

FOURTH AMENDMENT
TO
COMMUNITY DEVELOPMENT BLOCK GRANT
DISASTER RECOVERY
SUBRECIPIENT AGREEMENT
(Subrecipient Agreement #3)

THIS FOURTH AMENDMENT (the "Fourth Amendment") to the Community Development Block Grant Disaster Recovery Subrecipient Agreement dated July 1, 2014 is entered into as of September 13, 2017 and made effective as of May 7, 2015 (the "Effective Date") by and between the Housing Trust Fund Corporation, operating by and through its division, the Governor's Office of Storm Recovery, (collectively referred to herein as the "Grantee", "HTFC" or "GOSR") and the Dormitory Authority of the State of New York ("Subrecipient"). The foregoing Grantee and Subrecipient shall sometimes be referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, Grantee and Subrecipient entered into a Community Development Block Grant Disaster Recovery Subrecipient Agreement on July 1, 2014, which was later amended to be effective as of November 15, 2013 (the "SRA" and, as amended by the Amendments, referred to herein as the "Agreement"), the terms of which govern Subrecipient's receipt of funds from the State of New York's Community Development Block Grant-Disaster Recovery ("CDBG-DR") program to provide certain services in support of the State of New York's recovery efforts following Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013; and

WHEREAS, Grantee and Subrecipient entered into a first amendment to the SRA to provide additional funding and disaster recovery support, dated May 7, 2015 and made effective as of January 1, 2015 (the "First Amendment"); and

WHEREAS, Grantee and Subrecipient entered into a second amendment to the SRA to update OMB Circular references to 2 CFR Part 200 references, and to update the Supplementary Conditions, dated and made effective as of January 29, 2016 (the "Second Amendment"); and

WHEREAS, Grantee and Subrecipient entered into a third amendment to the SRA to provide additional funding and disaster recovery support, dated October 25, 2016 and made effective as of June 30, 2016 (the "Third Amendment", together with the First Amendment and Second Amendment, are collectively the "Amendments"); and

WHEREAS, pursuant to the Agreement, the Parties desire to enter into this Fourth Amendment in order to meet the evolving needs of the Program and provide updates to Exhibits and insurance requirements.

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

STIPULATED AND AGREED as follows:

1. Section IX(B)(2) of the Agreement is hereby amended by replacing the first two sentences of such Section with the following:

Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (i) for three (3) years from the time of closeout of HUD's grant to the State or for the period provided in the CDBG regulations at 24 CFR 570.487 (or other applicable laws and program requirements) and 24 CFR 570.488, or (ii) for six (6) years after the closeout of a CDBG-DR funded project pursuant to 42 USC 12707(a)(4) and New York Civil Practice Law and Rules § 213, whichever may be longer.

and by replacing all references to "five-year period" with "retention period" in such Section.

2. Exhibit A to the Agreement, the DASNY/GOSR Work Order Form ("Work Order Form"), is hereby deleted in its entirety and replaced with Exhibit A1 to this Fourth Amendment. While the Work Order Form constituting Exhibit A1 may undergo minor periodic changes, the substance will remain the same. In the event a substantive change to the Work Order Form is required, this will be effectuated by means of an additional amendment to the Agreement.
3. That portion of the ninth paragraph of the Third Amendment which replaces the second paragraph of Section XI(B)(2)(b) of the Agreement is amended by deleting the reference to "Exhibit E" and replacing with "Exhibit E2".
4. With respect to Part II of Exhibit E2 of the Agreement, entitled "Insurance", Section (A), including subsections (a), (b), (c) and (d) of Section (A), is hereby deleted in its entirety and replaced with the following:

"All insurance requirements imposed by DASNY hereby supersede all insurance requirements imposed by GOSR during the term of this Agreement (or any extensions thereof) and for a period of two years thereafter, which includes, but is not limited to, Article XV of the DASNY General Conditions for Construction as applied to contracts for construction, as well as provisions requiring professional liability insurance in connection with design and architectural/engineering service contracts in an amount as negotiated on a case-by-case basis and included in the body of each design contract. New York State, the New York State Housing Trust Fund Corporation, the Governor's Office of Storm Recovery, the Subrecipient and any other necessary entities shall be specifically named as additional insureds."


5. With respect to Part II of Exhibit E2 of the Agreement, entitled "Insurance", that portion of Section (C) which provides "No deductible of more than \$50,000.00 shall be permitted without advance written approval by GOSR, which GOSR may withhold, condition or deny in its sole and exclusive discretion" is hereby deleted in its entirety.
6. With respect to Part II of Exhibit E2 of the Agreement, entitled "Insurance", Section (G) should be added, which provides as follows:

"Policies shall be endorsed to include a waiver of subrogation applicable to all additional insureds. This will be reflected in Section 15.03 of DASNY General Conditions."

7. Except as specifically amended herein, all terms and conditions in the Agreement shall remain the same, continue in full force and effect, and apply to this Fourth Amendment.

