

**Tier 1 Environmental Review Record
Community Development Block Grant – Disaster Recovery Program
NY Rising Housing Recovery Program:
Environmental Assessment for 5+ Unit Residential Properties
Nassau County, NY**

**PREPARED FOR:
NEW YORK STATE HOMES AND COMMUNITY RENEWAL
38 – 40 STATE STREET
ALBANY, NEW YORK 12207-2804**

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ORIGINAL SUBMISSION—MARCH 2014

AMENDED SUBMISSION—AUGUST 2014

ERR Project Summary	
Responsible Entity:	New York State Homes and Community Renewal
Certifying Officer:	Ms. Amy Zamenick, Senior Attorney, New York State Homes and Community Renewal
Project Name:	NY Rising Housing Recovery Program
Federal Agency:	U.S. Department of Housing and Urban Development (HUD)
Project Sponsor:	New York State Homes and Community Renewal
Program Name:	New York State Community Development Block Grant - Disaster Recovery
Project Site Address:	Multi-family Residential Sites
Project County:	Nassau County, New York
Estimated Project Cost:	\$40,000,000.00
Project Sponsor Address:	New York State Housing Trust Fund Corporation 38-40 State Street Albany, NY 12207
Primary Contact's Name:	Amy Zamenick
E-Mail address:	azamenick@nyshcr.org
Telephone Number:	(518) 473-4732
Project NEPA Classification:	24 CFR 58.36 Environmental Assessment
ENVIRONMENTAL FINDING:	<input checked="" type="checkbox"/> Finding of No Significant Impact - The project will not result in a significant impact on the quality of the human environment. <input type="checkbox"/> Finding of Significant Impact - The project may significantly affect the quality of the human environment.
	<p>The undersigned hereby certifies that New York State Housing Trust Fund Corporation has conducted an environmental review of the project identified above and prepared the attached environmental review record in compliance with all applicable provisions of the National Environmental Policy Act of 1969, as amended, (42 USC sec. 4321 et seq.) and its implementing regulations under 24 CFR Part 58.</p> <p style="text-align: center;"></p> <hr/> <p>NAME: Ms. Amy Zamenick Title/Agency: Senior Attorney/NYS Homes and Community Renewal Date: 5 March 2014</p>

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Acronyms and Abbreviations

ABFE	Advisory Base Flood Elevation
ASD	Acceptable Separation Distance
ASTM	American Society for Testing and Materials
BFE	Base Flood Elevation
BMPs	Best Management Practices
C&D	Construction and Debris
CBRA	Costal Barrier Resources Act
CBRS	Coastal Barrier Resource System
CDBG-DR	Community Development Block Grant for Disaster Recovery
CDC	Centers for Disease Control
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
FEMA IA	Federal Emergency Management Agency Individual Assistance
FIRM	Flood Insurance Rate Maps
FONSI	Finding of No Significant Impact
HCR	New York State Homes and Community Renewal
HTFC	Housing Trust Fund Corporation
HUD	Housing and Urban Development
LIPA	Long Island Power Authority
LWRP	Local Waterfront Revitalization Plan
MS4	Municipal Separate Storm Sewer Systems
NCRS	Natural Resources Conservation Service
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NFMS	National Marine Fisheries Service
NHPA	National Historic Preservation Act
NOAA	National Oceanographic and Atmospheric Administration
NOIRROF	Notice of Intent to Request Release of Funds
NPS	National Park Service
NWI	National Wetlands Inventory
NY	New York
NYC	New York City
NYCRR	New York Code, Rules and Regulations
NYS	New York State
NYSDEC	New York State Department of Environmental Conservation

Acronyms and Abbreviations (continued)

O&M	Operations and Maintenance
OCR	Office of Community Renewal
OPA	Otherwise Protected Area
OPRHP	Office of Parks, Recreation and Historic Preservation
OSHA	Occupational Safety and Health Administration
P-FIRMS	Preliminary Flood Insurance Maps
PEA	Programmatic Environmental Assessment
PCBs	Polychlorinated Biphenyls
QEP	Qualified Environmental Professional
RE	Responsible Entity
RRP	Repair, Renovation, Painting
SEQR	State Environmental Quality Review Act
SFHA	Special Flood Hazard Area
SHPO	State Historic Preservation Office
SIP	State Implementation Plan
TCLP	Toxicity Characteristic Leaching Procedure
THPO	Tribal Historic Preservation Office
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service

1.0 NY Rising Housing Recovery Program: Environmental Assessment for 5+ Unit Residential Properties in Nassau County, NY

1.1 Background

In 2011, Nassau County received extensive damage from the winds and flood waters caused by Hurricane Irene. The ninth named storm and first hurricane of the 2011 Atlantic hurricane season, Irene originated east of the Lesser Antilles in the Caribbean Sea as a well-defined Atlantic tropical wave. Having formed a closed center of circulation, on August 20, 2011 the system was designated as Tropical Storm Irene. Growing in intensity, Tropical Storm Irene made landfall in the island of St. Croix the same day, then a second landfall in Puerto Rico early on August 21, 2011. While crossing Puerto Rico, Irene strengthened into a Category 1 hurricane. Shortly before making four landfalls in the Bahamas, Irene peaked as a 120 mph (195 km/h) Category 3 hurricane. Hurricane Irene lessened in intensity as it crossed the Bahamas and struck North Carolina as a Category 1 hurricane on August 27, 2011. With Hurricane Irene's path projected to strike much of the East Coast, states of emergency and hurricane warnings were declared for several states, including New York State (NYS). Governor Andrew Cuomo declared a state of emergency on August 26, 2011. Shelters were prepared, and hundreds of thousands of people across NYS were evacuated from their homes.

Rain associated with Hurricane Irene began in Nassau County on the afternoon of August 27, 2011, with flooding beginning the next morning. On August 28, 2011, Hurricane Irene made landfall in NYS with tropical storm force winds and causing disastrous flash flooding, especially in the eastern part of Upstate New York (NY). Winds were estimated to have topped 70-90 mph at about 10 a.m. on August 28, when the eye of the 300-mile wide storm moved through Long Island. Hurricane Irene lashed Long Island, submerging some beaches entirely and leaving hundreds of thousands of people without electricity. There was one reported fatality in Nassau County of a man who went windsurfing as the storm arrived, and there were no reports of serious injuries.

In total for the United States, Hurricane Irene caused widespread destruction, 49 confirmed fatalities, and according to Federal Emergency Management Agency (FEMA) estimates, nearly \$15.6 billion in damage, making it the seventh costliest hurricane in United States history.

In 2012 Nassau County was again devastated by impacts of Superstorm Sandy. On October 24, 2012, the National Oceanographic and Atmospheric Administration (NOAA) predicted that there was a 90% chance that Superstorm Sandy would impact the Mid-Atlantic and New England states, including NYS. In response to this prediction, Governor Andrew Cuomo proactively requested federal emergency assistance prior to Superstorm Sandy's landfall, and President Obama signed an emergency declaration for NYS. New York City (NYC) issued the second mandatory evacuation on record on October 28th, evacuating residents in flood zones A and V. NYC also opened 76 public shelters.

Superstorm Sandy, one of the largest Atlantic hurricanes to reach the United States on record, resulted in great devastation along the NYS coast on October 29, 2012. Flooding and high winds along the coast and overland flooding damaged communities throughout NYS. Fourteen counties, including Nassau County, were declared federal disaster areas.

Two million customers in NYS lost power, with some blackouts lasting up to three weeks. The storm damaged or destroyed as many as 300,000 housing units in NYS, affected or closed over 2,000 miles of roads, produced catastrophic flooding in subways and tunnels, and damaged major power transmission systems. Sixty New Yorkers died as a result of Superstorm Sandy. This destruction came in the wake of Hurricane Irene, which had severely damaged Nassau County only one year prior to Superstorm Sandy, and was particularly devastating to an economy just recovering from the financial crisis.

In southwestern Nassau County, southern Queens and lower Manhattan, Superstorm Sandy came ashore as a storm expected once in about 300 years. The Long Island Power Authority (LIPA) reported more than 940,000 customers without power. Following the storm, residents in Long Beach and Mill Neck were instructed to avoid drinking tap water due to potential contamination. In Nassau County, one death was reported when an 84-year-old man died after being struck by a falling tree. Cars floated along the streets of Long Beach, which was under a mandatory evacuation order.

A few miles northwest of Freeport, the Bay Park Sewage Treatment Plant in East Rockaway, which treats 40% of Nassau County's waste, completely shut down for two days after it was hit with a nine-foot wave. It released hundreds of millions of gallons of raw and partially treated sewage into nearby waterways and streets.

In total for the United States, Superstorm Sandy caused catastrophic damage, 73 direct and 87 indirect fatalities, and at least \$68 billion in damage, making it the second costliest hurricane in United States history.

1.2 Community Development Block Grant-Disaster Recovery

Superstorm Sandy was the catalyst for the allocation of disaster relief funds under the Community Development Block Grant—Disaster Recovery (CDBG-DR). These funds are being used to assist not only counties that were devastated by Superstorm Sandy, but also counties that were severely impacted by Hurricane Irene and/or Tropical Storm Lee in 2011. Nassau County incurred severe damage from Superstorm Sandy, as well as damage from Hurricane Irene the previous year.

Following damage assessments performed by FEMA, President Obama also signed into law the “Disaster Relief Appropriations Act, 2013” (Public Law 113-2, approved January 29, 2013), which included \$16 billion in funding for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, as well as economic revitalization in the most impacted and distressed areas resulting from recent storm events.

The U.S. Department of Housing and Urban Development (HUD) is responsible for administration of the CDBG-DR program pursuant to the Disaster Relief Appropriations Act of 2013. The CDBG-DR program is designed to address the needs of NYS communities devastated by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. This funding was disbursed in two (2) phases. On Tuesday, March 5, 2013, HUD published Federal Register Notice 5696-N-01, which established the requirements and processes for \$1.7 billion in Federal CDBG-DR aid appropriated by the United States Congress and allocated to NYS for disaster relief. On Monday, November 18, 2013, HUD published Federal Register Notice 5696-N-06, which established the requirements and processes for \$2.097 billion in Federal CDBG-DR aid to NYS.

The Disaster Relief Appropriations Act requires grantees to submit an action plan to the HUD Secretary “detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas.”

As required by the CDBG-DR program, NYS submitted to the HUD Secretary the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan) (issued April 25, 2013; amended August 13, 2013, August 16, 2013; August 19, 2013, November 15, 2013, December 18, 2013; draft amendment February 18, 2014). The Action Plan is supplemented by the *NY Rising Housing Recovery Program Homeowner Guidebook* (Guidebook) (revised December 12, 2013). The Action Plan describes the proposed use of HUD CDBG-DR funding to meet the unmet housing, economic development, community planning, and infrastructure needs of impacted communities. In the Action Plan, NYS identified more than \$6 billion in damage to residential structures in the areas most impacted by Superstorm Sandy and other recent eligible disaster events, such as Hurricane Irene and Tropical Storm Lee.

The Action Plan is being used as a guide by NYS Homes and Community Renewal (HCR), through its Office of Community Renewal (OCR) and the Housing Trust Fund Corporation (HTFC), for the distribution of CDBG-DR funding. The Action Plan helps to define how NYS will effectively use any available funding to recover and rebuild, and just as importantly, to stimulate economic growth in every affected community through a community-driven planning process.

The plan is based on six key principles:

1. *Building back better and smarter* – As New Yorkers repair the significant damage wrought by Superstorm Sandy, the State will use the opportunity not to replace damaged buildings with the same structures, but to invest in additional mitigation to prevent similar damage from recurring.
2. *State-led, community-driven recovery* – NYS is collaborating closely with local governments and other organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. *Recovery from Irene and Lee* – The recovery efforts will also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.

4. *Leveraging private dollars* – NYS will undertake programs that will help unlock capital markets and increase the amount of low-interest financing of key projects by reducing the risk for private sector lenders.
5. *Spending accountability and transparency* – To make certain that funds are spent appropriately and responsibly, NYS will put rigorous spending accountability systems in place and employ an independent auditing firm.
6. *Urgency in action* – The recovery is a long-term endeavor but people need help today, so the projects and programs have been shaped to achieve the fastest delivery and best support possible.

