

**COMMUNITY DEVELOPMENT BLOCK GRANT  
DISASTER RECOVERY (CDBG-DR) PROGRAM  
SUBSTANTIAL AMENDMENT NO. 9**

**Approved by HUD June 05, 2015**

**List of Changes to: ACTION PLAN AMENDMENT NO. 8**

**In section Proposed Use of Funds, Infrastructure, Covered Projects Previously  
Outlined in APA 6 (page 68):**

**Summary:**

Action Plan Amendment 9, will address the following items:

- 1) Address edits to Action Plan Amendment 8: Proposed Use of Funds, Infrastructure, Covered Projects Previously Approved in APA 6 as outlined below.
- 2) Provide further clarifying details which are outlined in FR-5696-N-06 for covered projects for Bay Park Wastewater Treatment Facility

**Edits to APA 8: Section: Proposed Use of Funds, Infrastructure, Covered Projects Previously Outlined in APA 6 (p.68)**

APA6, which was approved in May 2014, included details of three Covered Projects: the Bay Park Wastewater Treatment Facility; LIPA's energy system; and the Bridge Scour Project which will address the need to repair and make bridges in impacted communities across the State more resilient. Each of these projects was, at the time of submission of APA 6, considered a covered project because the amount of federal funds provided by FEMA to repair the facilities combined with the non-federal share portion exceeds the \$10 million CDBG-DR and \$50 million or more total project threshold for Covered Projects.

As a result of a federally-approved State-initiated financing method for HMGP, the State's bridge scour may not require CDBG-DR funds at this time. The LIPA covered project was also found to not meet this threshold as funds were only needed to reimburse match costs that were tied to restoring power to the electrical system. Funds were not used for construction. The LIPA and Bay Park projects however, are among the largest single awards in FEMA history. Together these projects total \$2.2 billion. They will not only restore the assets to their pre-storm condition but it will make them more resilient to future events and make Long Island communities more resilient. Both projects are still active and critical to community recovery. The State will be providing CDBG- DR funds to assist with a portion of the required non-federal share match as well as to potentially build stand-alone projects. After further discussion with HUD, the LIPA project is not considered a covered project as outlined in FR-5696-N-06.

The Bay Park project is considered a covered project because the amount of federal funds provided by FEMA to repair the facilities combined with the non-federal share portion exceeds the \$10 million CDBG-DR and \$50 million or more total project threshold for Covered Projects.

The State continues its commitment to address storm-related recovery actions at the Bay Park Wastewater Treatment Facility in Nassau County as mentioned in the covered project section of APA6. With a federal settlement in place to address storm-related damages through the FEMA PA Program, the State's commitment to assist Nassau County is to provide the non-federal share of rebuilding at Bay Park, \$81 million and to provide up to \$20 million for electrical mitigation to prevent future power losses to the system. This will serve to protect communities located near the plant as well as to minimize outflows to bays and natural resources areas. A full description of Bay Park is being included as Action Plan Amendment 9.

Additionally, while GOSR recognizes the funding shortfall in its current CDBG-DR allocation due to other program needs, program staff are actively engaged with other State and federal agencies to help identify potential funds for a future outfall pipe at Bay Park.

The State has also continued to work with Long Island Power Authority to address its continued recovery needs as it is the primary public energy provider to Long Island. GOSR has committed to assist LIPA cover a portion of storm related recovery needs through

assisting with match obligation. From Hurricane Irene, Tropical Storm Lee and Superstorm Sandy, LIPA's total match obligation exceeds \$200 million with over \$1.4 billion in damages to the energy system coming from Superstorm Sandy, which is used by 95% of the Long Island's residents.

## Covered Infrastructure Project Bay Park Wastewater Treatment Plant

**Activity Name:** Bay Park Wastewater Treatment Plant

**Eligible Activity Type:** Public facilities, construction/reconstruction of water/sewer lines or systems, and rehabilitation/reconstruction of a public improvement

**National Objective:** Low- and Moderate- Income or Urgent Need

**Eligible Activity:** 105(a)(2)(4)(8)(9)(16)(17); U.S.C. 5305(a)(2)(4)(8)(9)(16)(17)

**Program Description:** Bay Park is the largest wastewater treatment facility in Nassau County, treating 58 million gallons of wastewater a day and serving more than 550,000 residents representing 40% of the county's population. Superstorm Sandy caused catastrophic damages to the facility. During Superstorm Sandy, engines for the plant's main pumping system were flooded by over nine feet of water destroying the plant's electrical system and comprising other critical components of the plant. The electrical failure resulted in over 200 million gallons of raw sewage being discharged into nearby neighborhoods, waterways and natural resource areas causing a public health crisis and safety hazard for these areas. The level of discharge also had a direct impact on already fragile natural resources surrounding Bay Park Wastewater Treatment Plant.

