Appendix K

8-Step Floodplain and Wetland Process
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The Governor’s Office of Storm Recovery (GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), is considering whether to provide Community Development Block Grant – Disaster Recovery (CDBG-DR) funding from the Rebuild by Design Living with the Bay Program to implement the Living with the Bay (LWTB) Stormwater Project (hereinafter, the Proposed Action). Funding for the Proposed Action will be provided to the implementing parties—the Town of Hempstead, the Village of Rockville Centre, and the East Rockaway Union Free School District—by the U.S. Department of Housing and Urban Renewal (HUD) CDBG-DR program for storm recovery activities in New York State. Floodplain and wetland resources have been evaluated pursuant to Executive Order 11988 and Executive Order 11990 and in accordance with (HUD regulations (24 Code of Federal Regulations [CFR] Part 55).

Description of the Proposed Action

The proposed project is located in Nassau County, New York (see Attachment 1). The purpose of the Proposed Action is to address flooding caused by rainfall, improve habitat and water quality, mitigate shoreline erosion, ease public access to the waterfront, increase community connectivity, and educate the public on stormwater and environmental management. The Proposed Action would include the following five components throughout the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead.

1. **Smith Pond Rehabilitation.** Smith Pond is a 22-acre freshwater pond located along the Mill River north of Sunrise Highway, within Morgan Days Park, in the Village of Rockville Centre. The proposed improvements would consist of installation and construction of floodwalls and a floodgate; weir enhancements and access road improvements; installation of a fish ladder; laying of porous pavement in the parking lot near Smith Pond; repairs to the inlet headwall and wing walls; construction of a greenway along existing pathways; removal of invasive upland vegetation; and removal of overgrown aquatic vegetation.

2. **Lister Park Improvements.** South of Smith Pond and just north of East Rockaway High School (ERHS), the Lister Park component would involve improvements at Tighe, Centennial, and Bligh
Fields, including the installation of bioretention basins and parking lot(s) rehabilitation, as well as the installation of a living shoreline along the Mill River adjacent to the aforementioned fields.

3. **East Rockaway High School.** Located along the west bank of the Mill River, between Centre Avenue and Pearl Street, the ERHS component would involve installation of 705 linear feet of bulkhead; construction of green infrastructure and enhancements to the parking lot; installation of an emergency generator; and installation of improved drainage systems.

4. **East, West, and North Boulevards Stormwater Drainage Improvements.** This site is situated in Bay Park, a hamlet in the southwestern portion of the Town of Hempstead, along Grand Canal in the East Boulevard, West Boulevard, and North Boulevard rights-of-ways. This component would improve stormwater management by installing conventional infrastructure, such as catch basins and drainpipes; enhance roadways by laying new pavement; and installing bioretention basins at the end of West Evans and Court West Streets.

5. **Mill River Greenway.** This component would span across multiple communities, including the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead. Because the greenway runs through these communities, it would connect to several waterbodies along the Mill River, including Smith Pond, South Pond, McDonald Pond, and Hempstead Lake. A proposed installed multiuse path would vary in width and, where practical, would typically include 10-foot-wide permeable pavement with water storage and infiltration.

**Step ONE: Determine whether the Action is Located in a 100-year Floodplain (or 500-year floodplain for critical actions) or Wetland.**

**Floodplains:** Based on information contained in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (36059C0210G, 36059C0216G, 36059C0217G, 36059C0218G, and 36059C0219G), most of the proposed project area—or the area that would be affected by the Proposed Action—is within the 100-year floodplain (see **Attachment 2**). Flood zones mapped for each component site are described below.

1. **Smith Pond Rehabilitation.** This component site lies within the 100-year floodplain, Zone A, which means the area is a special flood hazard area and is subject to flooding by the 1 percent annual chance flood. The water surface elevation for this occurrence was not determined. Uplands surrounding the pond area are mapped as Zone X, which designates an area of minimal flood hazard.

2. **Lister Park Improvements.** Most of this component site lies within Zone AE with a base flood elevation (BFE) elevation of 9 feet. Zone AE consists of special flood hazard areas subject to inundation by the 1 percent annual chance flood or 100-year storm event. The eastern portion of Tighe Field is mapped as Zone X, and the southwest portion of Centennial Field is located within the 0.2 percent annual chance flood (or 500-year storm) hazard zone.

3. **East Rockaway High School Improvements.** Most of the component site lies within Zone AE with a BFE of 10 feet. The northern extent of the site lies within Zone AE with a BFE of 11 feet, while the southern extent lies within Zone AE with a BFE of 9 feet. A developed portion in the southwest corner of the site is mapped as Zone X.

4. **East, West, and North Boulevards Stormwater Drainage Improvements.** This component site lies within Zone AE with a BFE elevation of 9 feet. Immediately south of the site, Hewlett Bay is mapped

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1 All BFE measurements are provided in North American Vertical Datum of 1988 (NAVD88).
as Zone VE. VE zones, also known as coastal high hazard areas, are areas subject to high velocity water, including waves; they are defined by the 1 percent annual chance flood limits and wave effects of 3 feet or greater.

5. **Mill River Greenway Component.** Most of the proposed greenway alignment lies within Zone X. The southern portion crosses a 0.2 percent annual chance flood hazard zone, and the southern extent of the alignment lies within Zone AE with a BFE ranging from 9 to 10 feet.

**Wetlands:** Portions of the proposed project area are located within or directly adjacent to wetlands mapped by the U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI) (see Attachment 3), as well as freshwater and tidal wetlands mapped by New York State Department of Environmental Conservation (NYSDEC) (see Attachment 4). NWI and NYSDEC wetlands mapped within or adjacent to each component site are described below.