To meet these objectives, NYS has established a number of individual programs to provide assistance for housing, economic development, resilience and retrofit, community planning and redevelopment, and public infrastructure. The NY Rising Housing Recovery Program is designed to provide assistance for repairing damaged properties, reconstructing damaged residential buildings, mitigating damaged properties for future resilience, and reimbursing homeowners and tenants who have already begun repairing or have completed repairs on their homes.

Housing programs from the Action Plan include:

- Repair
- Reconstruction
- Resiliency and Mitigation
- Reimbursement
- Renter Assistance

HCR is acting as the Responsible Entity (RE) under 24 CFR Part 58—Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. As the RE, HCR will complete environmental reviews for all NY Rising Programs in compliance with the National Environmental Policy Act (NEPA) and HUD environmental review standards. For the purpose of environmental reviews and in compliance with HUD rules, HCR will conduct Tier 1 Programmatic Environmental Assessments (PEAs) for the NY Rising Programs on a county-by-county basis as follows:

- 1-4 unit residential properties
- 5+ unit residential properties
- Buyouts and acquisitions¹
- Bulkhead repairs or reconstruction for residential properties

This Tier 1 PEA evaluates the potential environmental impacts of the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County (also referred to as the “proposed action”). For purposes of this Tier 1 PEA, 5+ unit residential properties are properties that are comprised of five (5) or more dwelling units and may include rental apartments, cooperatives, and condominiums.

¹ The Tier 1 PEAs for Buyouts and Acquisitions will be completed separately for the counties within New York City: Bronx, Kings, New York, Queens, and Richmond Counties.

As further discussed in Section 1.7 “Program Description,” below, the proposed action would fund the following resiliency measures:

- Elevation of housing structures to the required ABFE plus freeboard as required by each community’s floodplain ordinance;
- Flood-proofing housing structures as required by each community’s floodplain ordinance;
- Elevation or resiliency measures for electrical systems and components;
- Securing of fuel tanks;
- Use of flood resistant building materials below base flood elevation (retrofits to be limited in scope to be cost-effective);
- Installation of flood vents;
- Installation of backflow valves; and
- Installation of roof strapping.

The above resiliency measures would reduce, but not eliminate, potential flood risks to the repaired or reconstructed structures during future storm events. However, the New York Rising Housing Recovery Program also includes a Buyout program for areas of greatest risk. Actions that remove structures from the floodplain would avoid damage from future storm events. However, avoidance is not always the most economical or practical solution. As such, mitigation and resiliency measures are considered as part of the proposed action. Resiliency measures, such as those identified above, reduce the risk of property damage or destruction during severe storm events, but the potential for future damage cannot be eliminated.

1.3 Proposed Action Location

The geographic scope for the NY Rising Housing Recovery Program for 5+ Unit Residential Properties described herein is the jurisdictional area of Nassau County, covering approximately 289,900 acres, of which 104,368 acres are located within floodplains. Construction activities are expected to take place on multi-family residential properties throughout the communities in Nassau County, especially those most affected by Superstorm Sandy, including the Towns of Hempstead and Oyster Bay, the City of Long Beach, and the Villages of Island Park and Freeport. Property owners (referred to as the “Applicant” throughout this Tier 1 PEA) of any location within the county that sustained damage from Hurricane Irene and/or Superstorm Sandy are able to apply for the program.

The number of residents in Nassau County most impacted by Superstorm Sandy’s storm surge is approximately 25% of the county’s total population, distributed across the most impacted communities (see Table 1: Nassau County Most Impacted Communities on page 7).

The number of potential structures impacted is subject to updates and refinements as more detailed information becomes available. The actual property addresses will not be verified until applications for assistance are reviewed and determined eligible for the program.

Table 1
Nassau County Most Impacted Communities

Source: U. S. Census Bureau (census.gov) 2010 Census

	Nassau County		Town of Hempstead		Town of Oyster Bay		Village of Freeport		Village of Island Park		City of Long Beach	
	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area
Population	1,339,532	336,058 25.0%	759,757	226,376 29.7%	293,214	39,980 13.6%	42,860	31,772 74.1%	4,655	4,655 100%	33,275	33,275 100%
Average Household Size	2.94	2.75	3.03	2.89	2.89	2.88	3.18	3.03	2.78	2.78	2.17	2.18
Elderly 65+	15.3%	15.3%	14.2%	15.5%	16.9%	15.9%	12.0%	12.4%	632	13.6%	16.1%	16.1%
Below Poverty	5.0%	7.5%	6.3%	4.6%	3.0%	3.2%	12.7%	13.4%	8.3%	8.3%	7.9%	7.9%
Race												
White Non-Hispanic	65.5%	74.0%	59.9%	77.5%	80.0%	81.8%	23.6%	40.1%	68.1%	72.8%	75.5%	77.9%
Black Non-Hispanic	10.5%	9.0%	15.7%	7.9%	2.1%	6.6%	30.9%	22.0%	1.4%	1.7%	5.9%	6.0%
Hispanic	14.6%	13.5%	17.4%	10.6%	7.5%	9.5%	41.7%	35.6%	26.5%	23.1%	14.1%	13.2%
Asian Non-Hispanic	7.6%	3.2%	5.1%	3.8%	9.1%	1.8%	1.6%	1.6%	2.5%	2.2%	2.6%	2.5%
American Indian & Alaska Native	0.1%	0.2%	0.1%	0.2%	0.1%	0.2%	0.2%	0.6%	0.1%	0.2%	0.1%	0.3%
Native Hawaiian & Pacific Islander	0.0%	0.1%	0.0%	0.0%	0.0%	0.1%	0.0%	0.1%	0.0%	0.0%	0.0%	0.1%
Housing												
Total	468,346	26.9%	256,734	32.1%	102,849	14.2%	13,865	78.5%	1,715	100.0%	16,450	100.0%
Occupied	448,528	26.6%	246,456	31.8%	99,419	14.2%	13,279	78.4%	1,603	93.5%	14,809	90.1%
Owner-Occupied	358,300	25.4%	197,173	32.4%	86,410	13.2%	8,886	74.9%	954	55.6%	8,250	50.2%
Renter-Occupied	90,228	31.3%	49,283	29.6%	13,009	21.0%	4,393	85.5%	649	37.9%	6,559	39.9%
Vacant	19,818	33.5%	10,278	37.6%	3,430	15.9%	586	79.7%	112	6.5%	1,641	9.9%
5+ Unit Housing	53,023		27,958		5,360		4,142		195		6,222	

1.4 Current Conditions and Trends

Nassau and Suffolk Counties comprise the geographic region commonly referred to as Long Island and lie immediately to the east of NYC. Nassau County occupies 453 square miles, of which 287 square miles are land. The geography of Nassau County is generally flat, with hilly areas on the north shore. Because of its location on the Atlantic Ocean, the climate in Nassau County is warm and humid in the summer, with cool, wet winters.

According to the 2010 U. S. Census, the population of Nassau County was 1,339,532. Recent 2012 Census data estimates an increase in population to 1,349,233. Approximately 65.5% of the population identifies as White Non-Hispanic, 14.6% identifies as Hispanic, 10.5% identifies as Black or African-American Non-Hispanic, 7.6% identifies as Asian Non-Hispanic, 0.2% identifies as American Indian or Alaska Native, and 0.4% identifies as “other”. (See Table 1: Nassau County Most Impacted Communities on page 6). In Nassau County, 15.3% of the population is over the age of 65.

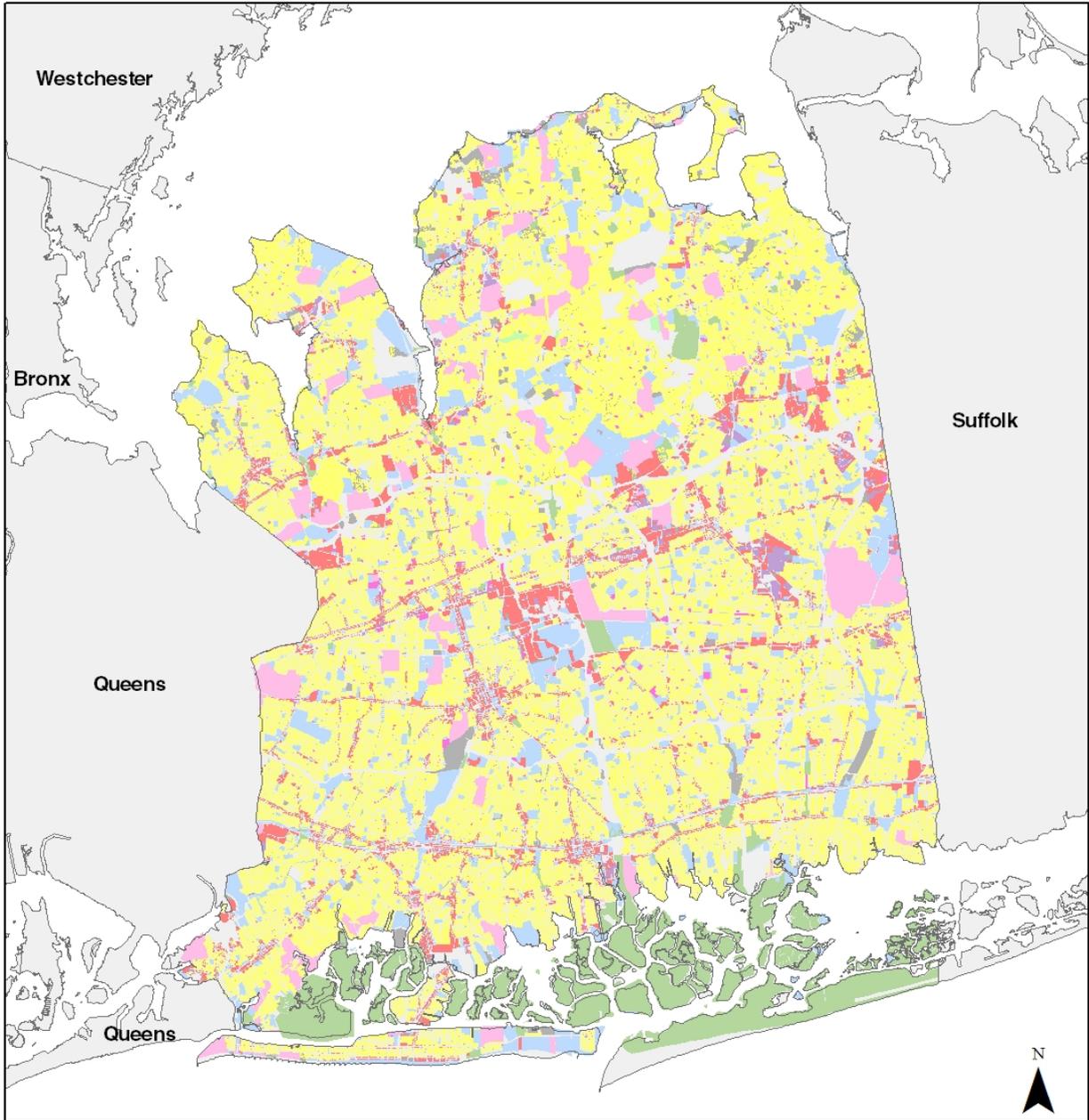
According to U.S. Census American Community Surveys, between 2007 and 2011 (the latest data available), the median household income of Nassau County was \$95,823, and the median value of owner-occupied housing units was \$478,600.

The predominant land use in Nassau County is residential, comprising approximately 60% of the land area (see Figure 1: Nassau County Land Use Map on page 8). About 95.8% of Nassau County’s housing is occupied. Of this approximately 20.1% is renter-occupied and 79.9% is owner-occupied. About 75.4% of all housing is single-family detached housing; 8.3% had 20 units or more; and 7.6% were 2-unit structures (2012 American Community Survey, 1-Year Estimates). The median monthly rent for renter-occupied units is \$1,462, and the largest percentage of renters paid between \$1,000 and \$1,499 per month (29.4%), followed by the range of \$1,500 and \$1,999 (24.3%); and 20.8% paid \$2,000 or more. Approximately 46% of renters pay 35% or more of their household income in rent in Nassau County.

Parks, recreational, open space, and agricultural uses make up about 17% of land area, and occur throughout the county. Nassau County manages more than 70 parks, preserves, museums, historic properties and athletic facilities, with recreational and open space comprising 6,000 acres throughout the county. This recreational and open space includes the 930-acre Eisenhower Park, several golf courses, and beaches on the ocean.