The impact Superstorm Sandy had on Bay Park caused a strong reaction by Nassau county residents for a rebuilding solution that would not only restore Bay Park to its pre-storm condition, but also ensure that similar discharges would not occur in the future. Residents also expressed the necessity of rebuilding Bay Park in a more resilient manner that would allow for the areas bays, waterways and natural resources to be restored to pre-storm quality and mitigated to prevent the environmental hazards, which Superstorm Sandy caused to the community.

As a public facility, Bay Park was eligible to receive FEMA PA funding. Recognizing the magnitude of damages and need to make this critical infrastructure asset more resilient to future events, the State along with Nassau County worked with FEMA to apply for FEMA's Public Assistance Alternative Procedures Pilot Program. A settlement was reached between FEMA, the State and Nassau County that provided \$810,708,377 to not only repair but make the facility more resilient to future storms. The Settlement provides two distinct components outlined below:

- **Repair and Restoration Phase** totaling \$427,458,239 which includes the repair and restoration of the Bay Park Wastewater Treatment Plant.
- **Resiliency and Mitigation Phase** totaling \$383,250,138 which includes the construction of a berm around the facility that will protect against a 500 year storm, among other 406 mitigation activities.

The Settlement accounts for sea level rise and thus requires the elevation of athletic fields near Bay Park Wastewater Treatment Facility which will allow for better storm water management practices. The repair phase includes hardening and replacing damaged equipment and the electrical systems at the facility. The Settlement requires a 10% cost share and an additional \$20,000,000 for electrical generation of a generator, which includes new backup electrical power generation to be built into the plant during the restoration phase. The Settlement letter, which is attached to this letter, identifies the required local match, as well as a description of CDBG-DR funded generator project.

### TOTAL PROJECT COST

| PROJECT FUNDS - AGENCY        | AMOUNT               | SOURCE AND STATUS        | USE                 |
|-------------------------------|----------------------|--------------------------|---------------------|
| Non-Federal Cost Share - GOSR | \$81,070,838         | CDBG-DR/COMMITTED        | CONSTRUCTION        |
| Electrical Mitigation - GOSR  | \$20,000,000         | CDBG-DR/COMMITTED        | CONSTRUCTION        |
| <b>TOTAL GOSR COMMITMENT</b>  | <b>\$101,070,838</b> | <b>CDBG-DR/COMMITTED</b> |                     |
| Federal Share - FEMA          | \$42,129,162         | FEMA PA/COMMITTED        | DESIGN/CONSTRUCTION |
| <b>TOTAL PROJECT COST</b>     | <b>\$143,200,000</b> |                          |                     |

<sup>1</sup> The original settlement between FEMA, the State and Nassau County provided \$810,383,784 for both repair/restoration and mitigation costs as stated in a January 22, 2014 letter from FEMA to the State and the County. The settlement was adjusted to \$810,708,377 based on changes to the scope of work as recorded in the FEMA Project Worksheet.

**Use of Impact and Unmet Needs Assessment:** As the State assessed unmet needs, Bay Park’s repair was considered a critical need of the community. The Bay Park failure presented an unprecedented natural disaster and public health crisis in the region. Repair of this facility was both an urgent need and consistent with the State’s comprehensive risk analysis. The New York State Hazard Mitigation Plan identifies the threat of coastal flooding to critical facilities and identifies elevation, protective measures for critical facilities, storm water management and wet/dry flood-proofing as recommended mitigation measures for vulnerable facilities like Bay Park. The Climate Risk Report for Suffolk and Nassau County developed by the Resiliency Institute for Storms and Emergencies (RISE) highlighted the specific vulnerability of the Bay Park facility under various flooding scenarios associated with projected sea level rise and extreme weather events.