1. **Smith Pond Rehabilitation.** NWI maps Smith Pond as lacustrine, limnetic, unconsolidated bottom, permanently flooded, diked/impounded (L1UBHh). Portions of the Mill River within this site at the inlets and outlet of Smith Pond are classified by NWI as riverine, lower perennial, unconsolidated bottom, permanently flooded (R2UBH). NWI also maps a freshwater pond classified as palustrine, unconsolidated bottom, permanently flooded, excavated (PUBHx) in the northeast corner of the site. NYSDEC maps Smith Pond as a freshwater wetland (L-3). The placement of fill and other construction activities affecting wetland and open waters require an Article 24 Freshwater Wetlands Permit, Article 15 Protection of Waters Permit, and Section 401 Water Quality Certificate from NYSDEC and a Section 404 Nationwide Permit from the U.S. Army Corps of Engineers (USACE). The Village of Rockville Centre submitted a Joint Permit Application to USACE and NYSDEC for review and issuance of permits for this component. Construction of this component would also require a Floodplain Development Permit from the Village of Rockville Centre that implements FEMA floodplain regulations. Under FEMA requirements, cumulative development within the floodplain cannot raise the flood level more than 1 foot from base (100-year) flood conditions.

2. **Lister Park Improvements.** NWI maps the Mill River, within the confines of this site as estuarine, subtidal, unconsolidated bottom with a subtidal water regime (E1UBL). Two palustrine, scrub-shrub, broad-leaved deciduous (PSS) wetlands with a seasonally flooded water regime are mapped contiguous to the eastern and western sides of the river in the central portion of the site. A riverine, lower perennial, unconsolidated bottom with a permanently flooded water regime (R2UBH) wetland is mapped in the northern portion of the site, and a small segment of riverine, unknown perennial, unconsolidated bottom with a permanently flooded water regime (R5UBH) wetland is mapped contiguous to the western edge of the mapped estuarine wetland at the South Park Avenue bridge. NYSDEC maps the extent of the Mill River within the site as littoral zone, with a small freshwater marsh mapped along the shoreline at the southern extent. Implementation of this component would require an Article 25 Tidal Wetlands Permit, Article 15 Protection of Waters Permit, and Section 401 Water Quality Certificate from NYSDEC, and a Section 404 Individual Permit or Nationwide Permit 13 from USACE. The Village of Rockville Centre submitted a Joint Permit Application to USACE and NYSDEC for review and issuance of permits for this component. Construction of this component would also require a Floodplain Development Permit from the Village of Rockville Centre that implements FEMA floodplain regulations. As noted above, under FEMA requirements, cumulative development within the floodplain cannot raise the flood level more than 1 foot from base (100-year) flood conditions.

3. **East Rockaway High School Improvements.** No mapped wetlands occur in this component site. NWI maps the Mill River adjacent to the site as E1UBL, and NYSDEC maps it as littoral zone. An NYSDEC Article 25 Tidal Wetlands Permit is required for impacts to the tidal wetland adjacent area. The East
Rockaway Union Free School District submitted a Joint Permit Application to NYSDEC for review and issuance of a permit for this component. A floodplain development permit is also required from the Village of East Rockaway for construction of the bulkhead in the special flood hazard area. The Village of East Rockaway Floodplain Development Permit implements FEMA Floodplain Regulations. Under FEMA requirements, cumulative development within the floodplain cannot raise the flood level more than 1 foot from base (100-year) flood conditions.

4. **East, West, and North Boulevards – Stormwater Drainage Improvements.** No mapped wetlands occur in this component site. NWI maps the canal adjacent to the site as E1UBL, and NYSDEC maps it as littoral zone. Implementation of this component would not affect regulated waters, wetlands, or adjacent areas.

5. **Mill River Greenway Component.** There are no mapped wetlands in the proposed greenway alignment. The northern portion of the alignment is adjacent to NWI-mapped riverine, intermittent, streambed, seasonally flooded (R4SBC) wetland. The middle northern portion of the alignment is adjacent to NYSDEC-mapped freshwater wetlands; NWI maps these wetlands as PUBHx, L1UBHh, R2UBH, and palustrine, emergent, persistent (PEM1C) wetlands. The southern extent of the southern portion of the alignment is adjacent to wetlands classified by NWI as E1UBL and by NYSDEC as littoral zone. Implementation of this component would not affect regulated waters, wetlands, or adjacent areas.

**Step TWO: Initiate Public Notice for Early Review of Proposal.**

Because components of the Proposed Action would occur in or adjacent to wetland areas and within the 100-year floodplain, GOSR published an early public notice in four local newspapers, affording the public an opportunity to provide input into the decision to provide funding for the Proposed Action. An “Early Notice of a Proposed Activity in a 100-Year Floodplain and Wetlands” was published in Noticia (a weekly Spanish newspaper), Newsday (a daily English newspaper), and Sing Tau (a daily Chinese newspaper) on May 21, 2020, and in Russian Reklama (a weekly Russian newspaper) on May 22, 2020. The 30-day comment period associated with this notice started on **May 22, 2020**, and expired on **June 22, 2020**. The notice targeted local residents and property owners, including those in the floodplain. (See **Attachment 5** for the public notice and affidavits of publication.)

In addition to its publication in multi-language, local newspapers, the public notice was sent to the following federal, state, and local agencies on May 21, 2020: HUD; the U.S. Environmental Protection Agency (USEPA); USACE; FEMA; the U.S. Fish and Wildlife Service (USFWS); National Oceanic and Atmospheric Administration (NOAA) Fisheries Service; NYSDEC; NYS Office of Parks, Recreation and Historic Preservation; NYS Division of Homeland Security and Emergency Services; Nassau County Departments of Planning, Public Works and the County Clerk and Executive; and the Town of Hempstead, Village of Rockville Centre, and the Village of East Rockaway (see **Attachment 5** for the affidavit of mailing).