Institutional uses, including schools and government facilities, comprise about 11% of the total land area, and are widely dispersed throughout the county. Retail development, approximately 4% of the land area, is concentrated in the established downtown centers and along arterial roadways in local and regional-based shopping centers. About 4% of the county can be classified as vacant or unspecified land use and office uses comprise about 2%. Industrial uses comprising about 2% of land area are concentrated in the central and southern portions of the county near rail lines and major transportation corridors.

Figure 1: Nassau County Land Use Map



- AGRICULTURE
- COMMERCIAL
- COMMUNITY SERVICES
- INDUSTRIAL
- PUBLIC SERVICES
- RECREATION AND ENTERTAINMENT
- RESIDENTIAL
- VACANT LAND
- WILD, CONSERVATION LANDS AND PUBLIC PARKS



Source: Long Island Index, Nassau County Planning Department.

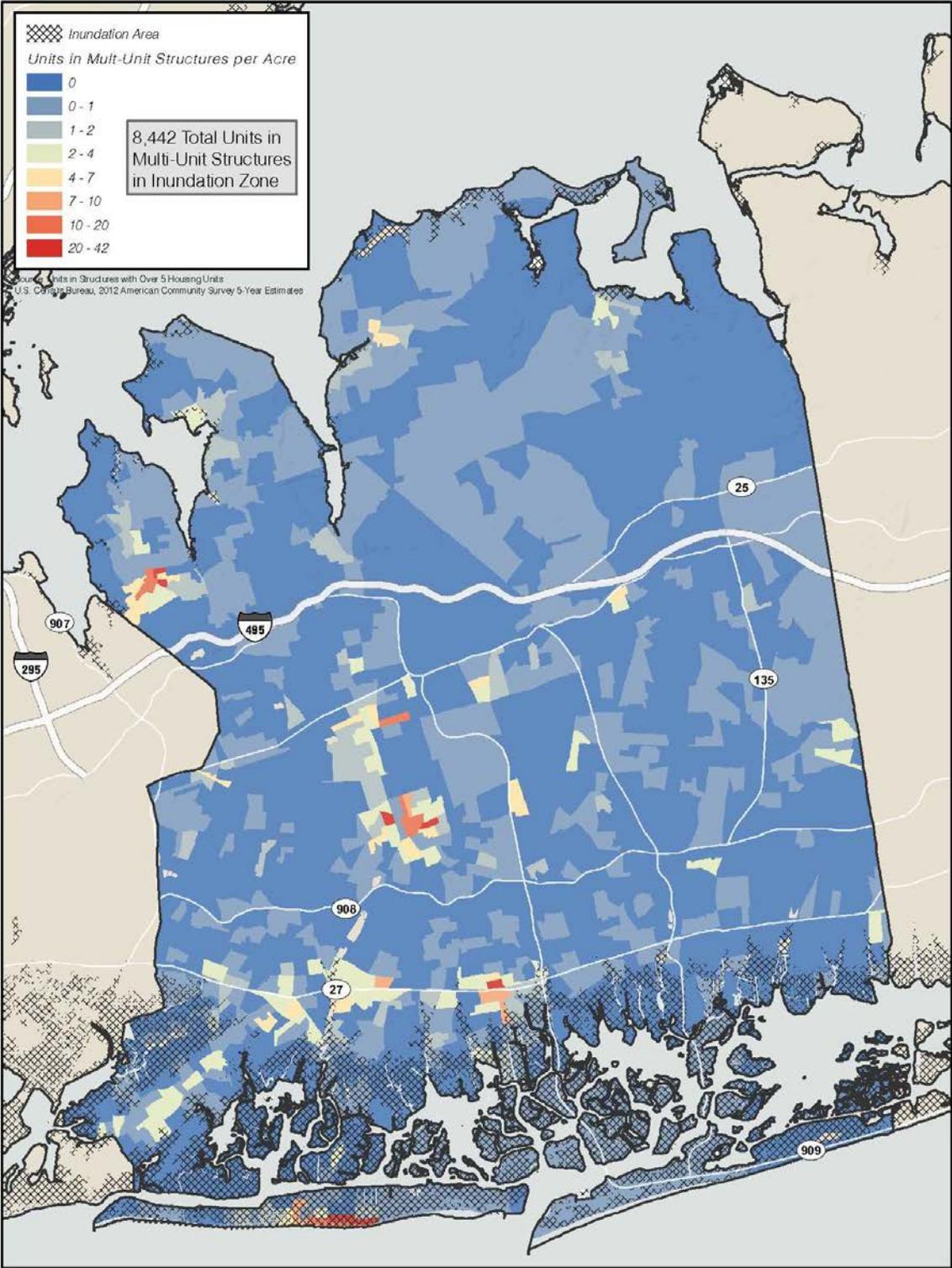
1.5 Damage Assessments and Need

Superstorm Sandy severely impacted the shoreline and other low-lying areas of Nassau County. Flooding exceeded long-standing Zone AE boundaries established for emergency evacuation, as well as the boundaries and flood heights of the pre-storm FEMA Flood Zone AE. The Superstorm Sandy inundation area extended over an area of the County containing approximately 126,000 residential units (see Figure 2: Nassau County Inundation Area Map on page 10).

According to 2010 Census data, this inundation area is home to approximately 25% of the County's population (1,339,532 persons). This population is distributed across the most impacted communities (see Table 1: Nassau County Most Impacted Communities on page 6). The damages experienced by residents compounded the conditions of housing stock previously impacted by Hurricane Irene and Tropical Storm Lee, which respectively occurred in August and September 2011.

To understand the significant damage Sandy caused to Nassau County's housing stock and the demand for temporary and permanent housing, field inspections and data from the FEMA Individual Assistance Program (FEMA IA) were analyzed to estimate the volume and severity of damaged buildings. According to data that FEMA provided to the public after Superstorm Sandy, a total of 74,736 structures in Nassau County were flooded, damaged or destroyed. Approximately 30,036 structures in Nassau County had damage totaling more than 50% of their value and 117 structures were completely destroyed. In addition, many thousands of New Yorkers were temporarily displaced from their homes due to power outages or other service interruptions.

Figure 2: Nassau County Inundation Area Map



FEMA initial damage assessments also show that at least 31 apartment or condominium buildings in Nassau County had flooding in a basement or crawlspace following Hurricane Irene. These numbers are only for dwellings identified as an apartment or condominium. FEMA initial damage assessments from Superstorm Sandy containing detailed information have not yet been made available.

Using FEMA Verified Loss (FVL) values and scaling factors, the likely overall cost to reconstruct or rehabilitate destroyed, major, or moderately damaged buildings in Nassau County is estimated at \$5.2 billion. This damage is across owner-occupied and rental properties, and includes single-family and duplex homes, apartments, condos, and other property types. The cost to reconstruct is estimated at \$4.3 billion for single-family and duplex homes (1-2 units), \$646 million for apartments, \$97 million for condos, and \$161 million for other property types.

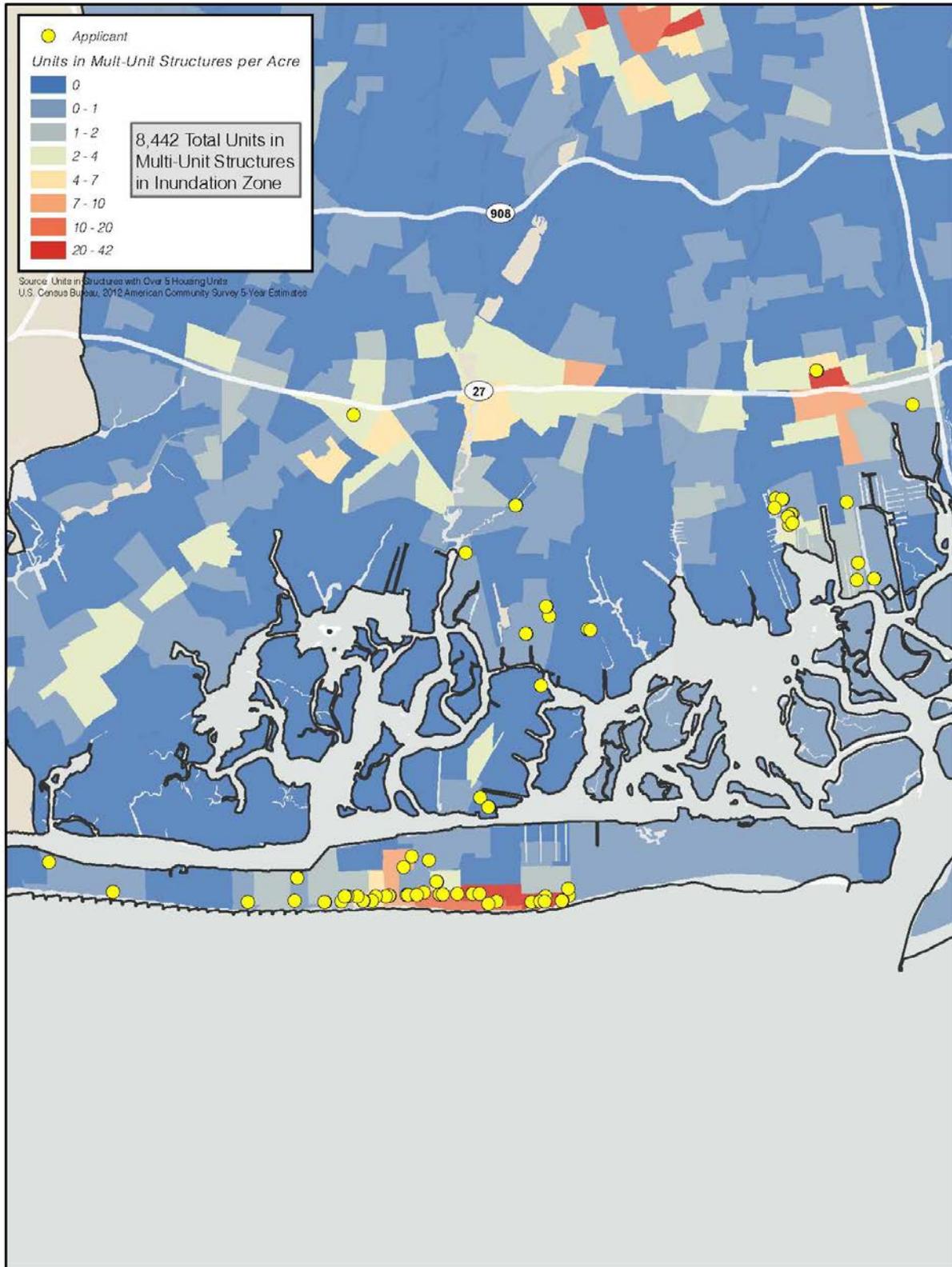
As of the date of this PEA, there have been 13,870 applications for CDBG-DR assistance through the NY Rising Program in Nassau County. The application process is ongoing, and as of the original Tier I submission in March 2014, 19 of these applications were identified as 5+ unit residential buildings. Updated application numbers were compiled as part of this amended submission and as of August 13, 2014, 212 applications have been identified as 5+ unit residential buildings and have been mapped (see Figure 3: Nassau County Prospective Applicant Address Map on page 12). Of the total applications in Nassau County, approximately 11% are for reimbursement for repairs that have been completed, suggesting that 89% of Applicants still have ongoing and unfinished repairs to their homes that were damaged by Hurricane Irene or Superstorm Sandy.

NYS recognizes that without federal assistance through the CDBG-DR program, residents of its storm-damaged communities would be unable to rehabilitate their homes to comply with housing construction standards within an acceptable period of time. If housing damages are not addressed until other funding sources become available, the damaged housing stock would remain vulnerable to structural deterioration and weathering. Owners of partially damaged multi-family residential buildings and units, as well as tenants, would make repairs as they are able, which would not necessarily be code-compliant or resilient to future weather extremes. Residents displaced from their damaged multi-family housing units would continue to seek shelter from family and friends, through various public service agencies or non-profit organizations, and potentially relocate away from Nassau County.

Not only would structural conditions of damaged multi-family residential buildings continue to deteriorate, but property values would continue to drop, slum and blight conditions would increase, all posing a continuing burden on the county's tax base and services. As allocated to Nassau County, the CDBG-DR funds available are considered essential to recovering the county's overall vitality. For the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County addressed in this Tier 1 PEA, the CDBG-DR funds will facilitate the repair, rehabilitation, and mitigation of multi-family housing.

