

SECOND AMENDMENT
TO
COMMUNITY DEVELOPMENT BLOCK GRANT
DISASTER RECOVERY
MEMORANDUM OF UNDERSTANDING

THIS SECOND AMENDMENT to the Community Development Block Grant Disaster Recovery Memorandum of Understanding dated November 17, 2014 is made and entered into April 13, 2016 (the "Second Amendment"), and made effective as of October 30, 2015 (the "Effective Date"), by and between the Housing Trust Fund Corporation ("HTFC"), operating by and through its division, the Governor's Office of Storm Recovery ("GOSR" and, together with HTFC, referred to herein collectively as the "Grantee") and the New York State Office of Parks, Recreation and Historic Preservation ("Agency" or "OPRHP"), a New York State administrative agency. The foregoing Grantee and Agency shall sometimes be referred to herein individually as a "Party" and, collectively, the "Parties".

WHEREAS, the Parties entered into a Community Development Block Grant Disaster Recovery Memorandum of Understanding effective November 17, 2014 (as amended from time to time, the "MOU"), the terms of which govern OPRHP'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 Irene, Tropical Storm Lee, and Hurricane Sandy ("Storms");

WHEREAS, the Parties entered into a first amendment to the MOU dated August 3, 2015 (the "First Amendment") to append a program description for conducting studies, gathering data, and designing improvements to Hempstead Lake State Park and Dam as part of Rebuild by Design (the "RBD Project") and to increase the Grant Funds by \$524,370 from \$70,442,976 to \$70,976,346; and

WHEREAS, the Parties desire to amend the MOU by means of this Second Amendment, more specifically to add to the scope and budget, and to extend the term of the RBD Project.

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. As of December 26, 2014, all references in the MOU to 24 CFR 84 or 85 (or any subsection thereof), or OMB Circulars A-87, A-122, A-21 or A-133 are hereby deleted and replaced with a reference to 2 CFR Part 200, wherever they appear.
2. The amount of the Grant Funds, currently set at \$70,976,346 under Section IV of the MOU, is hereby increased by \$34,500,000 to a total amount not to exceed \$105,476,346.

3. The first sentence of Section IX(B)(2) of the MOU is hereby amended by replacing the words “five (5) years” with the words “six (6) years,” and by replacing all references to “five-year period” with “six-year period” in such Section.
4. In Section IX(E)(2) of the MOU, the words “HUD General Provisions” is hereby deleted and replaced with the words “Supplementary Conditions” wherever it appears, and the first sentence is hereby amended by adding after the words “Supplementary Conditions” the words “(as revised from time to time by Grantee in accordance with applicable law, rule or regulation)”.
5. Section XI(D) of the MOU is hereby amended by adding a new subsection, Section XI(D)(6), “RBD Project Coordination”, following Section XI(D)(5). Section XI(D)(6) shall read:

“For the RBD Project only, the provisions of Exhibit F shall govern the general coordination between the Parties.”

6. The MOU is hereby amended by adding the following language as Exhibit F to the MOU:

- a. General Coordination.

- i. GOSR is the agency charged with administering New York State’s allocation of CDBG-DR funding allocated by Congress through Public Law 113-2 to recover from the effects of Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. As part of this responsibility, GOSR is responsible for the administration of funds allocated to the Rebuild By Design Living with the Bay Project, which includes work pertaining to the recovery and stormwater resiliency of Hempstead Lake State Park more particularly set forth in “Program 5” of Exhibit A (the “HLSP Project”), funded by the CDBG-DR allocation to the State of New York.
- ii. OPRHP is an agency within the New York State Executive Department with sole jurisdiction over Hempstead Lake State Park. OPRHP is responsible for the implementation of the HSLP Project as further set forth herein, including the development of design specifications, applicable environmental review, permitting, bidding, and construction contract administration and management.
- iii. Work undertaken by OPRHP to advance the HLSP Project will conform to the project design scope of work set forth in “Program 5” of Exhibit A for the HLSP Project (“HLSP Scope”).
- iv. Along with the HLSP Scope, OPRHP will provide a project schedule for the HLSP Project (“Schedule”) including key milestones and deliverables, such as design review periods for GOSR. Relevant milestones for the overarching Living with the Bay Project will also be included in the Schedule.
- v. To the extent OPRHP, directly or indirectly through its consultants and/or vendors, develops an intermediate project plan for work leading up to Schematic Design of

the HLSP Project, OPRHP shall provide GOSR an opportunity to review such project plan. GOSR may promptly respond to such project plan with concerns and/or suggested revisions.