GOSR received one public comment in response to this notice (see **Attachment 6**).

**Step THREE: Identify and Evaluate Practicable Alternatives to Locating the Proposed Action in a 100-year Floodplain or Wetland (or the 500-year floodplain for a Critical Action).**

In 2017, GOSR issued a Summary Report for Resiliency Strategy for the LWTB program, whereby projects, including the five components that compose the Proposed Action, were identified, screened, and evaluated against the purpose and need of the program. Therefore, the Proposed Action is part of a process that has undergone significant technical review, analysis, and public comment periods. GOSR has
determined the best practicable alternative is the Proposed Action. The following alternative actions were considered.

No Action Alternative

Under the No Action Alternative, existing conditions would not change, and impacts from stormwater in the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead would continue to occur. The water quality, resiliency, and long-term ecological benefits associated with the Proposed Action would not be realized under the No Action Alternative. Additional considerations of the No Action Alternative for the specific components are listed below.

1. **Smith Pond Rehabilitation.** No flood control or stormwater improvements would occur in Morgan Days Park and the surrounding community. The existing weir would continue to prevent migration of anadromous fish into Smith Pond. Existing invasive vegetation would continue to expand cover within the site, reducing native plant diversity and restricting pedestrian access to portions of the park.

2. **Lister Park Improvements.** Erosion along the banks of the Mill River would not be addressed. Flooding of the park and parking lots would continue to occur during heavy rainfall events and tidal backup. Pedestrian access to the waterfront would remain impeded by the presence of thick vegetation.

3. **East Rockaway High School Improvements.** The site would continue to experience flooding. The athletic field and faculty parking lot would remain unusable during heavy rain events due to flooding. The shoreline would continue to experience erosion from high river velocities and tidal surge. Continued erosion could threaten the use of the athletic field for school activities.

4. **East, West, and North Boulevards – Stormwater Drainage Improvements.** Storm surge and flood events would continue to affect the cross streets of the boulevards and Hewlett Point Avenue. The undersized stormwater system would remain in place, unable to handle the quantity of water that is directed to the system during tidal and storm events.

5. **Mill River Greenway Component.** The greenway would remain disconnected throughout the communities of Nassau County. Public areas along Mill River would remain underused and/or unreachable. Sidewalks within the greenway that are deteriorated, heaved, or covered in overhanging vegetation would remain safety hazards.

Build Alternative

The Build Alternative would increase community resiliency, improve public waterfront access, enhance plant and animal habitat, and provide educational opportunities. Additional considerations of the Build Alternative for specific components are listed below.

1. **Smith Pond Rehabilitation.** The floodwalls and floodgates would function to keep the 25-year and 100-year flood elevation of the pond within the park property. The area of unvegetated, open water would increase relative to baseline conditions from the removal of rooted aquatic vegetation. Expansion of open water habitat by the observation platform would enhance public use of the pond. Removal of accumulated debris and de-snagging of woody material at the inlet to pond would improve aesthetics and access for upstream migration by anadromous and catadromous finfish into the channel of Mill River. The installation of a fish ladder would provide a route for migrating fish to swim upstream and downstream of the Smith Pond weir. Invasive plant species would be removed, and the area replanted with native species. The Build Alternative would have ecological benefits in Morgan Days Park and improve resiliency in the watershed.
2. **Lister Park Improvements.** The site’s drainage capabilities would be enhanced. Construction of bioretention basins would improve stormwater quality and retention. Construction of a living shoreline would address erosion issues along the east and west banks of the Mill River that experience high river velocities and storm surge tides. Bicycle and pedestrian access to the waterfront would be improved.

3. **East Rockaway High School Improvements.** The school’s vulnerability to flooding would be reduced by installing green infrastructure, backflow preventers, and bulkheading along the eastern side of the athletic field. An emergency generator would be installed to provide power to the school building during power outages.

4. **East, West, and North Boulevards – Stormwater Drainage Improvements.** Installing porous pavement, replacing catchment basins, and installing backflow preventers would reduce stormwater and tidal inundation impacts. The bioretention basins are expected to improve the quality of stormwater runoff. The Build Alternative would improve water quality and public safety and access in the Bay Park area during tidal and storm surges.

5. **Mill River Greenway Component.** The Build Alternative would create a continuous greenway from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay. Public access to the Mill River would be improved, reconnecting communities with the natural environment and providing public recreational and education opportunities. Expanding accessibility to and along the river, improving surrounding sidewalks and crosswalks, and installing wayfinding and signs for historical sites would improve public safety.

**Step FOUR: Identify the Potential Direct and Indirect Impacts Associated with the Occupancy or Modification of the Wetland or Floodplain (or 500-Year Floodplain for a Critical Action).**

The Proposed Action would result in minor temporary and permanent impacts to regulated areas because of the proximity of the component sites within and adjacent to wetlands and floodplains. These unavoidable impacts are necessary to achieve the project purpose and need. Specific impacts that would result from implementation of each component are described below.

1. **Smith Pond Rehabilitation.** Implementation of this component would result in 5.878 acres of temporary impacts and 0.009 acre of permanent impacts on regulated wetlands and waters. Permanent wetland impacts would be limited to the placement of 25.4 cubic yards of fill in 0.009 acre of forested wetland for construction of the fish ladder. Temporary impacts would consist of disturbance to 5.729 acres of open water during the mechanical removal of aquatic plants from Smith Pond; disturbance to 0.003 acre of forested wetland and 0.001 acre of open water for construction access to Smith Pond; disturbance to 0.009 acre of forested wetland during overlook improvements; disturbance to 0.128 acre of open water during structural enhancements of the existing weir and resurfacing the receiving pad below the weir; and disturbance to 0.008 acre of forested wetland during construction access for the repair of the weir and bulkheads. There would be 0.377 acre of permanent impact and 0.075 acre of temporary impact on the NYSDEC-regulated adjacent area for the construction of the maintenance access road for the weir, the fish ladder installation, construction of portions of the greenway path, and the removal of invasive plants and planting of native plants.