The purpose of the proposed action is to assist owners and tenants of 5+ unit residential properties in Nassau County whose homes were damaged or destroyed by Hurricane Irene and/or Superstorm Sandy. The program is needed to help provide adequate housing for residents of these units through rehabilitation of damaged structures.

Figure 3: Nassau County Prospective Applicant Address Map



1.6 Recovery Measures

In January, and subsequently in April of 2013, FEMA released its Advisory Base Flood Elevation (ABFE) Maps for some counties affected by Superstorm Sandy. These maps were created to provide the “best available data” on flood risk for areas impacted by the storm and assist homeowners with decision making on how best to rehabilitate their homes. These were to be replaced by Preliminary Flood Insurance Rate Maps (P-FIRMS) once they were updated by FEMA. However, the P-FIRMS have not yet been published. In light of this fact, HUD issued its newest “best available data” as preliminary work maps, which advise that reconstruction program sites be elevated to one foot above the Base Flood Elevation (BFE).

Also in response to Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, NYS developed the Action Plan to help define how the State will effectively use all available funding to recover and rebuild. Part of the Action Plan describes the need to help affected families to rebuild and return to their homes as soon as possible by addressing unmet housing rehabilitation and repair needs and incorporating mitigation measures in order to reduce impacts of future disasters. Of particular concern is the restoration of a deep and stable market for affordable multi-family housing, in order to direct assistance to those underserved populations, including minorities and low-income households, as well as special needs individuals and families, who are generally more likely to live in multi-family housing properties. To ensure that the rental market rebounds and affordable housing options persist for those in storm-affected areas, it will be important for direct assistance to rental properties in addition to owner-occupied properties.

Although there was some assistance granted to the county immediately after the storms, including \$3.2 million in federal funding granted to municipalities after Hurricane Irene and \$332 million in FEMA Public Assistance for infrastructure repairs after Superstorm Sandy, there still remains a great need for housing recovery assistance in Nassau County. In addition to funding housing recovery for 5+ unit residential properties, under the Action Plan, NYS is also allocating CDBG-DR funding for rehabilitation of one to four unit residential properties, bulkhead repairs, buyouts and acquisitions of homes, and economic development for businesses damaged by the aforementioned storms. These actions are important in assisting NYS in making a more complete recovery after being devastated by three severe storm events in a short time span.

The action covered by this PEA is to provide assistance for repair, rehabilitation, replacement, storm mitigation, and reimbursement for completed repairs to owners and renters in Nassau County whose 5+ unit residential properties were damaged or destroyed by Hurricane Irene and Superstorm Sandy. The program is needed to maintain adequate housing for residents of these units through rehabilitation of damaged structures.

After the storms, Nassau County updated its Hazard Mitigation Action Plan. This plan represents the collective efforts of private citizens, elected and appointed government officials, business leaders, and volunteers of non-profit organizations to initiate programs for rebuilding and increasing resiliency of communities in the event of future extreme weather events.

One of the primary objectives of this plan update is to help prioritize mitigation projects for the county, as the impact and future implications of Superstorm Sandy events are becoming better understood. The goal in this undertaking is to harden facilities, infrastructure, and residences to the potential damage caused by natural disasters in the future. Under the Disaster Mitigation Act of 2000 (Public Law 106-390), state and local governments that maintain an approved Hazard Mitigation Plan will be eligible for certain pre- and post-disaster project funding to help protect their communities. These types of recovery measures taken by Nassau County will complement the rehabilitation and resiliency efforts to residences under the NY Rising Programs, making the repair and mitigation efforts more effective, leading to a better recovery of the county.

1.7 Program Description

Property owners of disaster-declared counties who sustained damage have been invited to submit an application for assistance to repair damage caused by Hurricane Irene, Tropical Storm Lee, and/or Superstorm Sandy. Funding for repair and mitigation will include costs for the repair or replacement in place and in kind of damage to real property, replacement of disaster-impacted non-luxury residential appliances, and environmental health hazard mitigation costs. It will also cover costs for unmet rehabilitation or repair needs after accounting for all federal, state, local and/or private sources of disaster-related assistance. Assistance for repair, rehabilitation, and mitigation funding will be capped at the lesser of a specified dollar amount to be determined by NYS, or the unmet repair, rehabilitation and mitigation need as described above. To direct sufficient levels of assistance to those most in need, especially low- to moderate-income and minority households, a higher overall dollar cap amount may be applied to those households of low- or moderate-income, where the need is justified.

Programs from the Action Plan and Guidebook that are incorporated into this Tier 1 PEA by reference are Repair, Reconstruction, Resiliency, and Reimbursement. Interim mortgage assistance may be available to homeowners and rental property owners who are eligible participants in the NY Rising Housing Recovery Program. Each program has its own specific set of eligibility requirements.

The CDBG-DR funds will be used for the following specific activities related to residential structures with 5 or more units for repair, for rehabilitation and in place and in kind reconstruction of storm-damaged structures:

- Repairing the interior and exterior of disaster-impacted properties, including the renovation of common areas and dwelling units;
 - Roof repair/replacement
 - Window/door repair/replacement
 - Siding repair/replacement
 - Flooring repair/replacement
 - Drywall/finishing to pre-event condition
 - Insulation
 - Bathroom repair
 - Foundation repairs
 - Kitchen cabinet replacement
 - Well/septic replacement or connection to municipal system
 - Electrical system repair/replacement

- Bulkhead repair or replacement (This activity will be covered in a separate Tier 1 PEA)
- Replacement of non-luxury appliances;
- Mitigation of environmental health hazards related to the repair of disaster-impacted properties, including lead abatement and mitigation, asbestos abatement, radon mitigation, and mold remediation;
- Reconstruction of a new home in place and in kind of the storm-damaged home constructed in accordance with the community's floodplain ordinance and state build code;
- Elevation of housing structures to the required ABFE plus freeboard as required by each community's floodplain ordinance;
- Flood-proofing housing structures as required by each community's floodplain ordinance;
- Elevation or resiliency measures for electrical systems and components;
- Securing of fuel tanks;
- Use of flood resistant building materials below base flood elevation (retrofits to be limited in scope to be cost-effective);
- Installation of flood vents;
- Installation of backflow valves;
- Installation of roof strapping;
- Any rehabilitation and reconstruction activities necessary to meet the Warranty of Habitability as required for all dwelling units in New York State pursuant to New York State Real Property Law s. 235-b.

The following basic program eligibility requirements apply to the NY Rising Housing Recovery Programs:

- Rental of the property must have been year round as the primary residence;
- The home must be located in one (1) of the counties designated a disaster area;
- The residential property was damaged as a direct result of one (1) of these storms:
 - Hurricane Irene: (8/26/2011)
 - Tropical Storm Lee: (9/7/2011)
 - Superstorm Sandy: (10/29/12)
- Properties which have a Lis Pen dens foreclosure proceeding filed prior to the date of the applicable storm are not eligible;
- Property taxes must be current or in process of being made current;
- Second homes and vacation properties are not eligible;
- Homeowners of individual condo and co-op units are eligible program Applicants;
- Associations owning / governing the common spaces of such buildings are also eligible Program Applicants.

It is anticipated that the in-place and in-kind repair, reconstruction, and elevation activities will take place within the existing footprint of the pre-storm structure, and that no additional structures will be built upon each approved program parcel. However, if engineering or other site specific constraints require a modification to the footprint under these programs, the expansion of the structure may not exceed 20% of the original pre-storm footprint. In addition, the unit density may not increase following rehabilitation or reconstruction by more than 20% of the original pre-storm unit density.

All rehabilitation and/or reconstruction of substantially damaged buildings must incorporate Green Building Standards according to the 2011 Enterprise Green Communities Criteria, and rehabilitation of non-substantially damaged buildings must follow guidelines in the HUD Green Building Retrofit Checklist.

Applicants applying for the NY Rising Housing Recovery Program whose income is less than 80% of the area median income may be given priority. For multi-unit buildings, priority will be given to owners of properties where a minimum of 51% of the units are occupied by or will be occupied by persons earning less than 80% of the area median income.

The program may also provide reimbursements for owners or renters of 5+ unit residential properties who have started or completed storm-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements discussed in this document (e.g., eligibility criteria, grant restrictions). These Applicants will be equally subject to the program's eligibility requirements and restrictions on assistance, and unit prices and labor costs may be subject to caps.

In general, priorities for reimbursement will be based upon financial need. Furthermore, Applicants seeking reimbursements may be given lower initial priority for processing than Applicants who are requesting funds for essential rehabilitation or reconstruction of damaged housing structures. All reimbursement is contingent on compliance with NY Rising Housing Recovery Program for 5+ Unit Residential Properties requirements and is dependent upon an environmental review as required by NEPA and HUD regulations.

1.8 Alternatives to the Proposed Action

After a consideration of the following alternatives, NYS has determined that the best practicable alternative is the proposed action. The alternative actions considered are as follows:

- No Action Alternative
- Limited Action Alternative – Rehabilitation without Resiliency Measures
- Limited Action Alternative – No Reimbursement Funding
- Limited Area Alternative

The following alternatives analysis generally assesses the potential direct, indirect, and cumulative impacts of each alternative.

No Action Alternative

Under the No Action Alternative, the funding for the proposed rehabilitation of 5+ unit residential properties in Nassau County would not be authorized. Under the No Action Alternative, the damage caused to Nassau County municipalities and neighborhoods would be repaired slowly or not at all, depending on the motivations of property owners and their access to resources to repair their properties. Hundreds of residences may not be rehabilitated and would deteriorate without the use of CDBG-DR funds. As a result, these owners and tenants may not be able to recover from the impacts of the storm events.

In addition, depending on motivations of owners and their willingness and/or ability to access resources to repair and upgrade homes and properties, there is potential that repairs would be limited, work would progress slowly or remain incomplete, create hazards, or work would not be completed to current building codes. Ultimately, it is expected that many families would be unable to return to their homes, which would have a cumulative impact on community character and the local economy. Housing options for the elderly and supportive housing populations would become limited without the CDBG-DR funds.

Substandard housing and unfinished repairs could negatively affect community character. This would impact adjacent residents, businesses, and the community as a whole. Under this alternative, home values could decline in the surrounding area as a result of vacant and/or dilapidated buildings, and there may be potential for crime and vandalism. As a potential indirect and cumulative impact, the proliferation of uninhabitable homes could weaken the tax base in many communities, which could further deteriorate neighborhoods, infrastructure, and community services. The proposed action, along with other NY Rising Housing Recovery Programs within Nassau County, would result in beneficial cumulative effects to community character and economic conditions by facilitating the rehabilitation of a wide range of residential structures. The No Action Alternative would not contribute to these beneficial cumulative effects.

Under the No Action Alternative, reimbursements would not be made available for eligible owners and tenants who have already engaged in repairs prior to applying for the program. Some of these residents undertook repairs with the understanding that reimbursements would eventually be made available. If relief is not granted, homeowners in future storm events may be dissuaded from making immediate and necessary repairs to their homes, and instead wait for a possible recovery program. This would further delay the recovery of neighborhoods and communities.

Furthermore, under the No Action Alternative Applicants would not be provided financial assistance to implement resiliency measures (e.g., elevating their homes), leaving their properties vulnerable to future flooding conditions. Therefore, unlike the proposed action, the No Action Alternative would neither address NYS's need for safe, decent, and affordable housing, nor would it require homes within the floodplain to be elevated to the highest standard for flood protection.

Overall, the No Action Alternative would be less consistent with State and local land use, zoning, and public policy objectives than the proposed action. Compared with the proposed action, it would have the potential for direct and indirect adverse impacts to economic conditions, community character, cultural and visual resources, natural resources, and water resources. Similar to the proposed action, which involves the rehabilitation of existing structures, the No Action Alternative is not anticipated to result in potential impacts to air quality, energy consumption, or noise. However, unlike the proposed action hazardous materials may not be abated under the No Action Alternative.

Limited Action Alternative – Rehabilitation without Resiliency Measures

Under this alternative, the funding for rehabilitation of 5+ unit residential properties in Nassau County would be authorized, but the financial assistance would not include funding for resiliency measures. Reimbursements would be made available for eligible owners and tenants who have already engaged in repairs prior to applying for the program, allowing for those families to resume their normal contribution to the local economy. The reimbursements would encourage occupants to make necessary repairs more quickly, shortening the duration of impacts related to community character, and restoring normal conditions in the affected communities sooner. However, funding for improvements to homes including elevation and flood-proofing of structures, utility elevation, flood mitigation and other resiliency measures, would not be authorized.

