



NY Rising Housing Recovery Program Homeowner Grant Agreement [Reimbursement]

Instructions: This form is to be used only to reimburse Homeowners for work performed prior to the date of this Agreement.

THIS GRANT AGREEMENT (“Agreement”), entered this ____ day of _____, 20____, by and between HOUSING TRUST FUND CORPORATION, a New York public benefit corporation (“HTFC”) and _____ (“Homeowner” or “you”).

WHEREAS, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act as amended (42 U.S.C. 5121-5207) (the “Stafford Act”), portions of the State of New York (“State”) received major disaster declarations as a result of Hurricane Sandy, Hurricane Irene, and Tropical Storm Lee (the “Storms”); and

WHEREAS, the State has received an allocation of Community Development Block Grant Disaster Recovery (“CDBG-DR”) funds from the United States Department of Housing and Urban Development (“HUD”) for the purpose of providing assistance to recover from the Storms; and

WHEREAS, HTFC is authorized to administer CDBG-DR funds in the State and has implemented the NY Rising Housing Recovery Program (“Program”) to award a portion of those funds to homeowners affected by the Storms; and

WHEREAS, Homeowner has applied to participate in the Program and represents that Homeowner is eligible to receive CDBG-DR funds (“CDBG-DR Assistance”);

NOW, therefore, it is agreed between the parties hereto that:

I. GRANT AMOUNT AND USE OF CDBG-DR FUNDS

HTFC will provide CDBG-DR Assistance in the form of a grant (“CDBG-DR Grant”) to reimburse Homeowner for work performed prior to the execution of this Agreement (“Work”) in connection with the rehabilitation of an eligible property located at _____ (Property Address) situated in the State of New York, County of _____ (“Property”). Homeowner expressly represents and warrants that he/she is the owner of the Property, and has full power and authority to execute and fully perform all obligations under this Agreement.

The amount of the CDBG-DR Grant being provided under this Agreement is \$_____.

If Homeowner believes that the amount of the CDBG-DR Grant to reimburse Homeowner for work performed to date is incorrect, Homeowner may submit a claim within 60 days of the date of this Agreement by submitting the Program's appeal form to: HousingAppeals@StormRecovery.NY.Gov. The Program's appeal form may be obtained from the Customer Service Representative. The claim must include a detailed explanation together with any information or documents that the Homeowner wants the Program to consider in making its determination. If Homeowner does not submit such a claim within the required time, Homeowner will be deemed to have agreed with the calculation of the reimbursement amount and to have waived any further right to contest or appeal the amount of the award.

Subject to the conditions identified in Section IV of this Agreement, Homeowner may deposit or cash the check transmitted by HTFC in the amount of the CDBG-DR Grant (the "Grant Check") without prejudice to Homeowner's right to seek additional reimbursement pursuant to the provisions of the preceding paragraph.

II. FLOOD INSURANCE FOR PROPERTIES LOCATED IN THE FLOODPLAIN

As a condition to HTFC making the CDBG-DR Grant, if the Property is located in the 100-year floodplain, Homeowner agrees to purchase and maintain flood insurance in perpetuity, in accordance with federal law. Homeowner understands that, under federal law, flood insurance must be maintained for the life of the Property and that, in the event of a transfer of the Property, Homeowner is required, on or before the date of transfer, to notify the transferee in writing, in documents evidencing the transfer of ownership of the Property, of the requirements to obtain and maintain flood insurance in accordance with federal law.

If the Property is located in the 100-year floodplain, Homeowner represents that a flood insurance policy is currently in effect with respect to the Property, prior to receiving the grant funding.

III. DUPLICATION OF BENEFITS; SUBROGATION

Homeowner acknowledges that the Program is subject to the provisions of the Stafford Act. Under the Stafford Act, Homeowner may receive assistance only to the extent that it has a disaster recovery need that is not otherwise met by insurance or any other type of disaster assistance. As such, and as a condition to HTFC making the CDBG-DR grant, the Homeowner hereby agrees to the following terms and conditions:

- (a) Homeowner acknowledges their obligation to reimburse HTFC for the full amount of any insurance proceeds or other type of disaster assistance that Homeowner previously received, subsequently receives, or with reasonable effort would be eligible to receive

for the same purposes for which the CDBG-DR Assistance is awarded (“Duplicate Benefits”) to the extent that such proceeds or assistance has not already been considered in the calculation of your award.