Construction of the floodwall would result in a permanent impact on approximately 0.013 acre of the floodplain. Detailed hydrologic and hydraulic evaluations conducted to determine recommended flood mitigation improvements at Smith Pond showed that changes in flooding as a result of project implementation are not expected to be more than 0.03 feet and would be completely contained within the limits of Morgan Days Park. The modeling concluded no adverse impact.
2. **Lister Park Improvements.** Implementation of this component would result in 0.361 acre of permanent impact and 0.509 acre of temporary impact on regulated wetlands and water. Installation of the living shoreline and replacement of the overlooks at Lister Park would result in 0.141 acre of temporary impacts on open water during installation of the coir logs and turbidity barriers. Converting the open water to intertidal wetland (living shoreline) would permanently impact 0.310 acre of open waters. Installation of the living shoreline, which would include wetland enhancement (native plantings), would also result in 0.369 acre of temporary impacts on tidal wetlands. There would be 0.051 acre of permanently impacted intertidal wetland from placement of rock sills and lining for the living shoreline. Approximately 0.529 acre of adjacent area would be permanently impacted. Overall, proposed activities would result in a net increase of 0.310 acre of wetland habitat.

An elevated berm would be constructed along the west side of Bligh Field between South Park Avenue and Mill River Avenue to provide flood protection to homes located on Riverside Road. The top of the berm would be at elevation 9 feet NAVD 88 (approximately 2- to 3-feet high), which is the BFE in the area. This would result affect 0.120 acre of the floodplain. Additionally, a knee wall would be constructed along the west side of Bligh Field parking lot to provide flood protection to homes located on Riverside Road. Installation of the knee wall would affect 0.032 acre of the floodplain.

Hydraulic model simulations of the 100-year flood under both pre- and post-construction conditions were conducted to evaluate the potential changes in BFEs resulting from the implementation of the Lister Park and ERHS components. A two-dimensional numerical model of the Mill River floodplain (including eastern and western shores) was used to simulate flood conditions under the FEMA base flood condition that has a mean recurrence interval of 100 years before and after the implementation of the proposed improvements. The hydraulic model study demonstrated that construction of projects would have very small and localized effects on the flood water elevations in the project area. Comparison of the pre- and post-water surface profile showed no discernable changes in flood levels. Detailed examination of water surface elevations in the vicinity of the proposed improvements showed very small changes in flood levels. Water surface elevation in the vicinity of the flood protection berm and knee wall showed a maximum change of 0.05 foot. The flood protection berm and knee wall at Lister Park would reduce the flood risk to approximately 16 homes.

3. **East Rockaway High School Improvements.** Implementation of this component would result in the permanent impact on 0.009 acre of NYSDEC-regulated wetland-adjacent area and floodplain from the installation of new bulkhead. As discussed above for the Lister Park component, hydraulic model simulations of the 100-year flood in the Mill River floodplain under both pre- and post-construction conditions demonstrated that construction of the bulkhead at ERHS, along with the berm and knee wall at Lister Park and the raising of the ERHS athletic field by 2 feet as proposed by the East Rockaway School District, would have small and localized effects on the flood water elevations in the project area. Comparison of the pre- and post-water surface profile showed no discernable changes in flood levels. Detailed examination of water surface elevations in the vicinity of the proposed improvements showed small changes in flood levels. Water surface elevation changes in the vicinity of the ERHS athletic field showed a maximum change of 0.05 foot.

4. **East, West, and North Boulevards – Stormwater Drainage Improvements.** Implementation of this component would not affect regulated waters, wetlands, or adjacent areas. No permanent impact on the floodplain would occur as a result of implementation of this component.

5. **Mill River Greenway Component.** Implementation of this component would not affect regulated waters, wetlands, or adjacent areas. No permanent impact on the floodplain would occur as a result of implementation of this component.
Step FIVE: Where Practicable, Design or Modify the Proposed Action to Minimize the Potential Adverse Impacts within the Wetland or Floodplain (including the 500-Year floodplain for a Critical Action) and to Restore and Preserve its Natural and Beneficial Values.

The Proposed Action has been designed to minimize impacts on wetlands and floodplains to the extent feasible, including the following design considerations for each component.

1. **Smith Pond Rehabilitation.** Temporary impacts on open waters associated with removing dense aquatic vegetation from portions of Smith Pond and construction access for the repair of the weir and bulkheads were reduced from 14.8 acres to 5.7 acres to minimize disturbance to aquatic habitat and potential turbidity in the pond.

2. **Lister Park Improvements.** Potential adverse impacts related to providing bank stabilization and erosion control would be minimized by using living shoreline techniques. Implementation of the living shoreline project is inherently designed to enhance habitat quality and diversity of the wetlands and adjacent area. The proposed alignment of the greenway within Lister Park would use developed and disturbed areas to the extent practicable to minimize impacts. The width of the greenway would be the minimum required to comply with all applicable standards, and fencing would be provided for safety reasons. The alignment would also avoid the existing athletic fields, which are an important component of the community.

3. **East Rockaway High School Improvements.** Potential adverse impacts related to installation of the sheet pile bulkhead were minimized by constructing the bulkhead above mean high water.

4. **East, West, and North Boulevards – Stormwater Drainage Improvements.** Construction would occur within existing street rights-of-way that have been previously developed and disturbed.

5. **Mill River Greenway Component.** Construction would occur within the existing greenway and along street rights-of-way that have been previously developed and disturbed.

The Proposed Action requires coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity, including the preparation of a Stormwater Pollution Prevention Plan to incorporate appropriate best management practices during construction activities. Temporarily disturbed areas would be restored immediately following construction. Adherence to best management practices during construction would serve to avoid or minimize potential temporary impacts on wetlands and floodplains. Turbidity barriers would be used during in-water work, and silt fencing would be installed prior to work in uplands to prevent sediment and debris from discharging off-site in stormwater runoff. Inlet filters would be installed in existing catch basins to prevent construction sediment and debris from entering the existing stormwater system and discharging into waterbodies during construction.

All applicable permits would be acquired before construction commences. The funding recipient would be bound by any permit stipulations or mitigation measures listed in the permits acquired for the Proposed Action. GOSR has determined that the Proposed Action’s public benefits to human health, safety, and welfare would outweigh the potential adverse effects of the risk to the proposed federal investment into an action located in wetlands and the floodplain. No long-term, adverse effects on wetlands or floodplains are anticipated.
Step SIX: Reevaluate the Alternatives and Proposed Action.

There is no practicable alternative to the Proposed Action. Because of the location and nature of the Proposed Action, all alternatives would occur within the 100-year floodplain and/or within or adjacent to wetlands.

The water quality, resiliency, and long-term ecological benefits associated with the Proposed Action would not be realized under the No Action Alternative. Therefore, the No Action Alternative would not meet the purpose and need for the Proposed Action, and as such, it is not a feasible alternative.

With implementation of identified mitigation measures and adherence to regulatory requirements and permit conditions, the Proposed Action would not have a significant impact on the quality of the human environment or result in other direct, indirect, or cumulative impacts. The Proposed Action would comply with all relevant regulations listed in 24 CFR Part 58.

GOSR has reevaluated the Proposed Action and determined that there is no practicable alternative that would have less adverse impact on the environment and would meet project’s resiliency objectives.

Step SEVEN: Issue Findings and Public Explanation.

It is GOSR’s determination that there is no better alternative than providing funding for this stormwater project. The Proposed Action is the preferred alternative. The Proposed Action would benefit Smith Pond, Mill River, Hewlett Harbor, and the surrounding communities. Actions such as the creation of bioretention basins, construction of bulkheads, installation of porous pavement and drainage systems, and repair of backflow preventers would build community resiliency by mitigating local risks from flooding, while incorporating environmental benefits such as water quality improvements, ecological restoration, erosion control, and recreational opportunities. The Proposed Action would protect the local communities from storm surges, improve coastal habitat, ease public access to recreational areas, and educate the public on stormwater and environmental management.

After completion of a National Environmental Policy Act (NEPA) environmental assessment, a final notice will be published in accordance with 24 CFR Part 55, for a 15-day comment period. The notice will target local residents, including those in the floodplain. The notice will describe the reasons why the Proposed Action must be located in the floodplain and wetlands, alternatives considered, and all mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain values. This notice will also be distributed to the federal, state, and local agencies identified in Step TWO above.

Step EIGHT: Implement the Action with Appropriate Mitigation.

Step eight is implementation of the Proposed Action. GOSR will ensure that all mitigation measures prescribed in the steps above will be followed. Also, prior to implementation of the Proposed Action, GOSR will conduct a NEPA review in accordance with 24 CFR Part 58.
ATTACHMENTS

Attachment 1—Site Location Maps
Attachment 2—FEMA Floodplain Map
Attachment 3—NYSDEC Wetlands Map
Attachment 4—NWI Wetlands Map
Attachment 5—Affidavit of Publication and Affidavit of Mailing (Early Public Notice)
Attachment 6—Public Comment on Early Public Notice
Attachment 7—Final Public Notice and Affidavit of Mailing [To be issued upon completion of the NEPA environmental assessment]
Attachment 1—Site Location Maps
Attachment 2—FEMA Flood Map
Attachment 3—NYSDEC Wetlands Map
Attachment 4—NWI Wetlands Map
Attachment 5—Affidavit of Publication and Affidavit of Mailing
(Early Public Notice)
EARLY NOTICE OF A PROPOSED ACTIVITY IN A 100-YEAR
FLOODPLAIN AND WETLAND

LIVING WITH THE BAY STORMWATER PROJECT
NASSAU COUNTY, NEW YORK

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), is considering whether to provide Community Development Block Grant – Disaster Recovery (CDBG-DR) funding from the Rebuild by Design Living with the Bay Program to implement the Living with the Bay Stormwater Project (hereinafter, the “Proposed Action”).

GOSR 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 Action. Second, adequate public notice is an important public education tool; the dissemination of information about floodplains 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 floodplains, it must inform those who may be put at greater or continued risk. Funding for the Proposed Action will be provided by the HUD CDBG-DR program for storm recovery activities in New York State.

The Proposed Action would include the following components throughout the Villages of Rockville Centre and East Rockaway, and the Town of Hempstead: (1) Smith Pond Rehabilitation; (2) Lister Park Improvements; (3) East Rockaway High School; (4) East, West, and North Boulevards Stormwater Drainage Improvements; and (5) Mill River Greenway. The Proposed Action would address flooding caused by rainfall, improve habitat and water quality, mitigate shoreline erosion, ease public access to the waterfront, increase community connectivity, and educate the public on stormwater and environmental management throughout the communities in Nassau County, New York.

The Proposed Action could result in approximately 46 acres of temporary impacts to the 100-Year Floodplain, and approximately 15 acres of temporary impacts to National Wetland Inventory (NWI) and/or New York State Department of Conservation (NYSDEC) mapped wetlands. Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the NWI and DEC 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 Action or request further information by contacting Matt Accardi, Certifying Environmental Officer, Governor’s Office of Storm Recovery, 25 Beaver Street, 5th Floor, NY, 10004; email: NYSCTBG_DR_FR@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information call (212) 480-6265. All comments received by June 22, 2020 will be considered.

Attachments: Attachment 1 – Regional Location of Project Attachment 2 – Project Locations Attachment 3 – Flood Hazards and Wetlands
Attachment 1 – Regional Location of Project
Attachment 2 – Project Locations
Attachment 3 – Flood Hazards and Wetlands
WSP
96 Morton Street, 8th Fl,
New York, NY 10014
Attn: Rachel Van Metre

Re: AFFIDAVIT OF PUBLICATION

I, Su San Chan, am authorized by the publisher of Sing Tao Daily as agent to make this affidavit of publication. Under oath, I state that the following is true and correct.

The GOSR Public Notice ad was published in Sing Tao Daily Tri-State Edition.

DATE OF PUBLICATION: May 21, 2020

SPEC OF AD: I/4 page, Black and White, Run-of-Page.

Authorized Signature:

_ su san chan _

Su San Chan
Assistant to General Manager

Phone: (212) 699-3800 x 163
Mobile: (917) 555-1212
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Email: ar@nysingtao.com
May 26, 2020

TO WHOM IT MAY CONCERN

Please be informed that the attached advertisement “Заблаговременное уведомление о предлагаемых мероприятиях в рамках 100-летнего проекта для пойм...” (translated from English to Russian) had been published in the Russian newspaper “Russkaya Reklama”) in the following issue and on the following date:

# 21 (1414) dated May 22-28 – page A-15

If you have any questions, please do not hesitate to call 718-769-3000.

Sincerely,

Pavel Shmukler
President

YULIYA GUREVICH
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01GU6196140
Qualified in Kings County
Commission expires January 12, 2021

May 26, 2020
Noticia Nassau
38-15 Bell Blvd
Bayside, NY, 11361
Phone: 7182245863 Fax: 7182245441

Affidavit of Publication

To: WSP USA
1800 JFK Blvd., Suite 510
Philadelphia, PA 19103
Re: Legal Notice 655918
   State of NY }
   SS: }
   County of Nassau }

I, Silvana Diaz, being duly sworn, depose and say: that I am the Authorized Designee of Noticia, a Weekly newspaper of general circulation in Long Island, Counties of Nassau and Suffolk, State of NY; that a notice, of which the annexed is a printed copy, has been duly and regularly published in the Noticia Nassau edition once each week for 1 consecutive weeks; and that the date of the publication were as follows: 05/21/2020.

By: ______________________
   Silvana Diaz
Sworn to me on this 25th day of August 2020

__________________________
Maria A. Valencia
Notary Public, State of NY
No. 01AV6139508
Qualified in Nassau County
My commission expires on January 9, 2022
NEWSDAY
AFFIDAVIT OF PUBLICATION

WSP USA
96 MORTON STREET 8TH FLOOR
NEW YORK, NY 10014

STATE OF NEW YORK) Legal Notice No. 0021584080
:
:
COUNTY OF SUFFOLK) Darryl Murphy 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/counts of said newspaper on the following dates:

Thursday May 21, 2020 Nassau

SWORN to before me this 21 Day of May, 2020.

____________________________________
[Signature]

Jason A. Neknez
Notary Public – State of New York
No. 01NE5219108
Qualified in Suffolk County
My Commission Expires 03/22/2022
Proof of Mailing

Document: Living with the Bay Stormwater Project
Nassau County, New York

Date of Mailing: May 27, 2020

I, Cynthia Wallace, Administrative Assistant at WSP, mailed a true and correct copy of the Living with the Bay Stormwater Project “EARLY NOTICE OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN AND WETLAND,” dated May 22, 2020, by the United Postal Service and sent via Next Day Air to TENNILLE SMITH PARKER, DIRECTOR, at:

US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
DISASTER RECOVERY AND SPECIAL ISSUES DIVISION
451 7TH STREET SW, ROOM 7272
WASHINGTON, DC 20410-0001

(Signature)
Attachment 6—Public Comment on Early Public Notice
I represent the Concerned Citizens of the Mill River Floodplain. We are an unincorporated group of taxpayers in Oceanside, Rockville Centre and East Rockaway who live in the Mill River floodplain and have been negatively affected by Hurricane (Superstorm) Sandy flooding.

Linda Marshall
7 River Road
Oceanside, NY
516-678-8930

Living with the Bay
This grant’s purpose was to improve the resilience of the entire Mill River floodplain and it appears to be doing anything but that. We object to the substantial changes to the Living with the Bay Project (LWTB) proposed in APA 26 and to the sidelining of the Citizens Advisory Committee (CAC) in the planning process: the CAC was neither informed nor consulted about the deletion or addition of projects. During this process we have on numerous occasions brought to your attention the lack of focus on the entire Mill River Floodplain. When the $36M was removed from the initial project under the guise of helping to mitigate the flooding, it has been downhill since then. Any additions to the state park should come out of the state’s budget and not money specifically designated for flood prevention.

APA 26 eliminates resiliency projects for Malvern, Lynbrook, and Hempstead, and adds Long Beach Wastewater Consolidation (LBWC) to benefit Harbor Isle, Island Park, and Long Beach, communities that lie outside the Mill River watershed. APA 26 then admits to the irresponsibility and inefficacy of these changes:

“Inland communities in the area regularly experience flooding due to heavy rainfall [such as during Hurricane Irene and other more frequent storm events] exceeding the carrying capacity of the existing storm water infrastructure. Frequent flooding has been identified by the Town of Hempstead, Village of Malvern, the Hempstead Public Housing Authority, and other locations within the project area.”

Further, the Hempstead Lake State Park (HLSP) Project, which is supposed to benefit the communities in the northern reaches of the Mill River watershed, has $0 resiliency benefits according to the May 2020 Benefit Cost Analysis prepared by Louis Berger. It is telling that under National Objective, APA 26 crosses out Low- and Moderate- income.

APA 26 states that the total cost of LWTB has increased to $189,226,000. Funding has not been secured to make up the shortfall from the $125,000,000 grant: APA 26 refers to “possible” and “potential” sources and is “considering” or applying for other grants, which may or may not be available with COVID-19 budget cuts. This makes the funding of LBWC even more irresponsible, especially when LBWC has its own sources of funding.

As a CAC member, and a representative of the Concerned Citizens of the Mill River Floodplain, I have asked on numerous occasions for specific plans regarding the southern portion of the river and each time I have been met with resistance. Suggestions were made to the committee that the ERHS and RVC athletic fields be made flood resistant by using new and forward thinking technologies that retain floodwater and remove the negative impact of development by mimicking the pre-development hydrology of the site. Building a bulkhead, that will raise the field two feet higher, on the ERHS athletic
field site is decades old technology and will merely redirect the water flow to the east side of the river. Also, the Tetra Tech modeling does not consider:

A. A simultaneous tidal surge and rain event. In Sandy we have little to no rain and a 17 foot tidal surge. If that was combined with massive rain the flooding would be catastrophic.
B. Their model did not prove that it’s capable of reproducing the flooding from Sandy. According to their model, the east side of the river never flooded. Please tell that to our insurance companies and FEMA whose compensation was nowhere near our losses. In actuality, the river went 300 feet over its banks and flooded multiple homes.
C. Their model does not account for the shape of the river and by putting a bulkhead at ERHS they will be protecting their field at the cost of the neighborhoods on the east side of the river.
D. Also, the Tetra Tech model does not consider the fields being raised two feet.

As well, there is $750K dedicated to installing a generator in the ERHS. This expenditure has nothing to do with the flooding and, if it is necessary, this cost should come out of FEMA dollars.

Smith Pond:

Slow streams which advanced the award winning concept of making room for the river has been ignored and instead the proposed activities will result in increasing the confinement of the Mill River. Flood wall construction is proposed for Smith Pond; originally dredging was proposed and then eliminated. When you confine an already overflowing river you will funnel flood flows to the tidal portion of the river and cause more severe flooding downstream. Again no consideration for the entire Mill River Flood plain.

Finally, GOSR’s failure to take seriously the hazard posed by the deficient dam at Hempstead Lake is despicable. This has been exposed during the environmental review. The 147-year-old dam lacks an auxiliary emergency spillway to prevent overtopping and breaching of the dam during an extreme precipitation event. After 30 years of dam inspections alerting state parks to the dam’s inadequacies, funding is finally available through the LWTO program. By not acting, HUD and GOSR are liable for the consequences of the dam’s failure. This threat was realized by a similarly deficient dam in Edenville, Michigan when that dam collapsed on May 20, 2020 from overtopping. The fact that there are no plans to deal with this impending catastrophic event is mind-boggling and again a dereliction of duty since the purpose of this money was to prevent future flooding.
Attachment 7—Final Public Notice and Affidavit of Mailing [To be issued upon completion of the NEPA environmental assessment]
COMBINED NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS, AND FINAL NOTICE AND PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN AND WETLAND

LIVING WITH THE BAY STORMWATER PROJECT
NASSAU COUNTY, NEW YORK
September 4, 2020

This provides notice that the State of New York, as the “Responsible Entity,” as that term is defined by 24 CFR 58.2(a)(7)(i), has completed and made available for public review and comment an Environmental Assessment (EA) that evaluates the proposed Living with the Bay Stormwater Project. The State of New York is the Grantee of Community Development Disaster Recovery (CDBG-DR) funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, approved January 29, 2013) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacts and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (Stafford Act) in calendar years 2011, 2012, and 2013. The Governor’s Office of Storm Recovery (GOSR) implements the State’s obligations under the National Environmental Policy Act (NEPA) through duly authorized Certifying Officers. GOSR was formed under the auspices of the New York State Homes and Community Renewal’s Housing Trust Fund Corporation (HTFC), a public benefit corporation and subsidiary of the New York State Housing Finance Agency, 99 Washington Avenue, Suite 1224, Albany, New York 12260.

Certifying Officer: Matt Accardi, Associate General Counsel, New York State Governor’s Office of Storm Recovery, 25 Beaver Street, Fifth Floor, New York, New York 10004.

Pursuant to 24 CFR Section 58.43, this combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF) and Final Notice and Public Review of a Proposed Activity in a Wetland satisfies three separate procedural requirements for project activities proposed to be undertaken by New York State Homes and Community Renewal (HCR).

Description of the Proposed Action: GOSR proposes to provide $28.49 Million in CDBG-DR funding from the Rebuild by Design Living with the Bay Program to Nassau County to implement the Living with the Bay Stormwater Project (hereinafter, the “Proposed Action”).

The Proposed Action is located in Nassau County, New York. The Proposed Action would include the following components throughout the Villages of Rockville Centre and East Rockaway, and the Town of Hempstead: (1) Smith Pond Rehabilitation; (2) Lister Park Improvements; (3) East Rockaway High School; (4) East, West, and North Boulevards Stormwater Drainage Improvements; and (5) Mill River Greenway. The Proposed Action would address flooding caused by rainfall, improve habitat and water quality, mitigate shoreline erosion, ease public access to the waterfront, increase community connectivity,
and educate the public on stormwater and environmental management throughout the communities in Nassau County, New York.