Since this alternative would not provide reimbursement for homes within the floodplain to be elevated or flood-proofed to the highest standard for flood protection, it would fail to encourage repetitive loss from future storms, or aid in communities' efforts to increase resiliency to climate change and mitigation of severe storm risk. Furthermore, since homes that experienced "substantial damage" are required to meet new regulations for storm resiliency, the lack of funding may result in a greater number of unrepaired homes. As a result, homeowners and occupants may not undertake necessary improvements or resiliency measures, and could instead decide to relocate to avoid damage from future storm events. While this alternative could make money available for a greater number of households than the Limited Action Alternative – No Reimbursement Funding, without incorporating resiliency measures, it would only partially fulfill the goals of providing safe and adequate housing for residents of these homes and retention of neighborhood character. A potential cumulative impact of no resiliency funding is that a greater portion of the homeowners would remain at risk during future storm events. Therefore, this alternative would not contribute to ongoing efforts (in the form of revisions to building codes and flood risk maps) to account for projected increased flooding due to climate change.

Overall, the Limited Action Alternative – Rehabilitation without Resiliency Measures would be less consistent with State and local land use, zoning, and public policy objectives than the proposed action since resiliency measures would not be addressed. Unlike the proposed action, it would have the potential for adverse impacts to economic conditions, community character, cultural and visual resources, natural resources, and water resources, as additional properties could remain in disrepair. Similar to the proposed action, the Limited Action Alternative – Rehabilitation without Resiliency Measures is not anticipated to result in potential impacts to air quality, energy consumption, noise, or hazardous materials, as it would likely be subject to the same conditions for approval as the proposed action. The Limited Action Alternative – Rehabilitation without Resiliency Measures would result in similar cumulative impacts as the proposed action (discussed below), except with respect to flood risk, as it would not include resiliency measures that would mitigate the flood risk of future storms.

Limited Action Alternative – No Reimbursement Funding

Under this alternative, the funding for rehabilitation of 5+ unit residential properties including improvements and resiliency measures in Nassau County would be authorized; however, reimbursement for repairs and improvements that have already been implemented would not be authorized.

Reimbursements would not be made available for eligible owners and tenants who have already engaged in repairs prior to applying for the program, resulting in a negative effect on the local economy. Under this alternative, funding would be authorized for the implementation of improvements and resiliency measures (e.g., elevation or flood-proofing of homes and elevation of utilities). These measures would help prevent repetitive loss from future storms and aid the affected communities' efforts to increase resiliency to climate change and mitigation of severe storm risk.

This alternative would partially accomplish the goals of providing safe and adequate housing for residents of these homes, retaining neighborhood character over the long-term, and improving the communities' resiliency to future storms. However, unlike the proposed action, reimbursements would not be made available for eligible owners and tenants who have already engaged in repairs prior to applying for the program. Some of these residents undertook repairs with the understanding that reimbursements would eventually be made available. If relief is not granted, homeowners in future storm events may be dissuaded from making immediate and necessary repairs to their homes, and instead wait for a possible recovery program. A potential indirect and cumulative effect of this would be the further delay of the recovery of neighborhoods and communities, as delaying repairs and rehabilitation would prolong the impacts related to community character, and take longer to restore normal conditions in affected areas. The cumulative effects of the Limited Action Alternative – No Reimbursement Funding would be the same as the proposed action because funding for reimbursement for previously completed work would not contribute to future potential cumulative effects.

Unlike the proposed action, the Limited Action Alternative – No Reimbursement Funding would have the potential for adverse impacts to land use, zoning, and public policy, economic conditions, community character, cultural and visual resources, natural resources, and water resources, as additional properties could remain in disrepair. Similar to the proposed action, the Limited Action Alternative – No Reimbursement Funding is not anticipated to result in potential impacts to air quality, energy consumption, noise, or hazardous materials, as it would likely be subject to the same conditions for approval as the proposed action.

Limited Area Alternative

In certain limited areas with high flood risk, additional programs have been proposed for funding and are being assessed in forthcoming environmental assessments. Under the Limited Area Alternative - Buyout Option, funds would be authorized to purchase severely damaged residential properties, demolish any structures, and restore the property to natural conditions within Nassau County. This would help restore large parts of the floodplain to their natural state. Under the Limited Area Alternative- Acquisition Option, funding would be authorized to purchase damaged residential properties for the purpose of future resilient redevelopment within Nassau County.

Both of these options would involve relocating populations to less vulnerable areas away from the shore. This would result in a dramatic change to neighborhoods and communities, with associated local economies also being affected. Thus, the cost of the Buyout and/or Acquisition programs could be far greater than the cost of repairing and rebuilding in a more resilient manner in the existing developed parcel.

By themselves, these options do not satisfy the purpose and need of providing safe and adequate housing for residents of these homes and retaining neighborhood character. Therefore, these options have been eliminated from further consideration except in limited areas for certain counties.

NYS is evaluating the high risk flood areas where the benefits of these options outweigh the impacts to the communities. The benefits include reduced cost of future storm recovery efforts in areas with potential for severe damage, even to homes with resiliency measures incorporated, or where larger scale community resiliency measures are needed. The state will determine where these options will be presented.

Overall, the Limited Area Alternative, which involves buyout and acquisitions, could result in greater economic impacts to local communities than the proposed action. However, since the Limited Area Alternative would involve either the restoration of land to its natural condition or the redevelopment of land in accordance with resiliency standards, and would likely be subject to the same conditions for approval as the proposed action, potential impacts to local land use, zoning, and public policy; cultural and visual resources; natural resources; water resources; air quality; energy consumption; noise; and hazardous materials would be comparable to those of the proposed action.

1.9 Cumulative Effects

Introduction

The federal Council on Environmental Quality's regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA), set forth at 40 CFR Part 1500-1508, require federal agencies to consider the environmental consequences of their actions, including not only direct and indirect effects, but also cumulative effects. This section summarizes the proposed action's cumulative effects when considered with other planned programs in the area.

Cumulative impacts result from the incremental consequences of an action (the proposed action) when added to other past, present, and reasonably foreseeable future actions (40 CFR 1508.7). The cumulative effects of an action may be undetectable when viewed in the individual context of direct and even indirect impacts, but nevertheless can eventually lead to a measurable environmental change. For the purposes of this assessment of cumulative effects, reasonably foreseeable future actions include activities that may be authorized under other NY Rising Housing Recovery Programs within Nassau County.

In general, the potential for cumulative effects due to the proposed action in combination with other NY Rising Housing Recovery Programs in Nassau County would be limited due to the scattered, small-scale nature of the activities (i.e., predominantly repair, rehabilitation, replacement, and/or reconstruction of various residential structures) and the fact that these structures already exist and thus would not result in new operational activities. Furthermore, the NY Rising Housing Recovery Programs offer funding for reimbursement; in these cases, the rehabilitation activities have already occurred and would not contribute to any cumulative activities in the future.

Flood Risk

Many existing homes in Nassau County were built prior to the implementation of current building standards and codes. Approximately 71.2% of all housing in Nassau County was built prior to 1960. In some areas, flood information was not available, applicable at the time, or not taken into account when these homes were built. The areas which experienced flood damage from the recent storms are at risk for flooding in future storms. Climate change poses increasing risk of flooding as sea levels rise and storms become more intense.

Flood risk maps have been, and are being, revised to account for the projected increased flooding due to climate change. Building codes have been, and are being, changed to reflect these changes in flood risk. The NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County and the other NY Rising Programs will result in the upgrade of the damaged homes to new standards and would also include resiliency measures that would mitigate the flood risk of future storms.

Construction

There is the potential for cumulative effects from the generation of construction debris from the rehabilitation and reconstruction of a great number of homes through the NY Rising Housing Recovery Program. However, all activities under the proposed action and other NY Rising Housing Recovery Programs would comply with applicable federal, state, and local laws and regulations regarding construction emissions, and construction activities would occur at scattered sites on different construction schedules. Therefore, there would be limited potential for cumulative effects due to overlapping construction activities funded by the various NY Rising Housing Recovery Program. Strict requirements for the disposal of debris are in place to prevent, to the extent possible, any negative impacts to the environment. Many of these buildings would undergo rehabilitation or reconstruction to some extent without the program; however, owners and tenants might not properly dispose of construction materials and debris containing lead paint or asbestos, harming the environment and posing a health hazard to humans.

The handling and disposal of demolition and construction debris, control of storm water runoff, and noise impacts resulting from the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County would be in accordance with all federal, state, and local laws and regulations as part of the acceptance of assistance funding, and therefore there would not be the potential for significant adverse impacts to result from the cumulative effects of construction activities under various NY Rising Housing Recovery Programs. The proposed action would increase the compliance with these laws and regulations over the piecemeal rehabilitation that would take place without the program. Furthermore, the inclusion of resiliency measures in rehabilitation projects is expected to reduce the amount of reconstruction required from future storm events.

Green Building and Energy Efficiency

The rehabilitation activities under the NY Rising Housing Recovery Program would involve the replacement of damaged appliances, utilities, and insulation. Green Building standards have been incorporated into the requirements for the housing rehabilitation, mitigation, and reimbursement program. Because funding is available for replacement of non-luxury appliances and utilities, these appliances can be replaced with modern, energy efficient models, which would result in more efficient use of energy and less overall energy use for heating, cooling, and other appliances. This would result in an overall long-term positive impact on the natural environment.

Land Use, Zoning, and Public Policy

Land use, zoning, and public policies are also changing with regards to development along shorelines and within floodplains. Nassau County and affected community land use policies and plans regarding the mitigation of flood risk have been considered as part of this assessment. Municipalities are revising building codes to incorporate requirements for flood and storm mitigation measures along shorelines and riverbanks. Through comprehensive planning and rezoning efforts, municipalities are also reducing the development potential of areas prone to flooding.

In addition, many New York communities are subject to Municipal Separate Storm Sewer Systems (MS4) regulations and are actively implementing policies to minimize and mitigate stormwater runoff. Rehabilitation activities under the NY Rising Housing Recovery Programs would comply with all applicable erosion, sediment control, and stormwater management practices as regulated by NYSDEC and/or the local municipality. Since unmanaged stormwater runoff can increase the volume and rate at which water moves across the land and into lakes and streams, leading to erosion and flooding, the application of these practices would mitigate stormwater runoff from future storm events and there would be no significant adverse impacts due to cumulative effects.

Community Character and Economic Conditions

The proposed action, along with other NY Rising Housing Recovery Programs within Nassau County, would result in beneficial cumulative effects to community character and economic conditions by facilitating the rehabilitation of a wide range of residential structures. The rehabilitation of damaged residential structures by the NY Rising Housing Recovery Programs, including the proposed action, would help to stabilize home values, maintain the tax base, and retain the customer base of local businesses.

Growth Inducement

The proposed action involves the rehabilitation of residential structures damaged during significant storm events. It would not alter regional growth patterns, change residential settlement patterns, displace any public or publicly funded community facilities, or significantly affect the growth in employment centers. Therefore, the proposed action, either by itself or cumulatively with other NY Rising Housing Recovery Programs, would not be expected to generate significant secondary or induced effects, or induce any significant development activity that would otherwise not occur in the region or study area.

1.10 Summary

The rehabilitation activities proposed by the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would take place on residential properties throughout Nassau County. The exact locations of these properties are not yet fully known, as the program is still accepting applications. After considering the alternatives, NYS has determined that there is no practical alternative other than to proceed with the proposed action. While there are some inherent risks to living in a floodplain or area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Housing Recovery Program for 5+ Unit Residential Properties would contribute to a safer and more secure environment for a substantial number of its low- to moderate-income households still recovering from recent severe storms. The program would provide a positive financial impact on the neighborhoods and communities of Nassau County.

2.0 Tiering of Environmental Review

The NY Rising Housing Recovery Program for 5+ Unit Residential Properties is tiered for the environmental review process in accordance with HUD tiering regulations found at 24 CFR Part 58.15. A tiered approach is used when actual site locations have not yet been determined and allows the environmental review process to be streamlined by evaluating impacts from functionally and geographically aggregated activities. This Tier 1 PEA review provides

guidelines for Tier 2 reviews to ensure that no extraordinary circumstances exist beyond the issues identified and evaluated in this document. Tier 2 reviews document environmental impacts on a site-specific level. In accordance with 24 CFR Part 58.22, no choice-limiting actions would take place at a particular site until a Tier 2 Checklist is completed for that site. HCR is acting as the RE under the HUD NEPA regulations.