- (b) Homeowner represents that it has notified HTFC of all proceeds or assistance or any other actual or potential Duplicate Benefits Homeowner has received or may be eligible to receive in connection with one or more of the Storms.
- (c) Homeowner agrees to promptly notify HTFC in writing of any Duplicate Benefits which have been received and have not previously been disclosed or which are received in the future.
- (d) Homeowner agrees to promptly pay any Duplicate Benefits it receives or is eligible to receive to the Program.

IV. PAYMENT; CONDITIONS FOR DEPOSIT OF GRANT CHECK

Homeowner acknowledges that HTFC has transmitted the Grant Check together with the unexecuted version of this Agreement. **Homeowner acknowledges, understands and agrees that Homeowner shall not take any action with respect to the Grant Check (including, but not limited to, depositing, cashing, assigning or otherwise presenting the Grant Check for payment), unless and until this Agreement has been executed by electronic approval below or signed and delivered by Homeowner to HTFC in person.** Homeowner understands that, if these conditions are not met, that Homeowner may be subject to recapture of the Grant Award.

V. ADDITIONAL DOCUMENTS AND INFORMATION

Homeowner agrees to take requested actions, deliver requested documentation and sign and deliver such other instruments and documents as may be reasonable, necessary or appropriate to effectuate, or demonstrate compliance with the requirements of this Agreement within 60 days of any written request.

VI. ENVIRONMENTAL CLEARANCE TESTS

Following completion of the rehabilitation, any Property constructed prior to 1978 must pass a lead based paint clearance test conducted by a certified lead based paint inspector. Homes built after January 1, 1978, are not required to have this test; however, it is the Homeowner’s responsibility to provide proof that the Property was constructed after January 1, 1978. As a condition to HTFC’s making the CDBG-DR Grant, Homeowner agrees to deliver to HTFC (a) written proof that the Property was built after January 1, 1978, or (b) written proof that such test has been conducted and the results meet the relevant State and federal standards.

In addition, Homeowner must provide proof that the Property meets the relevant (1) asbestos clearance standards and (2) radon standards applicable to the jurisdiction in which the Property is located.

Homeowner must submit such documentation to HTFC within two months of the date of this Agreement, or, if additional construction is necessary to complete the rehabilitation of the Property, within such time as reasonably required by HTFC. To assist you in fulfilling these requirements, you will be contacted to schedule an environmental inspection provided by the Program.

VII. INDEMNIFICATION; HOLD HARMLESS CLAUSE

Notwithstanding the appeal process set forth in Section I of this Agreement, Homeowner agrees to indemnify and hold harmless the State, HTFC, HTFC's subrecipients and/or subcontractors of every tier and each of their respective officers, directors, agents, employees and affiliates (collectively the "Indemnified Parties") from any and all claims, losses, damages or liability (including attorney's fees in enforcing this Agreement) arising out of, or in any way related to, the CDBG-DR Grant, the CDBG-DR Assistance, or any other act or failure to act under this Agreement, any receipt of or eligibility for any Duplicate Benefits, and/or all other documents executed in furtherance of the CDBG-DR Grant and /or this Agreement. If Homeowner attempts to take legal action against the Indemnified Parties, the Indemnified Parties will have the right to recover from Homeowner attorney fees and other expenses incurred in connection with such action in the event of an adverse determination or judgment against Homeowner.

VIII. MISREPRESENTATIONS AND NONCOMPLIANCE

Homeowner hereby asserts, certifies and reaffirms that all representations and information contained in the Homeowner's CDBG-DR application and/or any other document provided by Homeowner to HTFC or its agents in connection with the CDBG-DR Grant ("Homeowner Documents") remain true, correct and complete, to the best of Homeowner's knowledge, as of the date of this Agreement. Homeowner further certifies that (1) the Property was the Homeowner's primary residence at the time of the Storms and (2) Homeowner is a United States citizen or an immigrant eligible to receive federal benefits. Homeowner acknowledges that all such representations and information have been relied on by HTFC to provide the CDBG-DR Grant.