- vi. GOSR shall establish monthly (unless otherwise scheduled by GOSR) meetings between GOSR, OPRHP and the necessary consultants and/or vendors, to discuss progress and coordination of the Living with the Bay Project. The Parties shall attend such meetings and work together to establish a review process pertaining to the design of the HLSP Project to ensure consistency with the agreed upon concept plans and with the State of New York Community Development Block Grant Program Disaster Recovery Action Plan and Amendments for the Rebuild By Design Living with the Bay Project and Hempstead Lake State Park. GOSR and OPRHP shall also establish a standing bi-weekly call to confer on project issues and schedules. GOSR and OPRHP shall meet on an as-needed basis to resolve outstanding issues on the HLSP Project. Standing point of contacts for purposes of discussing and resolving coordination matters are as follows and may be substituted upon written notice by either Party:
 - 1. Marc Talluto, Director of Agency Operations and Programs (OPRHP)
 - 2. Nita Chicatelli, Program Manager (OPRHP)
 - 3. Scott Fish, Long Island Region Capital Facilities Manager (OPRHP)
 - 4. John Conaty, Project Manager (Stantec for OPRHP)
 - 5. Shari Calnero, Associate Counsel (OPRHP)
 - 6. Natalie Wright, Deputy Executive Director, CR, Infrastructure, Small Business (GOSR)
 - 7. Kris VanOrsdel, Director, Infrastructure (GOSR)
 - 8. Shilpa Muralidaran, Program Manager, Infrastructure (GOSR)
 - 9. Daniel Greene, General Counsel (GOSR)
 - 10. Natalie Dennery, Senior Counsel (GOSR)
 - 11. Brooks Kaufman, Assistant General Counsel (GOSR)
 - vii. OPRHP will coordinate the design of the HLSP Project on property under OPRHP's jurisdiction with the design of other elements of the Living with the Bay Project, provided that such coordination is consistent with the project schedule set forth in Part C of Exhibit A2 hereof.
 - viii. The Parties will coordinate the exchange of any data concerning the Living with the Bay Project area, which is in either Party's jurisdiction, including but not limited to building plans, conditions assessments, legal descriptions, surveys and any other information to aid in design of the HLSP Project, and any OPRHP property portions of the Living with the Bay Project. OPRHP will be provided access to the GOSR Sharepoint database to facilitate the exchange of project information and deliverables set forth in the HSLP Project Program Description set forth as Program 5 in Exhibit A to the MOU.
- b. Design Process.

OPRHP shall submit to GOSR designs and plans at (1) 30% Design, (2) 60% Design and (3) 90% Design. GOSR (in its own capacity or using a third party peer review entity selected by GOSR and disclosed to OPRHP) shall have fourteen (14) days after submission to either approve such designs and plans or provide feedback with respect to the terms and goals of Rebuild by Design. OPRHP will endeavor to incorporate reasonable feedback in revised designs and plans to be resubmitted to GOSR. GOSR shall have an additional fourteen (14) days after resubmission to approve the designs and plans or work together with OPRHP in good faith to finalize designs and plans that comply with the terms and goals of Rebuild by Design.

c. Environmental Review.

- i. GOSR will act as lead agency for the preparation and delivery of the environmental review of the HLSP Project required by the National Environmental Policy Act (NEPA). OPRHP will assist GOSR, where possible, with the completion of the NEPA environmental review. The NEPA environmental review will be undertaken in concert with, and incorporated into, the NEPA environmental review documentation for the Living with the Bay Project.
 1. GOSR shall provide OPRHP an opportunity to review and comment on draft of the HLSP Project NEPA Draft EIS (DEIS) and/or Environmental Assessment (EA) at least one month prior to issuance of notice of completion of the DEIS and/or EA and public circulation. OPRHP also reserves the right to submit additional comments as necessary during the public comment period.
 2. GOSR shall provide OPRHP an opportunity to review and comment on a full draft of the HLSP Project NEPA Final EIS (FEIS) and/or EA, including the draft response to comments, thirty (30) days prior to issuance of notice of the FEIS and/or EA.
- ii. OPRHP will act as lead agency for the preparation and delivery of the environmental review of the HLSP Project in connection to the New York State Environmental Quality Review Act (SEQRA). OPRHP shall provide GOSR an opportunity to review and comment of a full draft of any SEQRA determinations or documents 30 days prior to issuance, including Type II Determinations, EAF forms, and Negative Declarations.

d. Public Outreach.

- i. GOSR, in conjunction with a Citizens' Advisory Committee, shall lead in creating a public outreach strategy for the Living with the Bay Project, including the HLSP Project. GOSR will prepare all materials for outreach events and meetings in consultation with OPRHP.

- ii. The Parties shall consider reasonable input received from public outreach, workshops, and project stakeholders (including the Citizens' Advisory Committee), and will explore the feasibility of incorporating such input when practicable.
- e. Permitting/Bidding/Construction.
- i. OPRHP will be responsible for the bidding, execution, and management of the construction contract for the HLSP Project in accordance with the New York State Finance Law and requirements set forth in Exhibit E of the MOU.
 - ii. OPRHP will be responsible for the acquisition of all approvals and permits from all relevant agencies with respect to the HLSP Project. OPRHP will notify GOSR prior to submission of any application for such approvals or permits and GOSR shall have the right to review such applications prior to submission, if requested.
 - iii. Upon completion of construction of the HLSP Project, OPRHP will furnish to GOSR upon request, as-built drawings and any applicable warranty and maintenance manuals of such character showing accurately and distinctly the location, size and type of construction, and complete dimensions of the work erected or installed, as well as the location and dimensions of all substructures encountered during the progress of work, as applicable.
 - iv. In the event that OPRHP determines that Maintenance and Operations of any part of the HLSP Project is anticipated to be the responsibility of any entity other than OPRHP, the Parties will work together during the design phase of the HLSP Project to discuss roles, responsibilities, and funding of such Maintenance and Operations issues.
- f. OPRHP will establish and/or revise existing operations and protocol for emergency storm events affecting the Hempstead Lake Dam in accordance with Dam Safety application portion of environmental review.
- g. OPRHP will establish operations and protocol for non-emergency operation of Hempstead Lake Dam in coordination with the overall watershed and ecological management goals of the Living with the Bay Project. GOSR (in its own capacity or using a third party peer review entity selected by GOSR and disclosed to OPRHP) shall have the opportunity to provide feedback to such operations and protocol, and OPRHP will endeavor to incorporate reasonable feedback.
7. The final sentence of Exhibit B1 as set forth in the First Amendment is hereby deleted and replaced with the following:

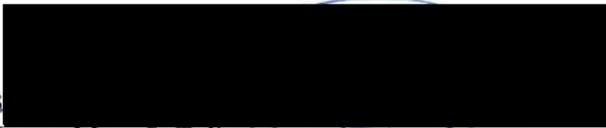
“Only those expenses incurred after April 1, 2015 to December 31, 2015 are reimbursable pursuant to the above budget.”

8. Exhibit A2 to this Second Amendment is hereby appended to Exhibit A of the MOU.
9. Exhibit B2 to this Second Amendment is hereby appended to Exhibit B of the MOU.
10. Except as specifically modified herein, all terms and conditions in the MOU will remain the same, continuing in full force and effect, and apply to this Second Amendment.

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

**New York State Office of Parks, Recreation
and Historic Preservation**

Housing Trust Fund Corporation





By
Name: Marc S. Talluto 4-6-16
Title: Director of Agency
Operations and Program, OPRHP

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

EXHIBIT A2
Second Amendment Subrecipient Program Description

Program 5. Living with the Bay – Hempstead Lake State Park Project

A. Background

The Project, further described in this Second Amendment, involves the northernmost portion of the Rebuild by Design: Living with the Bay project and it encompasses numerous elements in and around Hempstead Lake State Park. OPRHP has completed the tasks described in Program 4 in Exhibit A1 of the First Amendment of this MOU including concept design of the Project, environmental studies and data collection, and staffing and inter agency communications.

B. Scope of Work for the Project

Dam

Dam improvements include the replacement and repair of all the equipment in the existing gate house to make operable to open and close the dam gates, as well as a restoration of the exterior on the historic gate house. The dam gates will be replaced/repared as required to control the water levels in Hempstead Lake. The work will also include the removal of trees and vegetation on the dam and restoration of any damaged historic masonry.

North West Pond

The North West Pond improvements and water filtration includes the repair or removal, as determined, of the small dam and spillway to Hempstead Lake, the dredging and reconfiguration pond to allow for additional water storage capacity as well as improved water filtration for better water quality including the installation of floatable catchers at the existing storm water outlets. The wetlands will be restored to improve the ability to filter the water before entering into the Hempstead Lake.

North East Pond

North East Pond improvements and water filtration includes dredging and reconfiguration of the pond to allow for additional water storage capacity as well as improved water filtration for better water quality including the installation of floatable catchers at the existing storm water outlets. The wetlands will be restored to improve the ability to filter the water before entering into the North West Pond.

Education Center and Boat Launch

The educational component of the project will include a new Education Center that will be a green building with class rooms, wet lab, public meeting room and park offices. A boat

launch/storage area with dock will be constructed for use of boats by the general public. Interpretive areas and interpretive signage will be installed at the Educational center as well as along the greenway to improve the public understanding of the work done and history of Hempstead lake Park.

Greenway

The Greenway improvements will include new and improved ADA accessible Greenway Paths with separate bike path around the ponds and lake with a new Schodack Brook crossing all linking to the future greenway paths south of the park. A new Greenway Parking Lot with 50 spaces will be constructed at the north end of the park and will include of green paving, new plantings, and improved water management with water filtration and bioswales. Traffic slowing improvements will be installed for making the Greenway and street crossings safer and for Traffic Improvement.

Waterfront Improvements

The recreational component for the local park goers and Greenway users will include waterfront improvements of new pathways with educational and fishing dock, lake and pond viewing areas, birding areas with ADA platforms, new access stairs on the east of the lake and improved horse bridle paths. As part of these improvement site remediation will include clearing vegetation and undergrowth for better views to and from the lake and to improved safety and water edge naturalization with new vegetation around the lake.

B. Key Deliverables

Key project deliverables will include the development of conceptual plans, Design Development plans and Construction Documents and estimates, documents required for SEQRA and NEPA compliance and environmental permitting, and bid documents including design drawings, technical specifications and construction estimate, for the construction of Dam Improvements, North East and West Pond improvements and water filtration, Education Center, Boat storage and Launch, all Green way components and Waterfront recreational improvements.

The project tasks shall include the following:

1. Develop water quality sampling plan and conduct water quality testing and laboratory analysis at two outfalls and at stream discharges as well as in each pond which will include dry weather and wet weather sampling events for the following:
 - Bacterial Counts – Enterococci, Total and Fecal Coliform
 - Nutrient Concentrations – Ammonia (NH₃), Nitrate (NO₃), Total Nitrogen (TN), Total Kjeldahl Nitrogen (TKN), and Total Phosphorous (TP)
 - Particle Concentrations – Total Suspended Solids (TSS)
 - VOC and SVOC, Metals, pesticides
 - Floatable and debris volumes and sources will be assessed by field observation

Sampling and testing protocols will be established based on review of proposed improvements, availability of existing data, and assessment of analytical needs for design.

2. Prepare reports to analyze downstream work at Smith Pond that may impact Dam Safety.
3. Revise Dam Safety Reports for final filing and permitting with DEC.
4. Prepare the Sediment Sampling Characterization and Water Quality Analysis Report outlining the findings of both the sediment sampling and water quality sampling results.
5. Perform field investigation of pond shorelines and outfall identification and investigation of piped systems to determine drainage areas for each outfall utilizing available document and visual observation. If deemed necessary, dye testing of drainage systems to determine flow routes will be conducted. Review of reports and data already assembled including bathymetric study (CA 2015), Hempstead Lake Dam Hydrological and Hydraulic Assessment (LKB, 2015), and the above referenced planning initiatives.
6. Conduct an Ecological Characterization of the flora and fauna around and within the ponds including identifying rare, threatened or endangered species and any Significant Natural Communities surrounding the ponds including Coastal Plain Pond. The report will also identify native species as well as invasive species within the project area. Areas of proposed work will be further assessed when the final project locations are identified. Ponds will be visually assessed for invasive vegetative species.
7. Determine system design parameters including watershed delineation based on available existing topographic and piping system information, existing condition flow calculations for the water quality storm volume, 10-year, 25-year and 100-year storm events. Piping systems shall be shown as can be determined from available information. Additional hydrological and hydraulic analysis for the proposed improvements specific to this project.
8. Develop concepts for pond improvements along with conceptual construction estimate. The stormwater improvements will include dredging and dewatering excessive sediment in each pond, disposal of excessive sediments, separation of trash and debris from sediments to remain on site, reshaping sediments to remain to provide or increase filtration through green infrastructure that utilizes filtering mechanisms such as forebays, bioswales, bioretention area and constructed wetlands, wetland edges, as well as water quality units (WQU's) and trash collections structures to remove the pollutants from runoff prior to discharge to the ponds . These plans will be presented in a Technical Design Report along with the Soil and Water quality sampling and analysis and Ecological Characterization. Assess field conditions at locations of each proposed mitigation measure including ability to access for construction and maintenance, topography/slopes, sensitive environmental factors and municipal jurisdiction.