2.1 Tier 1 Environmental Review

Tier 1 PEAs assess the individual and cumulative environmental impacts of program activities on a specific geographical area. Tier 1 PEAs may also be prepared when the environmental impacts are generic or common to a class of actions, or to other activities that are not location specific. The PEA can serve as a foundation and reference document to allow the efficient completion of Supplemental or Individual Environmental Assessments for the individual actions described in the PEA.

This Tier 1 PEA was specifically designed to evaluate the environmental impacts of disaster recovery activities, including repair, rehabilitation, and mitigation for 5+ unit residential buildings in Nassau County. With the PEA in place, the environmental review process required by NEPA and its associated environmental laws will be streamlined.

Under the Tier 1 environmental assessment for reimbursements, the following laws and authorities referenced under HUD's regulations at 24 CFR Part 58.5 have been fully considered and do not require a Tier 2 site-specific review:

- Coastal Zone Management (Coastal Zone Management Act, 1972)
- Sole Source Aquifers (42 USC 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 USC 300h-3(e))
- Wild and Scenic Rivers (16 U.S.C. 1271, Sec. 7(b), (c))
- Clean Air Act (40 CFR Parts 6, 51, 93)
- Farmland Policy Act (7 CFR Part 658)
- Environmental Justice (Executive Order 12898)
- Noise Abatement and Control (24 CFR Part 51, Subpart B)
- Airport Clear Zones and Accident Potential Zones (24 CFR Part 51D)
- Explosive and Flammable Operations (24 CFR Part 51 C)

Based upon completion of this Tier 1 PEA, environmental review of the proposed program indicates there would be no significant changes to existing environmental conditions across the impact categories implemented by HUD in response to NEPA, with the possible exception of the subject areas listed in Section 2.2.

2.2 Tier 2 Environmental Review

Based on the completion of this environmental assessment, the following subject areas require Tier 2 site-specific analysis before it can be concluded that the specific site would have no significant environmental impacts on an individual site. These authorities are referenced under HUD's regulations at 24 CFR Part 58.5:

- Wetland Protection (Executive Order 11990)
- Historic Preservation (36 CFR Part 800)
- Floodplain Management (Executive Order 11988; 24 CFR Part 55)
- Endangered Species Act (50 CFR Part 402)
- Toxic Chemicals and Radioactive Materials (24 CFR Part 58, Sec 5(i)(2))

Tier 2 site-specific reviews will include desktop evaluation of the application, the proposed site activity, and its location relative to the above compliance factors. Reviews will also include direct field observation with photographs and notes for the file, as well as possible resource agency consultations. If there are no impacts identified, or if impacts will be fully mitigated through individual site actions, then the proposed project planned for a residential site will proceed without further notice to the public. If impacts cannot be identified and mitigated during the site-specific reviews, then that site may be subject to further studies, treated as a separate project, subject to agency consultations, and the environmental review process may require the publishing or posting of notices for that individual site. Each completed Tier 2 site-specific checklist and supporting documents will be submitted to HCR for review and approval before individual activity site work or construction begins. Once site work has been completed, the Applicant must submit documentation of compliance with all requirements to HCR before the file will be closed and the final allocation of funding for that program site will be disbursed. A sample Tier 2 site specific checklist and template is included with this Tier 1 PEA.

3.0 Conditions for Approval and Mitigation

The following mitigation measures are required as conditions for approval of the project. Most of the required reviews discussed below will be completed in the Tier 2 site-specific reviews.

3.1 General

The Applicant would acquire all required federal, state and local permits before beginning construction and would comply with all permit conditions. If the scope of work of a proposed activity changes significantly, the application for funding must be revised and resubmitted for reevaluation under NEPA.

3.2 Historic Preservation

All activities must comply with Section 106 of the National Historic Preservation Act (NHPA) per the implementing regulations at 36 Code of Federal Regulations (CFR) Part 800. Compliance with Section 106 is achieved through the procedures in the Programmatic Agreement among FEMA, the NYS Historic Preservation Office (SHPO), the NYS Office of Emergency Management, the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the NYC Landmarks Preservation Commission, and the Advisory Council on Historic Preservation. In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains are uncovered on a specific site, the work on that site must be halted, and the Applicant would take reasonable measures to avoid or minimize harm to the finds. All archeological findings would be secured and access to the sensitive area restricted. HCR would consult with SHPO, the Tribal Historic Preservation Office (THPO), and Tribes, and work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the program is in compliance with the NHPA.

The qualified Historic Preservation professional is staff at NYS Office of Parks, Recreation and Historic Preservation (OPRHP). If the primary reviewer is not able to determine compliance for a site based on the Programmatic Agreement (see Appendix O: NY Historic Preservation Programmatic Agreement), the site would be sent for further review to OPRHP and all recommendations made by OPRHP would be incorporated into the program design. Each site would be reviewed for compliance with the Programmatic Agreement.

If the homeowner has requested reimbursement for work done prior to the homeowner entering the NY Rising Housing Recovery Program, the work would be evaluated to determine compliance with the Programmatic Agreement. If the work conducted by the homeowner did not comply with the Programmatic Agreement, the homeowner must provide documentation that the OPRHP had been consulted prior to the work starting. If the homeowner cannot provide the documentation, the project would not be eligible for reimbursement until it has been sent for further review to OPRHP and all recommendations made by OPRHP have been completed.

3.3 Floodplain Management and Flood Insurance

In December 2012, FEMA issued ABFEs through its National Flood Insurance Program (NFIP). The ABFEs increased the anticipated depth of tidal flooding during the 100-year flood in many areas and correspondingly increased the area expected to be inundated by such a flood. However, Nassau County, New York is not within the December 2012 ABFE mapped area. In areas where preliminary ABFE maps have been developed, those maps would govern. In areas where no preliminary ABFE maps exist, FEMA BFE data would be referenced for application of the Program within the county. Each site would be reviewed for its location with regard to the floodplain ABFE or BFE maps.

All development within Special Flood Hazard Areas (SFHAs) is subject to floodplain development regulations. When a NYS entity funds a project, Rule 6 Part 502 of the New York Code, Rules and Regulations (NYCRR) requires that when existing structures receive substantial improvements, the lowest floor (including basement) of each building in flood hazard areas must be constructed at least one (1) foot above the BFE. Finally, each participating community has a local regulation for flood damage prevention that contains specific standards for any development in SFHAs. Where no BFE exists, the lowest floor needs to be at least three (3) feet above the highest adjacent grade where technically feasible.

All proposed reconstruction and repair of substantially damaged structures in the floodplain must adhere to the latest (most recent) elevation requirements and/or flood-proofing in accordance with 6 NYCRR Part 502 or the New York State Building Code.

Within an “A” zone, when a BFE is available, the lowest floor, including any basement, must be above the BFE, if technically feasible. Elevation may be by means of properly compacted fill, a solid slab foundation, or a “crawl space” foundation that contains permanent openings to let flood waters in and out. Where elevation is not technically feasible, the building may be flood-proofed as required.

Within a coastal “V” zone, structures must be elevated on pilings, columns, or sheer walls, such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor is elevated above the BFE, if technically feasible. Compliance with these standards would be documented through the building permit or elevation certificate, which are required eligibility documents under this assistance program.

All participants in the program whose property is located within the SFHA must carry flood insurance on the subject structure and proof of flood insurance must be submitted to HCR.

No federal money would be expended for sites that are within a floodway.

In the case of “Coastal High Hazard” areas, the Applicant is required to adhere to construction standards, methods, and techniques requiring a registered professional engineer to either develop, review, or approve, per the associated location, specific Applicant elevation plans that demonstrate that the design meets the current standards for “V” zones in FEMA regulations at 44 CFR Part 60.3(e) as required by HUD regulations at 24 CFR Part 55.1(c)(3).

At the Tier 2 level, if any building requires substantial rehabilitation in a floodplain, the site would be reviewed in accordance with the eight-step decision-making process under 24 CFR Part 55.20. Any buildings located within a floodplain requiring non-substantial rehabilitation would be reviewed under a five-step decision making process under 24 CFR Part 55 as revised (see Section 4.1). To the extent possible, these reviews would be aggregated. All program activities would be completed to meet the requirements of the floodplain management plan for the program site.

The requirements of the recovery program would help ensure a minimal adverse impact to the floodplain.

Homeowners requesting reimbursement for work completed prior to the homeowner entering the NY Rising Housing Recovery Program must provide documentation that the work meets the standards discussed above. If the work that has been done prior to the homeowner entering the NY Rising Housing Recovery Program does not meet these standards, that work would not be eligible for reimbursement until compliance with these standards are documented through proof of flood insurance, the building permit, and/or an elevation certificate, which are required eligibility documents under this Program.

Property owners participating in this program would be required to adhere to the following conditions to minimize the threat to property, minimize losses from flooding and high-wind events, and benefit floodplain values.

3.4 Wetlands Protection and Water Quality

All sites would be evaluated for the presence of wetlands in accordance with New York State Department of Environmental Conservation (NYSDEC) and the U. S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) maps. When necessary, on-site wetlands inspection would occur in the Tier 2 site-specific assessment, and if project work on a specific site would impact a wetland, the five-step or eight-step decision making process outlined in 24 CFR Part 55.20, modified for wetlands, would be completed. If the wetland impacts cannot be avoided, appropriate permits would be obtained in compliance with Executive Order 11990. These include those under Sections 401 and 404 of the Clean Water Act, as well as any applicable local or state permits.

If the work was completed prior to the homeowner entering the NY Rising Housing Recovery Program the homeowner must provide documentation that the applicable permits or authorizations were obtained prior to the work taking place or provide other documentation deemed sufficient to document compliance or conformance with applicable laws.

For work yet to be initiated Program would implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing project activities in vegetated areas, including lawns.

3.5 Vegetation and Wildlife

The NYSDEC New York Natural Heritage Program, the USFWS, and the National Marine Fisheries Service (NMFS) have been contacted to initiate consultation for Program compliance with state and federal threatened and endangered species laws, and written responses have been received from the Natural Heritage Program and NMFS (see Appendix N: NY Natural Heritage Program Consultation, Appendix Q: NMFS Consultation Letters, and Appendix R: USFWS Consultation Letters).

The Endangered Species Act (ESA) requires the action agency (HCR) to make a determination of effect on any federally listed species or designated critical habitat that may occur as a result of an action that is funded, authorized, or carried out by the action agency. HCR is acting as HUD's designated representative for this program.

In accordance with the August 7, 2013 and September 25, 2013 letters from the USFWS (see Appendix R: USFWS Consultation Letters), each site would be reviewed to determine the level of effect. Further consultation with the USFWS would be conducted if a project may affect a listed species. HCR would determine if there are areas of multiple sites in close proximity that may result in an effect so that those sites can be reviewed together.

Bald eagles may occur in Nassau County (see Appendix R: USFWS Consultation Letters). HCR would contact the USFWS for assistance in complying with the Bald and Golden Eagle Protection Act if a bald eagle is found on a site. The USFWS would be contacted to provide technical assistance to HCR to avoid and minimize impacts to birds protected under the Migratory Bird Treaty Act.

Consultation is not required under Section 7 of the ESA when CDBG-DR assistance is provided for costs incurred because physical activities were undertaken before HCR could review projects with the potential to affect biological resources. However, all properties would be reviewed for compliance with Section 7 of the ESA at the Tier 2 site-specific level.

3.6 Soil Erosion

Best management practices (BMPs), such as silt fence and erosion prevention, may be implemented, if required by permits or agency discretion. Work in areas of soils with high wind erosion potential may have to occur only during calm weather conditions or include additional watering and other dust suppression mitigation measures. Thorough planning, engineering review and design, through the local permitting process, would minimize soil erosion that could result from program activities on sites with marginal soil properties.

3.7 Storm Water

All sites would be evaluated for the need to comply with storm water permitting requirements, including a NYSDEC general permit or a Municipal Separate Storm Sewer Systems (MS4) permit. If multiple adjacent sites are involved, the sites would be aggregated for construction storm water compliance.

If the owner or occupant has requested reimbursement for work done prior to entering the NY Rising Housing Recovery Program, the work would be evaluated to determine if it required a NYSDEC general permit or local MS4 permit. If it is determined that either permit was required for the scope of work done by that owner or occupant, documentation must be provided that the permit had been obtained prior to the work being conducted, or evidence as to why the permit was not required for the work conducted. If the permit was required but was not obtained prior to the work conducted, that work would not be eligible for reimbursement.

3.8 Noise

All equipment would be outfitted with operating mufflers. Temporary increases in noise levels due to demolition and construction activities would be minimized through compliance with local noise ordinances, including time-of-day work limitations.

3.9 Air Quality

As demonstrated in the conformity screening analysis for the proposed action, emissions from construction activities would be less than de minimis levels above which a general conformity analysis or determination would be required (see Appendix L: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans). All activities would comply with applicable federal, state, and local laws and regulations regarding construction emissions, including but not limited to NYCRR; NYSDEC Air Quality Management Plan; and the NY State Implementation Plan (SIP).

3.10 Hazardous Materials

HCR is charged with the overall inspection for hazardous materials, with the exception of common household hazardous materials such as paint, motor oil, or automotive batteries, for this project. HCR, in conjunction with designated agencies or consultants under HCR's direction, would provide QEPs to perform on-site visits, where required. QEPs are experienced persons with the skills to look for and recognize hazardous. The environmental reports generated by QEPs would be reviewed by HCR, or consultants with environmental assessment experience under HCR's direction, to confirm that all issues are appropriately identified and communicated to program applicants. HCR would ensure that necessary environmental reports and clearances will be appended to the Tier 2 closeout package for each program applicant.

In accordance with 24 CFR Part 58.5(i)(2)(ii), the environmental review of multi-family housing with five (5) or more dwelling units (including leasing) under the NY Rising Housing Recovery Program would include the evaluation of previous uses of the site or other evidence of

contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants. Particular attention would be given to any program site in the general proximity of areas such as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes

Structures to be reconstructed or rehabilitated may include lead-based paint and asbestos-containing materials; program activities would conform to Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (12 NYCRR Part 56); the National Emission Standard for Asbestos—Standard for demolition and renovation (40 CFR Part 61.145); and National Emission Standard for Asbestos—Standard for waste disposal for manufacturing, fabricating, demolition, and spraying operations (40 CFR Part 61.150).

All activities must comply with applicable federal, state, and local laws and regulations regarding lead-based paint, including but not limited to, Environmental Protection Agency (EPA) Repair, Renovation, and Painting (RRP) Rule (40 CFR 745.80 Subpart E), HUD's lead-based paint regulations in 24 CFR Part 35 Subparts A, B, H, J, and R, and HUD "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing." The Guidelines complement regulations that have been issued by HUD, the EPA, and the Occupational Safety and Health Administration (OSHA), and policies from the Centers for Disease Control and Prevention (CDC). In general, these regulations apply to housing constructed prior to 1978.

If a risk assessment was not carried out for lead and/or asbestos prior to construction, or the homeowner cannot document that lead and/or asbestos hazards were abated, then HCR, in conjunction with designated agencies or consultants under HCR's direction, will conduct necessary asbestos and/or lead clearance inspections in order to identify hazardous conditions. If hazardous conditions are identified HCR, in conjunction with designated agencies or consultants under HCR's direction, will modify the scope of work to address the condition, and perform a re-clearance inspection after work is completed.

Assistance provided for an Applicant's incurred rehabilitation costs may be exempt from the Lead Safe Housing Rule if the unit falls within a regulatory exemption set forth at 24 CFR Part 35.115. A housing unit is likely to fall within an exemption if:

- The housing unit was constructed on or after January 1, 1978;
- The CDBG-DR Applicant undertook CDBG-eligible activities that qualify as emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. This exemption applies only "to repairs necessary to respond to the emergency" as provided in 24 CFR Part 35.115(a)(9);
- The rehabilitation did not disturb any painted surface;
- The property meets the definition of "housing for the elderly," or the residential property is designated "exclusively for persons with disabilities"; but only if no child less than six (6) years of age resides or is "expected to reside" in the dwelling unit (see definitions at 24 CFR Part 35.110);

- An inspection performed according to HUD standards found the property contained no lead-based paint; or
- According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance.

Some homeowners that apply for CDBG-DR assistance for rehabilitation costs they have incurred may be able to qualify their property under the first (1st) or second (2nd) exemption in the list above. Applicants may certify the applicability of each of the first (1st) three (3) exemptions in the list above (those covering post-1977 housing, emergency actions, and non-disturbance of painted surfaces). To ensure the accuracy of the certifications, HCR would perform Tier 2 site-specific reviews of the assisted properties. If necessary (e.g. if none of the first (1st) three (3) exemptions apply), the grantee may need to inspect the property according to HUD standards, and ensure any lead-based paint has been removed and the property has achieved clearance. A lead-based paint clearance report must be submitted to HCR as part of compliance documentation for all homes built prior to 1978.

Mold can have an adverse effect on human health and is a very common problem in flooded homes. All areas of homes which were submerged in floodwater will have spraying with a sanitizing agent included in the scope of work and will be inspected for visual signs of mold as necessary.

HUD policy states that all occupied structures proposed for inclusion in HUD-funded programs be free of hazardous materials that could affect the health of the occupants. Site-specific assessments would identify any toxic or radioactive substances on, adjacent to, or near the target program sites. The environmental review of multi-family housing with five (5) or more dwelling units would also include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards such as toxic chemicals and gases, and radioactive substances, as required by 24 CFR Part 55.5(i)(2)(ii). Where site-specific assessments do not adequately reveal past land use near target residential properties, screening of historical land use would be used to assess the potential hazard to occupants of the home. Hazards of concern include, but may not be limited to, hydrocarbon-associated vapors and radon gas.

For construction of homes that are to be rebuilt, HTFC requires the installation of a passive sub-slab vent system to be included in every new construction in a county determined to be Zone 1 or Zone 2, according to the EPA Map of Radon Zones for NYS, unless localized radon information is provided to show that such a system is not necessary. If the site of the home to be rebuilt is located in Zone 1 or Zone 2, a “passive” soil depressurization system must be incorporated into the building design in accordance with EPA "Model Standards and Techniques for Control of Radon in New Residential Buildings," EPA 402-R-94-009, March 1994 or American Society for Testing and Materials (ASTM) 1465-08a Standard Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings.

Rehabilitation work can also increase radon levels in a building and a mitigation system may be recommended even if pre-rehabilitation testing indicates radon levels below the EPA action level.

All project sites located in EPA Radon Zone 1 and Zone 2, would have a radon test conducted when the rehabilitation or reconstruction is complete, with test results forwarded to the case manager to be placed in the case file, prior to re-occupancy.

According to the EPA, Nassau County is located in Radon Zone 3, where the predicted average indoor radon screening level is less than 2 picocuries per liter (pCi/L). Residential buildings to be rehabilitated or reconstructed in Nassau County would not require radon testing or mitigation.

When the target residential property is on or within 3,000 feet of a potentially hazardous site, a QEP would determine if the potential hazard requires remediation. If remediation is required, it would be appropriately scheduled and coordinated with any building rehabilitation activities. There may be some residential properties with improper storage and excessive accumulation of toxic substances (i.e. petroleum products, pesticides, cleaning substances). Initial site inspection of residential properties may document the presence of abandoned and otherwise non-working vehicles with the potential for leakage of toxic materials. Barrels or tanks with petroleum products or other potentially toxic substances may be identified. Depending on the site-specific environmental assessment of the degree and extent of the hazard, the Applicant may be responsible for the removal of such items before the project can proceed.

3.11 Solid Waste

All solid waste must be properly segregated and disposed of at any of New York's 80 regulated (permitted) Construction & Debris (C&D) processing facilities and 280 registered C&D processing facilities and in accordance with applicable regulations. All hazardous waste, including PCBs, mercury, refrigerants, and electronic waste, must be segregated and disposed of at an appropriately licensed facility. In many cases, lead based paint is permitted to be disposed of as C&D waste. If a QEP determines that the quantity of lead based paint is suspected to be greater than allowable for C&D disposal waste, a toxicity characteristic leaching procedure (TCLP) test would be performed on the paint to determine if it must be disposed of at an appropriately licensed facility. Materials would be separated from C&D debris to be recycled or to be reused for a specific use. Material that is not recovered would be sent to a municipal solid waste landfill or to a C&D landfill.

3.12 Transportation

HCR would coordinate with local transportation authorities to identify alternate routes and/or time of day mitigations to reduce potential temporary increases in vehicular traffic during the demolition phase.

3.13 Airport Clear Zones and Accident Potential Zones

Based on guidance provided by HUD in Fact Sheet #D1, the National Plan of Integrated Airport Systems was reviewed for civilian, commercial service airports within the vicinity of the program area, as projects located within 2,500 feet of a civil airport would require consultation with the appropriate civil airport operator. Projects in southwestern Nassau County would be

located within close proximity to John F Kennedy Airport but are not within the airport clear zone areas (see Appendix G: Nassau County Airport Clear Zones Maps).

Projects in east central Nassau County would be located within close proximity to Republic Airport but would not be within the airport clear zone areas (see Appendix G). No known military airports are located within 15,000 feet of the project area. The proposed action does not involve assistance to purchase residential properties. Accordingly, this requirement is not applicable to any potential activities to be funded by the proposed action.

3.14 Coastal Barrier Resources

Portions of Nassau County lie within the federally protected John C. Chaffee Coastal Barrier Resources System (CBRS). Under the Coastal Barrier Resources Act of 1982 (CBRA), project sites in these areas (system units) are ineligible for most new federal expenditures and financial assistance. The Coastal Barrier Improvement Act of 1990 expanded the CBRS and added a new category of otherwise protected areas (OPAs).

Most Federal expenditures are prohibited for program sites lying within a system unit of the CBRS, unless the action is consistent with CBRA. Activities that would be consistent with the CBRA include actions that would revert the land back to a natural state. Rehabilitation activities are not consistent with the CRBA, and no federal money would be used on structures that lie within a CBRS system unit.

Most Federal expenditures, with the exception of federal assistance for flood insurance, are allowed in OPAs. If a program site is located within an OPA, the program Applicant would be eligible for assistance; however, the Applicant must provide proof of private flood insurance.

Each site would be reviewed during the Tier 2 Site-Specific Assessment for its proximity to the CBRS, and sites within a 150 foot buffer zone would undergo further coordination with USFWS. If a site is near a CBRS, mitigation measures would be taken to ensure that there are no adverse effects to the CBRS.

3.15 Explosive and Flammable Operations

Acceptable Separation Distance (ASD) requirements under 24 CFR part 51 subpart C do not apply to the elevation, rehabilitation, or reconstruction of housing that existed prior to the disaster where the number of dwelling units is not increased because the definition for HUD-assisted projects at 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations (see Appendix P: HUD Noise Abatement and Explosive Operations Email).

3.16 Farmland Policy Act

The Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) discourages federal activities that would convert farmland to nonagricultural purposes. This program is designed to rehabilitate and reconstruct residential housing which existed prior to Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. Rehabilitation and reconstruction of existing residential structures would not convert farmland to nonagricultural purposes and would not violate the Farmland Policy Protection Act (see Appendix K: Farmland Protection Checklist).

3.17 Environmental Justice

According to the EPA, environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The goal behind EJ is for all people to enjoy the same degree of protection from environmental and health hazards and have a healthy environment in which to live, learn, and work. The CDBG-DR program would not have a negative impact on EJ as Applicants would be treated equally, regardless of origin, race, or age, etc.

This program may have a positive impact on EJ as priority may be given to Applicants whose income is below 80% of the median income, or in the case of multi-family housing, where at least 51% of tenants are of low- or moderate-income. These individuals are most in need of assistance in rehabilitating or reconstructing their living environment, and the program would help to remedy the environmental and health hazards caused by the recent storms. Approximately 45.7% of all NY Rising applications have been from low- to moderate-income individuals.

NYS would pay particular attention to the needs of the most vulnerable populations: the elderly and disabled, minority populations, low- to moderate-income residents, and others. NYS and its partners would be conducting extensive outreach to ensure that available resources are made available to the populations with the greatest needs.

3.18 Coastal Consistency

The proposed action has been evaluated for consistency with the policies and purposes of the NYS Coastal Management Program (NYSCMP) (see Appendix M: NYSDOS Coastal Consistency Consultation and NYS Coastal Assessment Form).