Homeowner shall promptly notify HTFC, in writing, of the occurrence of any event or any material change in circumstances which would make any Homeowner representation or information untrue or incorrect or otherwise impair Homeowner's ability to fulfill Homeowner's obligations under this Agreement or other Homeowner Documents.

Homeowner acknowledges that in the event that Homeowner makes or files any false, misleading, or fraudulent statement and/or omits or fails to disclose any material fact in connection with the CDBG-DR

Grant, Homeowner may be subject to civil and/or criminal prosecution by federal, State and/or local authorities.

In the event that HTFC determines that Homeowner failed to provide or execute any necessary document in connection with the CDBG-DR Grant, Homeowner hereby agrees as a condition of this Agreement, to provide and/or execute such documents, within such time as HTFC may reasonably require. The failure to do so could result in the Homeowner's ineligibility for the CDBG-DR Grant set forth in Section I above and future disaster assistance.

IX. DEFAULT/RECAPTURE OF GRANT

Each of the following is a default under this Agreement:

- (a) Homeowner's making or filing of any false, misleading or fraudulent statement or Homeowner's omission of any material fact with respect to the Homeowner Documents,
- (b) Homeowner's failure or refusal to fulfill any condition in this Agreement or in any of the Homeowner Documents, and
- (c) Homeowner's failure to maintain flood insurance on the Property or to provide proper notice to a transferee, upon a transfer of the Property, of the requirements to obtain and maintain flood insurance.

HTFC shall have sole discretion to determine whether or when a default has occurred and whether or when a Homeowner may have cured such default. Upon HTFC's written notice ("Default Notice") to Homeowner of the occurrence of a default hereunder, Homeowner shall have five (5) business days (the "Response Period") to respond in writing and, to the extent permitted in the Default Notice, cure any such default.

Upon the expiration of the Response Period, and Homeowner's failure to cure any default that the Default Notice permits Homeowner to cure, if any, HTFC may, but shall not be obligated to, exercise all rights and remedies available to it at law or in equity, including, without limitation, recapture of all or a portion of the CDBG-DR Assistance. Upon HTFC's demand, Homeowner agrees to promptly return the amount of the CDBG-DR Grant indicated in the Default Notice.

X. REQUIRED PROVISIONS OF LAW

It is the intention and understanding of the parties hereto that each and every provision of law required to be inserted in this Agreement should be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted and if, through mistake or otherwise, any such provision is not inserted herein, or is not inserted in correct form, then this

Agreement shall forthwith, upon the application of either party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party.

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XII. WAIVER

HTFC's failure to act with respect to breach by Homeowner does not waive its right to act with respect to subsequent or similar breaches. The failure of HTFC to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XIII. ENTIRE AGREEMENT

This Agreement, together with the Homeowner Documents, constitutes the entire agreement between HTFC and Homeowner with respect to the CDBG-DR Grant and supersedes all other prior or contemporaneous communications and proposals, whether electronic, oral, or written between HTFC or its agents and Homeowner with respect to this Agreement. In the event of a conflict between this Agreement and any of the Homeowner Documents, this Agreement shall control.

XIV. ELECTRONIC SIGNATURE

In the event that HTFC and/ or the Homeowner shall execute this Agreement by the use of an electronic signature, such electronic signature shall create a valid and binding obligation by such parties.

XV. RIGHT OF ENTRY

Homeowner hereby unconditionally authorizes the HTFC, and each of its respective subrecipients, employees, agents, consultants, contractors, assigns and/or representatives, the Federal Emergency Management Agency ("FEMA"), HUD, and each of their respective employees, agents, assigns, consultants, contractors and/or representatives (collectively, "Assistance Providers") to have the right of access and to enter in and onto the Property for the purpose of performing property, environmental and historic preservation review inspections, making assessments, testing (including taking sample materials for any specialized testing) and any inspection-related Program activities at, on, in or under the Property (collectively, the "Authorized Work"), all in connection with the Homeowner's participation in the Program.