9. Conduct Soil Borings at locations of proposed infiltration structures and bio retention or wetland areas, test borings will be performed at the extent indicated in the New York State Stormwater System Design Manual.
10. Prepare site topographic survey sufficient to identify ponds and lake shoreline elevations, topography ground surfaces, streams, existing utilities, and storm structure with invert elevations at all locations selected for improvements, as well as any other utilities or hard structures identified. Survey shall include surface and invert elevations of existing inlet and outfall structures.
11. Cooperate with GOSR and necessary parties for the completion of SEQRA, NEPA and HUD compliance documentation for all work in the Park as necessary for the funding source including any environmental assessment and environmental documentation as necessary for the Parks in-house and public environmental review and GOSR-led NEPA review.
12. Conduct Design Review with GOSR at 30%, 60% and 90% design documents for each of the three following project components: 1)North Ponds; 2)Dam and 3)Greenway, Trails, Waterfront recreational improvements & Education Center.
13. Develop final cost estimate for each of the three following project components: 1)North Ponds; 2)Dam and 3)Greenway, Trails, Waterfront recreational improvements & Education Center.
14. Develop preliminary construction plans for each component of the Park for permitting purposes. The designs shall be in accordance with Federal, State and local requirements including those of the United State Environmental Protection Agency (USEPA) and New York State Department of Environmental Conservation (NYSDEC). Preparation of a Stormwater Pollution Prevention Plan for Erosion and Sediment Controls.
15. Submit plans and specification for each component of the Park, along with all documentation and form requirements, to the regulatory agencies for review and approval. Address comments received from regulatory agencies.
16. Prepare construction plans, technical specifications and final construction estimate for bidding of each component of the Park.

C. Schedule

(see attached)

HEMPSTEAD LAKE STATE PARK/MILL RIVER GREENWAY
PARK IMPROVEMENT SCHEDULE (DRAFT)

3/16/2016

- 1 Concept Plan Approval
- 2 Mill River Road Map review and approval
- 3 Work Orders from consultant through construction
- 4 North Ponds Design Requirements and estimate
- 5 Requirements of dam / lake for retention from LW
- 6 Comments from DEC on Dam Study
- 7 Approval of Concept Design estimates
- 8 Schematic Design Site Work
- 10 GOSR 30% Design review
- 12 Design Development Site Work
- 13 GOSR 60% Design review
- 15 Construction Phase Site Work
- 16 GOSR 90% Design review and final estimate
- 18 Bidding Site Work
- 19 Procurement
- 20 SEQRA/REPA, SRHC Review
- 21 ACTION PLAN
- 22 DEC Permitting for Site Work
- 23 North Ponds Modeling/design
- 24 Construction Phase North Ponds
- 25 DEC permitting for North Ponds
- 26 Bidding for North Ponds
- 27 Procurement North Ponds
- 28 Dam Modeling
- 29 Construction Phase Dam
- 30 DEC permitting for DAM
- 31 Bidding for Dam
- 32 Procurement Dam
- 33 Project closeout, September, 2019

ITEM	SUBMIT HUD ACTION PLAN																	
	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	
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EXHIBIT B2
Second Amendment Budget

Budget for Program 5. Living with the Bay – Hempstead Lake State Park Project

The following constitutes estimates, which shall be reconciled against the detailed budget for each component of the Program Description for the Project. Reimbursement of any expenditure under this Program 5 shall be contingent upon such expenditure's compliance with the terms and conditions of the applicable Action Plan Amendment and HUD Release of Funds certification:

Component	Estimated Expenses
A/E Design Fees	\$ 2,390,600
A/E Construction Fees	\$ 754,400
Construction Costs	
Dam improvements	\$ 6,000,000
North West Pond improvements and water filtration	\$ 3,605,000
North East Pond improvements and water filtration	\$ 4,300,000
Education Center, Boat launch, and interpretive areas and signage	\$ 3,580,000
Greenway improvements	\$ 12,000,000
Waterfront improvements including docks, site remediation, birding areas and stairs	\$ 1,870,000
TOTAL	\$ 34,500,000*

*Although the expenses for A/E Design Fees, A/E Construction Fees and the line items for Construction Costs are estimates, the Total Budget for Program 5 shall not exceed \$34,500,000.

Only those expenses incurred during the period from the Effective Date to September 30, 2019 are reimbursable pursuant to the above budget.

Environmental costs related to the NEPA review are not included in the above-referenced budget.