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

**Dormitory Authority of the
State of New York**

By: 
Name: Stephen D. Curro
Title: Managing Director, Construction

Housing Trust Fund Corporation

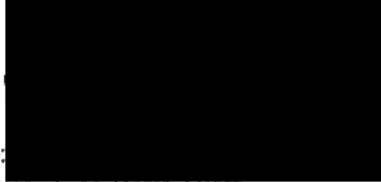
By: 
Name: Lisa Bova-Hiatt
Title: Executive Director
Governor's Office of Storm Recovery

Exhibit A

DASNY/GOSR Work Order Form

[see attached]

DASNY/GOSR Work Order

Project Name:
DASNY Project Number:
National Objective:
GOSR Program:
GOSR Project Manager:

Overview:

All work completed under this work order shall be done in accordance with the terms and conditions of Sub-Recipient Agreement #3 between the Dormitory Authority of the State of New York (DASNY) and Governor's Office of Storm Recovery (GOSR), and the Housing Trust Fund Corporation (HTFC) effective as of July 1, 2014, as amended. No construction or real property acquisition in furtherance of this Work Order, including temporary or permanent easements, shall be contracted for or by any party involved in the project until the completion of the environmental review process and the issuance of an environmental clearance letter from GOSR.

DASNY shall not execute any contracts or work authorizations against previously executed term contracts whatsoever in furtherance of this Work Order without prior written approval from the GOSR Community Reconstruction Program. DASNY's request for GOSR approval shall take the form of either a Scoping Authorization Request, Design Authorization Request, or a Construction Authorization Request submitted from DASNY to GOSR that includes:

1. the proposed work authorization to be issued to the consultant;
2. the scope of services, schedule, project budget;(per DASNY scope schedule and budget confirmation form)
3. proposed MWBE utilization plan from the consultant or contractor; (note: for construction contracts MWBE utilization will be provided post bid)
4. a cost reasonableness determination,
5. the consultant's fee proposal (unless otherwise noted as per fee schedule), and
6. DASNY's fee proposal

Only once an Authorization Request has been approved by the GOSR Community Reconstruction Program will DASNY execute a work authorization or contract in furtherance of this Work Order. At any time during the scoping, design, construction or closeout process, should the projected cost estimates for this Work Order exceed the budgeted amount contained herein, and the project design cannot be revised to stay within the budget provided herein, all work must stop until this Work Order is amended and approved by GOSR so that the projected cost estimates, with all contingencies, are within the budgeted amounts contained herein.

GOSR Work Order # []

Work Order Form: V4 6/02/17

Project Description:

Under GOSR's Community Reconstruction program, DASNY and their Consultants shall perform services as outlined in DASNY's Term Contract for Professional Services as the Pre-Design, Schematic Design, Design Development and DD QC phases.

DASNY and their Consultants shall [PROJECT DESCRIPTION, DELIVERABLES, OBJECTIVE OF WORK].

DASNY Scope of Work:

Current services authorized for DASNY fee are:

Scoping <input type="checkbox"/>	Design <input type="checkbox"/>	Construction <input type="checkbox"/>	Closeout <input type="checkbox"/>
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Period of Performance:

[INSERT PERIOD OF PERFORMANCE]

Project Budget:

Line Item	Cost Category	Current Work Order Value	Previous Work Order Value	Change: Greater / (Less) than
1	Scoping/Design	\$[]	\$[]	\$[]
2	Construction/Closeout	\$[]	\$[]	\$[]
3	Equipment	\$[]	\$[]	\$[]
4	DASNY Fee ^{1, 2}	\$[]	\$[]	\$[]
5	Other	\$[]	\$[]	\$[]
6	Total Work Order Value³	\$[]	\$[]	\$[]

Unless specifically authorized in writing, DASNY's Fees are limited, as applicable, to administrative and management scoping costs, design, construction and closeout management costs. If any budget line item noted above exceeds, or is anticipated to exceed the amount authorized by this Work Order, DASNY must provide GOSR with a written request for approval of the increase. The written request must include a justification explaining why the increase is necessary and the request must be received **and** approved by GOSR through an amended Work

¹ DASNY Fee of \$[] represents the full DASNY fee estimate through [Insert Phase Authorized]. The DASNY Fee exceeds the 10% allotment; therefore the excess was reduced from the Cost Categories Accordingly.

² DASNY is authorized to expend fees up to 30% (\$[]) of the full DASNY fee of \$[] for the design phase **OR** the full design fee estimate of \$[] **OR** 30% (\$[]) of the 10% DASNY fee (\$[]) for the design phase. If DASNY expects to utilize more of the DASNY fee than described in Footnote 2 during the design phase, DASNY must seek an amendment to the work order to adjust the total estimated DASNY fee, or provide written confirmation that, based on the current project information, the total remaining DASNY fee is not anticipated to be exceeded through the construction and closeout phases.

³ Total Work Order Value represents Project Budget (\$[]) plus an additional allotment of [10]% **OR** DASNY Fee (\$[]).

Project Name:

GOSR Work Order # [_____]

Work Order Form: V4 6/02/17

Order prior to the accrual of the increased costs. GOSR will not accept responsibility for any fees, whether from DASNY or the Consultant that are incurred without an executed Work Order.

Issued by:

Date:

Housing Trust Fund Corporation

Accepted by:

Date:

DASNY

Project Name: