dock repairs.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the National Wetland Inventory and New York State Department of Environmental Conservation (NYSDEC) data have been prepared and are available for review with additional information at:
<http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Lori A. Shirley, Certifying Officer, Governor's Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207; email: NYS-CDBG_DR_ER@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information, call (518) 474-0755. All comments received by 5pm on February 6, 2017 will be considered.

NEWSDAY PROOF

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Signature of Approval: _____ **Date:** _____

Appendix 4

Final Notice

Floodplain Management

Executive Order 11988 & Protection of Wetlands

Executive Order 11990



COMBINED PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN & WETLAND, AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOI-RROF)

**MESICK CORP. (059-ED-33860-2013)
480 REINA ROAD, HAMLET OF OCEANSIDE, TOWN OF HEMPSTEAD
NASSAU COUNTY, NEW YORK 11572
February 13, 2017**

Name of Responsible Entity and Recipient: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with the New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Lori A. Shirley (518) 474-0755. The Governor's Office of Storm Recovery (GOSR), an office of HCR's HTFC, is responsible for the direct administration of the United States Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) program in New York State.

Pursuant to 24 CFR part 58 and 24 CFR part 55, this combined Final Notice and Public Explanation of a Proposed Activity in a Floodplain and Wetland, and Notice of Intent to Request Release of Funds (NOIRROF) satisfies two separate procedural requirements for project activities proposed to be undertaken by HCR.

Project Description: GOSR proposes to provide HUD CDBG-DR funding to Mesick Corp. (059-ED-33860-2013) for project activities that will be conducted at 480 Reina Road, Hamlet of Oceanside, Town of Hempstead, Nassau County, New York 11572 (the "Proposed Project"). HUD CDBG-DR funding of \$38,280.70 for the purchase of dock replacement materials and electrical work to the utility pole and replacing existing dock piles with taller dock piles.

PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN

This work will be located in 100-year floodplain (SHFA Zone AE) and within Federal wetlands. Approximately 0.2 acres of wetlands and approximately 0.2 acres of 100-Year Floodplain will be disturbed during construction. Since the action will include new construction in wetland and floodplain, Executive Orders 11990 and 11988 require that the project not be supported if there are practicable alternatives to development in floodplain and new construction in wetlands.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains/ wetlands, and those who have an interest in the protection of the natural environment have an opportunity to express their concerns and provide information about these areas. Second, adequate public notice is an important public education tool. The dissemination of information and request for public comment about floodplains/ wetlands can facilitate and enhance federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the federal government determines it will participate in actions taking place in floodplains/ wetlands, it must inform those who may be put at greater or continued risk.

Public Review: Public viewing of the Floodplain Management and Wetland Protection Documents are available online at <http://www.stormrecovery.ny.gov/environmental-docs> and are also available in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755.

REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION

On or about February 22, 2017, the HCR certifying officer will submit a request and certification to HUD for the release of CDBG-DR funds appropriated under Public Law 113-2, as amended and as authorized by related laws and policies for the purpose of implementing the New York CDBG-DR Action Plan.

The Proposed Project is categorically excluded from the National Environmental Policy Act of 1969 (NEPA) by HUD regulations at 24 C.F.R. Part 58. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file and available for review and copying in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: Governor’s Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755. The ERR is also available upon written request by post or email.

Public Review: Public viewing is available in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755.

Further information or a copy of the ERR may be requested by writing to the above address, emailing NYSCDBG_DR_ER@nyshcr.org or by calling (518) 474-0755. This combined notice is being sent to individuals and groups known to be interested in these activities, local news media, appropriate local, state and federal agencies, the regional office of the U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in a newspaper of general circulation in the affected community.

Public Comments on the Proposed Activity within 100-year Floodplain and Wetland, and/ or NOIRROF: Any individual, group or agency may submit written comments on the Project. Comments should be submitted via email, in the proper format, on or before February 21, 2017 at NYSCDBG_DR_ER@nyshcr.org. Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before February 21, 2017: Governor’s Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207. Comments may be received by telephone by contacting Lori A. Shirley at (518) 474-0755. All comments must be received on or before 5:00 PM on February 21, 2017 or they will not be considered. If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

HCR certifies to HUD that Lori A. Shirley, in her capacity as Certifying Officer, consents to accept the jurisdiction of the U.S. federal courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD’s approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows GOSR to use CDBG-DR program funds.

Objection to Release of Funds: HUD will accept objections to its release of funds and GOSR’s certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD or the GOSR Certifying Officer to verify the actual last day of the objection period.

The only permissible grounds for objections claiming a responsible entity’s non-compliance with 24 CFR Part 58 are: (a) Certification was not executed by HCR’s Certifying Officer; (b) the responsible entity has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the responsible entity has committed funds or incurred costs not authorized by 24 CFR Part 58 before release of funds and approval of environmental certification; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to Tennille Smith Parker, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, U.S. Department of Housing & Urban Development, 451 7th Street SW, Washington, DC 20410, Phone: (202) 402-4649.

Lori A. Shirley
Certifying Officer
February 13, 2017