Homeowner understands and agrees (1) to grant the Assistance Providers full access to the Property for a period of five (5) years (unless sooner cancelled by execution of a written Cancellation) for the purpose of performing inspections and all other Authorized Work; (2) that the Assistance Providers shall, in their sole discretion, determine the extent and the number of required inspections; (3) that the Assistance Providers may take photos, digital likenesses, and audio/video recordings of the property and damages thereto and use such items solely for the purposes of promotion of the Program on the Program website, newsletters, news releases or other media outlets; (4) that the Assistance Providers may collect samples of housing materials for purposes of testing for potentially hazardous materials in accordance with the requirements of local, state, and federal law and that such sampling may result in minor damage to the Property and that, if the Homeowner elects to discontinue the Program or is determined to be ineligible for repairs under the Program, then the areas damaged by the inspector taking the testing samples may not be repaired under the Program; (5) that all tools, equipment, and other property taken upon or placed upon the Property by any Assistance Provider, shall remain the property of such Assistance Provider, and may be removed by the Assistance Providers at any time within a reasonable period, if necessary. (6) that all information collected may be shared with other government agencies (Federal, State and applicable local municipality), their contractors, subcontractors and employees, as well as with vested agencies performing inspections and/or repairs, for official use only.

Homeowner releases and agrees to indemnify and hold harmless each and every Assistance Provider for any and all liability, loss, damage, or destruction of any type whatsoever to the Property or to personal property and fixtures situated thereon, or for any bodily injury or death to persons resulting from or related to the Authorized Work on the Property and further releases, discharges and waives any and all liability, claims, demands, damages, injuries, losses, penalties, fines, costs, causes of action, judgments, expenses, as well as any and all actions, either legal or, equitable which the undersigned has, or that might arise, of any nature whatsoever and by whomever made, by reason of, or related to the Authorized Work or any other action of any Assistance Provider, taken to accomplish the aforementioned purposes.

XVI. ADDITIONAL REHABILITATION WORK

In the event that additional construction is necessary in order to complete the rehabilitation of the Property, Homeowner hereby agrees as a condition of this Agreement that Homeowner will, within six months of the date of this Agreement:

- (a) arrange for a qualified professional to conduct an environmental risk assessment of the Property or request that HTFC do so, and
- (b) complete the rehabilitation of the Property or submit to HTFC an executed construction contract in such form as required by HTFC. Homeowner acknowledges and understands that, in order to receive CDBG-DR Assistance for such additional

construction, Homeowner will be required to enter into further agreements with HTFC in such form as required by HTFC.

Homeowner understands and agrees that the rehabilitation of the Property must comply with all applicable laws and building code requirements, and that, following completion of the rehabilitation, Homeowner must provide HTFC with a copy of the certificate of occupancy for the Property or such other documentation as is provided by the relevant authority that the work has been satisfactorily completed.

XVII. BUYOUT AND ACQUISITION PROGRAM

If Homeowner is eligible to participate in the Home Buyout/Acquisition Program, an agreement must be executed within sixty (60) days of receipt of the CDBG-DR Grant which is the subject of this Agreement. Homeowner's eligibility to participate in the Buyout/Acquisition Program will become null and void sixty (60) days after receipt of the CDBG-DR Grant. In the event that Homeowner opts to enter into an agreement to sell the property pursuant to the Buyout/Acquisition Program, the amount of the CDBG-DR Grant will be deducted from purchase price

XVIII. CONSTRUCTION

Wherever the context so requires, the masculine gender includes the feminine, and the singular includes the plural and conversely.

XIX. EXECUTORY CLAUSE

This Agreement is subject to availability of CDBG-DR Assistance. HTFC shall have no liability under this Agreement (including any extension or other modification of this Agreement) to provide funding to any Homeowner beyond funds appropriated or otherwise lawfully available for this Agreement, which shall include funds made available to HTFC from the Federal Government.

(Signature page follows)

IN WITNESS WHEREOF, the Homeowner(s) and HTFC have executed this Agreement as of the date first above written.

Homeowner

By: _____

Name: _____

Current address: _____

Homeowner

By: _____

Name: _____

Current address: _____

Housing Trust Fund Corporation

By: _____

Name: _____

SAMPLE