**Public Explanation of Proposed Activity in a 100-Year Floodplain and Wetland**

This is to give notice that the GOSR has conducted an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with HUD regulations under 24 CFR Part 55, to determine the potential effects that its activity in the floodplain and wetlands would have on the human environment. An early public notice of proposed activity within the 100-year floodplain and wetlands was published by GOSR in *Noticia* (weekly Spanish newspaper), *Newsday* (daily English newspaper), and *Sing Tau Daily* (daily Chinese newspaper) on May 21, 2020 and in *Russian Reklama* (weekly Russian newspaper) on May 22, 2020. One comment was received. In summary, the commenter indicated that the construction of a bulkhead at East Rockaway High School would merely redirect water flow to the east side of the Mill River, and installing a generator at the high school is unrelated to mitigating the impacts of flooding. The commenter also stated that flood wall installation at Smith Pond would funnel flood flows to the tidal portion of the Mill River and cause more severe flooding downstream. These comments are noted.

According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, the majority of the proposed project area is within the 100-year floodplain. Specifically, the Proposed Action would occur in areas classified as zones A, AE, and X, with a base flood elevation (BFE) of 9 to 10 feet. Zone A is defined as an area subject to inundation by the 1-percent-annual-chance flood event for which no BFEs have been determined, Zone AE as an area subject to inundation by the 1-percent-annual-chance flood event for which BFEs have been determined, and Zone X as areas determined to be outside of the 0.2-percent-annual-chance flood event.

The Proposed Action is located within and directly adjacent to wetlands mapped by the United States Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI), as well as tidal wetlands mapped by New York State Department of Conservation (NYSDEC). The dominant NWI wetland types within the proposed project area include Lake, Riverine, and Estuarine and Marine Deepwater. The dominant NYSDEC-regulated tidal wetlands within the proposed project area include Freshwater Wetland and Littoral Zone.

The Proposed Action would result in permanent impacts to an estimated 0.175 acre of land in the 100-year floodplain. Any temporary impacts to the floodplain would be minimized through adherence to best management practices. An estimated 6.387 acres of temporary impacts and 0.370 acres of permanent impacts to USFWS NWI and NYSDEC-mapped wetlands would occur. Floodplain and wetland impacts would result from the construction of a fish ladder, mechanical removal of aquatic plants, construction access, overlook improvements, structural enhancements, living shoreline installation, and bulkhead installation.

All applicable permits would be acquired before construction commences. The funding recipient would be bound by any permit stipulations or mitigation measures listed in permits acquired for the Proposed Action.

The Proposed Action has been designed to minimize impacts to wetlands and floodplains to the extent feasible, including the following design considerations. Silt fencing would be installed to prevent sediment and debris from discharging off-site in stormwater runoff, inlet filters would be installed in existing catch basins to prevent construction materials entering the stormwater system, and turbidity curtains would be used for any in-water work. For project work in upland areas, hay bales would be used to control soil runoff and prevent soils from entering adjacent surface waters. Impacted wetlands would be restored immediately following construction. The Proposed Action conforms with the Nationwide Permits.
provided by the U.S. Army Corps of Engineers and as such would not require compensatory mitigation for impacts to wetlands. However, if any additional mitigation measures are identified during the permitting process by federal and state agencies, any and all requirements will be implemented.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the NWI and NYSDEC data have been prepared and are available for review with additional information at [http://www.stormrecovery.ny.gov/environmental-docs](http://www.stormrecovery.ny.gov/environmental-docs). A Floodplain Management Plan (8-step process) documenting compliance with Executive Orders 11988 and 11990 as well as floodplain and wetland maps have been prepared for this project and are available for review at [http://www.stormrecovery.ny.gov/environmental-docs](http://www.stormrecovery.ny.gov/environmental-docs).

**Environmental Assessment**

An Environmental Assessment (EA) for the Proposed Action has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA) and HUD environmental review regulations at 24 CFR Part 58. The EA is incorporated by reference into this notice. Subject to public comments, no further review of the Proposed Action is anticipated. GOSR has determined that the EA for the Proposed Action complies with the requirements of HUD environmental review regulations at 24 CFR Part 58.

**Public Review:** Viewing of the EA is available online at our website [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov). Please contact Matt Accardi, Certifying Environmental Officer at (212) 480-6265 with specific requests. Further information may also be requested by emailing NYSCDBG_DR_ER@nyshcr.org.

This combined notice is being published in the following multi-language, local newspapers: *Newsday*, *Noticia*, *Russian Reklama*, and *Sing Tau Daily*. This combined notice is also being sent to individuals and groups known to be interested in the Proposed Action, as well as the following federal, state and local agencies: HUD; U.S. Environmental Protection Agency; US Army Corps of Engineers; FEMA; USFWS; National Oceanic and Atmospheric Administration; NYSDEC; NYS Office of Parks, Recreation and Historic Preservation; NYS Division of Homeland Security and Emergency Services; Nassau County; Town of Hempstead; and the Villages of Rockville Centre and East Rockaway.

**Public Comments on the Final Notice and Public Review of a Proposed Activity in a 100-year Floodplain and Wetland and/or the NOI RROF:** Any individual, group or agency may submit written comments on the Proposed Action. The public is hereby advised to specify in their comments which “notice” their comments address. Comments should be submitted via email, in the proper format, on or before **October 5, 2020** 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 October 5, 2020 at: Governor’s Office of Storm Recovery, 25 Beaver Street, 5th Floor, New York, NY 10004. All comments must be received on or before 5pm on October 5, 2020 or they will not be considered. If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

**Request for Release of Funds and Certification**

On or about October 6, 2020, the HCR certifying officer will submit a request and certification to HUD for the release of CDBG-DR funds as authorized by related laws and policies for the purpose of implementing this part of the New York CDBG-DR program.

HCR certifies to HUD that Matt Accardi, in his 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 or 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 and email: disaster_recovery@hud.gov.