In addition, FEMA conducted site damage and risk assessment in developing a mitigation/resiliency plan for Bay Park as part of the FEMA Public Assistance Alternative Procedures Pilot Program review process. FEMA’s exhaustive analysis recommended elevating the new Main Substation building to 18.25 feet to guard against water intrusion

during a 500-year flood event among other measures. Researchers at RISE continue to advise the State on evolving plans for Bay Park.

Through the FEMA PA Settlement and GOSR's commitment of CDBG-DR funds, Bay Park's immediate unmet needs from Sandy will have been met. The unprecedented amount of FEMA PA funding for repair and resilience, combined with GOSR providing non-federal share match and CDBG-DR funding for electrical mitigation, ensure that appropriate risk reduction measures will be in place to address vulnerabilities in and around the Bay Park facility. The State has also committed to work to secure additional funds for an ocean outfall pipe to complement the project.

GOSR also worked closely with Nassau County and FEMA to determine how to most efficiently address the recovery needs at the Bay Park Wastewater Treatment Facility while addressing the risks, gaps and vulnerabilities that Sandy caused in the region. In dollar amounts, Bay Park is one of the three most impacted public facilities from Superstorm Sandy. Without federal funding to repair Bay Park, the estimated unmet need to address all the identified impacts would have approached \$1.3 billion, with roughly \$800 million needed for repairs and restoration at the facility and another \$500 million to install an ocean outfall pipe to safeguard and rebuild damaged natural resources that act as natural line of defense for communities. With this project being fully funded and with the added resiliency measures that are scheduled to be part the project, the only unmet need is the ocean outfall pipe. This component is not financially feasible for GOSR to fund due to other program requirements.

Through GOSR's commitment to fund the non-federal share match with CDBG-DR dollars, Nassau County will have a fully rebuilt and resilient Bay Park. The resiliency funds will be used mainly to construct a berm that is approximately 10 feet high that can withstand a 500 year flood event reducing the potential for future environmental impacts to the area. The State also continues to engage in developing strategies to fund the ocean outfall pipe. The plans that are being used in the current Bay Park project account for the eventual incorporation of the outfall pipe into Bay Park.

To ensure that other environmental aspects of the projects were built into the design, GOSR initiated conversations with FEMA, HUD and other federal agencies through the SRIRC to ensure that the FEMA environmental review for Bay Park would be comprehensive by including the electrical mitigation in the review to allow GOSR to accept FEMA's environmental review. The coordinated and "phased" approach being undertaken at Bay Park will address the immediate post storm recovery and resilience needs while also allowing the flexibility so the State and county can continue to work together to develop additional strategies that could repair the region's natural resources that act as natural line of defense to communities that are in close proximity to the Bay Park wastewater treatment facility.

**Transparent and Inclusive Decision Process:** Nassau County was one of the most impacted counties from Superstorm Sandy and Bay Park was one of New York's largest public facilities directly impacted by Superstorm Sandy. Since the storm, Nassau County residents and officials, in addition to federal and State elected officials and agencies, have identified Bay Park Wastewater Treatment Plant as a critical recovery need. GOSR has received public input through public comments on the agency website, at public meetings, in conversations with public officials, through media stories and the committees engaged in the New York Rising Community Reconstruction Program. When the State submitted Action Plan Amendment No. 6, information contained in the attached pre-application and building schedule was not available as the work phases were still in development through the FEMA PA Alternative Procedures Pilot Program Settlement; however, GOSR included Bay Park in its covered project narrative as the State anticipated the additional information would be forthcoming.

The public comments for Action Plan Amendment No.6 again confirmed the citizen views that supporting Bay Park's recovery was vital to the recovery of the State. Residents also stressed the need to add resiliency measures into the Bay Park recovery plan. After FEMA finalized the FEMA PA Settlement, the State continued work with Nassau County to finalize the scope of the project. Once finalized, the project was brought before the Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) for review.

GOSR has developed a web site to track each project in the Non Federal Share Match Program so that citizens can follow all projects. In addition, as work at Bay Park moves forward, GOSR will build a dedicated page within the State's storm recovery website that will address Bay Park's recovery. Once the project goes into pre-construction phase, GOSR will also provide information on employment and procurement opportunities at Bay Park through GOSR'S Local Workforce Opportunities Program, MWBE and Section 3 Forum and Technical Assistance. GOSR will also continue discussions with Nassau County to develop strategies that will ensure that vulnerable populations and low to moderate income persons who are located in close proximity to the plant can take part in Bay Park's recovery and derive economic benefits.

**Long Term Efficacy and Fiscal Sustainability:** To monitor the long term efficacy and fiscal sustainability of the project, GOSR has executed a Subrecipient agreement with Nassau County to ensure that all HUD regulations and requirements including covered project elements will be met throughout the life of the project. GOSR will continue to engage in technical assistance and monitoring of Bay Park through the use of CDBG-DR grant consultants. This will ensure that future work phases including resiliency measures funded by FEMA funding that are critical for long term efficacy such as building the berm are completed. As a county owned facility, Nassau County DPW is required to document long term operations and maintenance plans for Bay Park. The creation of a new berm, elevating athletic fields, installing a generator and hardening assets will address the changing environmental conditions around Bay Park. By providing 100% of the local

match in this phase, GOSR is taking the proper steps to maximize the federal funding which ensures that this project has fiscal sustainability as well as long term efficacy. While it is unlikely that additional covered project requirements would be needed after the Bay Park project is completed, the State and GOSR will continue to work with local governments and identify additional financing using Local, State and or Federal funds for an ocean outfall pipe at Bay Park so that the long term natural ecosystem outside of the scope of this project can be restored.

**Environmentally Sustainable and Innovative Investments:** For Nassau County residents, particularly those located near Bay Park, there is a strong desire to align the reconstruction of the Bay Park Wastewater Treatment Facility to the commitment expressed in the President's Climate Action Plan to "identify and evaluate additional approaches to improve our natural defenses against extreme weather, protect biodiversity, and conserve natural resources in the face of a changing climate". The Bay Park Settlement was at the time the largest FEMA PA Alternative Procedures Pilot Program Settlement in the nation's history. It was pursued by the federal, State and county partners because of the flexibility it provided to add resiliency and mitigation funds to the plants reconstruction which were recognized as a necessary first step to protect impacted natural resources that are in close proximity to the facility. The use of the FEMA Alternative Procedures Pilot Program and Bay Park's designation as a critical infrastructure facility is a prime example of how to employ elements of the President's Climate Action Plan when a natural disaster occurs. If the State and FEMA had not used the Alternative Procedures Pilot Program model, the traditional FEMA PA Program project worksheet (pw) approach would have led to this facility being restored on pw by pw basis with resiliency and mitigation elements being tied to the damaged asset and its pre-storm condition.

By using \$20,000,000 in CDBG-DR funds in combination with \$383,250,138 in FEMA PA funds, resiliency elements are being built into the recovery of Bay Park Waste water Treatment Plant during the repair and restoration phase of the project. The community residents will derive regional benefits through more environmentally sustainable and innovative solutions available through this innovative FEMA funding option. Specifically the \$383,250,138 designated for resiliency and mitigation actions allow for the inclusion of resiliency measures which will protect the facility against impacts from a 500 year storm. This project allows for resiliency measures which will decrease the risk of catastrophic discharges from the plant during reconstruction. In addition, once all restoration activities are conducted, this investment will allow for local natural resources to be restored in a much quicker timeframe than normal recovery. Finally, within the Resiliency and Mitigation phase of the project, FEMA PA dollars will be utilized for construction of a berm and hardening of the internal assets at Bay Park. The resilience and mitigation measures will be designed and rebuilt in a manner that will allow for the facility to better withstand sea level rise and adverse weather events.

**Regional Coordination Working Group:** GOSR will continue to work with the Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) to ensure that this Initiative maximizes the resources available and collaboratively recovers from these storms while preparing with region for future resiliency.

**Monitoring and Compliance:** Suffolk County Water Quality Improvement Initiative will be subject monitoring and be required to comply with all rules and regulations similar to all other GOSR sub-recipients and under the Infrastructure Program Monitoring Plan as outlined the Compliance and Monitoring Policy and Procedure Manual.

**Public Comments:**

GOSR had a public comment period from March 5 through April 30th, 2015. Throughout this time there were no comments for APA 9. During the comment period for both APA 6 and APA 8 in which this project was discussed there were not any comments either.