In conjunction with the State's general concurrence determination, in cases where the project is located within the jurisdiction of a Local Waterfront Revitalization Program (LWRP), the Tier II reviewer would conduct an assessment in accordance with 19 NYCRR Part 600 to determine whether the project is likely to affect the achievement of the policies and purposes of such approved LWRP and State agency programs. Project activities would be undertaken in a manner which complies with the policies of the approved LWRP.

4.0 Eight-Step and Five-Step Decision Making Processes

Under 24 CFR Part 55.20, a decision making process must be completed for proposed actions taking place in a floodplain. 24 CFR Part 55.20 implements Executive Order 11998—Floodplain Management. The order requires federal agencies (or a state agency implementing a federal funding program) to reduce the loss of life and property caused by floods, minimize impacts of floods on human safety, health, and welfare, and preserve the natural and beneficial functions of floodplains. Under this order, federal agencies should first look at avoiding all actions in or adversely affecting floodplains unless no practicable alternatives exist. If no practicable alternatives exist, then federal agencies must evaluate the potential effects of the proposed action. In addition, federal agencies are required to demonstrate that all practicable alternatives have resulted in the reduction or elimination of the long- and short-term adverse impacts associated with occupancy and modifications of the floodplain. This eight-step process includes assessing all practicable alternatives and, in some cases, incorporating public review.

According to 24 CFR Part 55.12—Inapplicability of 24 CFR part 55 to certain categories of proposed actions, the decision-making steps in Parts 55.20(b), (c), and (g) (steps 2, 3, and 7) do not apply to actions under any HUD program involving the “repair, rehabilitation, modernization, weatherization, or improvement of existing multi-family housing projects...and one- to four- (1-4) family properties, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from non-residential to residential land use, the action does not meet the thresholds for “substantial improvement” under §55.2(b)(10), and the footprint of the structure and paved areas is not significantly increased.”

For any program sites that are located within a floodplain and do not require substantial improvement, the five-step process allowed under 24 CFR Part 55.12 would be used. Any program sites located within a floodplain that require substantial improvement or that would be reconstructed would require that the eight-step process outlined in 24 CFR Part 55.20 be completed, including early and final public notices.

Under Executive Order 11990—Protection of Wetlands, an agency must find “that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.” Furthermore, the “agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands.” HUD’s current wetland protection policy to comply with Executive Order 11990 is to use the five-step or eight-step decision making process provided in 24 CFR Part 55.22 modified for wetlands.

This section demonstrates how the five-step and eight-step decision making processes are applied to the NY Rising Housing Recovery Program for 5+ Unit Residential Properties for proposed actions in the floodplain and for proposed actions in the wetlands.

4.1 Eight-Step Decision Making Process for Proposed Action in the Floodplain

Floodplain management plans for all Applicants to the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County will meet the requirements of 24 CFR Part 55.20 and Executive Order 11988—Floodplain Management. For sites requiring substantial improvement, these floodplain management plans will document the eight-step decision making process for the proposed action and pertains to activities within the Special Flood Hazard Area (SFHA) as defined by the FEMA, or its successors, pursuant to the National Flood Insurance Program (NFIP), or a successor program, whether advisory, preliminary, or final.

Description of Proposed Activities in the SFHA

NYS was awarded HUD CDBG-DR funding, to be administered by HCR, to provide financial assistance to homeowners whose primary residences were substantially damaged by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee within various NYS counties, including Nassau County. HCR is awarding this funding in accordance with the Action Plan. The Action Plan provides for, among other things, assistance to owners of damaged 5+ unit residential properties in Nassau County, NY within the 100-year floodplain to repair those properties and mitigate against damage by future storms.

The proposed activities include repair of damaged residential buildings; elevation, flood-proofing, and/or other storm mitigation measures; replacement of residential buildings where the cost of repair is not economical; and reimbursement to owners and tenants who have already completed repairs.

Executive Order 11988 and 24 CFR Part 55

Projects located within a floodplain SFHA are subject to Executive Order 11988 as implemented by 24 CFR Part 55. Under 24 CFR Part 55, an eight-step decision making process must be completed for proposed actions taking place in the floodplain. Information on where SFHAs are located is available on Flood Insurance Rate Maps (FIRMs) published by FEMA. FEMA uses engineering studies to determine the delineation of these areas or zones subject to flooding. The relevant data source for the SFHA is the latest issued FEMA data or guidance, which includes advisory data (such as ABFEs) or preliminary and final FIRMs.

The SFHA is the area that would be inundated by a 100-year flood: an area that has a one percent or greater chance of experiencing a flood in any single year. SFHAs are shown on FIRMs, as shaded areas labeled with the letter “A” or “V”.

- “V” zones are coastal flood hazard zones subject to wave run-up in addition to storm surge.
- “A” zones include all other SFHAs.
- “VE” zones, “AE” zones, “V” zones, or “A” zones followed by a number are areas with specific flood elevations, known as BFEs.
- A zone with the letter “A” or “V” by itself is an appropriately studied flood hazard area without a specific flood elevation.
- Within an “AE” zone or a numbered “A” zone, there may be an area known as the “regulatory floodway,” which is the channel of a river and adjacent land areas which must be reserved to discharge a 100-year flood without causing a rise in flood elevations.

The floodplain (FEMA Zones “A”, “AE”, “AH”, “V”, & “VE”) covers large areas of Nassau County (see Appendix B: Nassau County FEMA Flood Insurance Rate Map). A total of 104,368 acres of floodplain (including surface waters) is mapped within the County boundary. A total of 66,179 acres of floodplain (excluding surface waters) is mapped within the County (source: Base GIS review of FEMA BFE data).

24 CFR Section 55.1 (c)

Under 24 CFR Section 55.1 (c), except with respect to actions listed in Section 55.12(c), no HUD financial assistance (including mortgage insurance) may be approved after May 23, 1994 with respect to:

- (1) Any action, other than a functionally dependent use, located in a floodway;
- (2) Any critical action located in a coastal high hazard area (“V zone”) (a “critical action” is an action such as storage of volatile materials, irreplaceable record storage or construction of a hospital or nursing home); or
- (3) Any non-critical action located in a coastal high hazard area, unless the action is designed for location in a coastal high hazard area or is a functionally dependent use and complies with the construction standards outlined in HUD Regulations 24 CFR Section 55 (c)(3).

24 CFR Sections 55.11 and 55.20

According to 24 CFR Sections 55.11 (including Table 1) and 55.20, non-critical actions are allowed in A or V zones only if the actions are reviewed in accordance with the eight-step process outlined in 24 CFR Section 55.20. An eight-step process would be conducted for the activities of the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County, as detailed below. This eight-step decision making process includes examination of practical alternatives and public notices. A floodplain management plan detailing the eight-step decision making process would be completed for each site, or group of adjacent sites, once the site is known and determined to be in a floodplain.

Base Flood Elevations

In December 2012, FEMA issued ABFEs through its NFIP. The ABFEs increased the anticipated depth of tidal flooding during the 100-year flood in many areas and a corresponding increase in the area expected to be inundated by such a flood. In areas where preliminary ABFE maps have been developed those maps would govern. In areas where no preliminary ABFE maps exist, FEMA BFE data would be referenced for application of the Program within the County.

Step One: Determine if a Proposed Action is in a 100-Year Floodplain

The geographic scope for the NY Rising Housing Recovery Program for 5+ Unit Residential Properties described herein is the jurisdictional area of Nassau County, covering approximately 289,900 acres, of which 104,368 acres are located within floodplains. Construction activities are expected to take place on multi-family residential properties throughout the communities in Nassau County, especially those most affected by Superstorm Sandy – the Towns of Hempstead and Oyster Bay, the City of Long Beach, and the Villages of Island Park and Freeport. Property owners of any location within the county that sustained damage from recent Hurricane Irene or Superstorm Sandy are able to apply for the program.

At this time, the exact locations of the homeowner properties that would participate in this assistance program are unspecified. However, eligible Applicants are: owners of 5+ unit residential buildings, including owner-occupied rental properties, as well as non-owner-occupied properties that may be attached, semi-attached, or detached/scattered sites. Many eligible Applicants would own buildings in a NFIP “V” or “A” zone, as indicated on the FIRM (there are approximately 104,368 acres of floodplains in Nassau County).

Based on FEMA IA data, as of April 2013, more than 38,391 owner-occupied homes and 9,143 residential properties in Nassau County have reported damage. It is expected that many of these residences are within the SFHA. More recent FEMA IA data from November 2013 estimates that as many as 79,802 residential properties in total sustained damage from Hurricane Irene and/or Superstorm Sandy in Nassau County.

Step Two: Notify the public at the earliest possible time of a proposal to consider an action in a floodplain, and involve the affected and interested public in the decision making process.

Because the Action Plan Activities are located in the floodplain, HCR must publish an early notice that allows the public input into the decision to provide funding for rehabilitation in this area. Once the early public notice and comment period is complete, HCR will assess, consider, and respond to the comments received individually and collectively for the project file, then proceed to Step Three.

A 15-day "Notice for Early Public Review of a Proposed Activity in a 100-Year Floodplain" will be published in a widely read local newspaper for each activity site determined to be in a floodplain. These notices would be aggregated as appropriate.

A sample “Notice for Early Public Review of a Proposed Activity in a 100-Year Floodplain” has been included in Appendix S: Nassau County Sample Floodplain Management Public Notices. The notice will target local residents, including those in the floodplain. The notice will also be sent to the following state and federal agencies: FEMA; the USFWS; the EPA; the U.S. Army Corps of Engineers (USACE); the National Park Service (NPS); NOAA; NMFS; NYSDEC; the OPRHP; the NYS Department of Transportation; and the NYS Office of Emergency Management. The notice will also be sent to Nassau County and the towns and villages within Nassau County.

HCR will document and respond to all public comments received on this notification. These comments will be included in the final floodplain management plan.

Step Three: Identify and evaluate practicable alternatives to locating the proposed action in a floodplain

The proposed action of the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County would provide grant awards to eligible homeowners for activities necessary to restore their storm-damaged multi-unit properties, including repairs, reimbursement, reconstruction, elevation, flood-proofing, and/or other mitigation activities within the disturbed area of the previously developed parcels in the floodplain.

The alternatives to the proposed action considered are as follows:

No Action Alternative

Under the No Action Alternative, the funding for the proposed rehabilitation of 5+ unit residential properties in Nassau County would not be authorized. Under the No Action Alternative, the damage caused to Nassau County municipalities and neighborhoods would be repaired slowly or not at all, depending on the motivations of property owners and their access to resources to repair their properties. Hundreds of residences may not be rehabilitated and would deteriorate without the use of CDBG-DR funds. As a result, these owners and tenants may not be able to recover from the impacts of the storm events.

Furthermore, under the No Action Alternative Applicants would not be provided financial assistance to implement resiliency measures (e.g., elevating their homes), leaving their properties vulnerable to future flooding conditions. Therefore, unlike the proposed action, the No Action Alternative would neither address NYS's need for safe, decent, and affordable housing, nor would it require homes within the floodplain to be elevated to the highest standard for flood protection.

Limited Action Alternative – Rehabilitation without Resiliency Measures

Under this alternative, the funding for rehabilitation of 5+ unit residential properties in Nassau County would be authorized, but the financial assistance would not include funding for resiliency measures. Reimbursements would be made available for eligible owners and tenants who have already engaged in repairs prior to applying for the program, allowing for those families to resume their normal contribution to the local economy. The reimbursements would encourage occupants to make necessary repairs more quickly, shortening the duration of impacts related to community character, and restoring normal conditions in the affected communities sooner. However, funding for improvements to homes including elevation and flood-proofing of structures, utility elevation, flood mitigation and other resiliency measures, would not be authorized.

Limited Action Alternative – No Reimbursement Funding

Under this alternative, the funding for rehabilitation of 5+ unit residential properties including improvements and resiliency measures in Nassau County would be authorized; however, reimbursement for repairs and improvements that have already been implemented would not be authorized.

Reimbursements would not be made available for eligible owners and tenants who have already engaged in repairs prior to applying for the program, resulting in a negative effect on the local economy. Under this alternative, funding would be authorized for the implementation of improvements and resiliency measures (e.g., elevation or flood-proofing of homes and elevation of utilities). These measures would help prevent repetitive loss from future storms and aid the affected communities' efforts to increase resiliency to climate change and mitigation of severe storm risk.

This alternative would partially accomplish the goals of providing safe and adequate housing for residents of these homes, retaining neighborhood character over the long-term, and improving the communities' resiliency to future storms. However, unlike the proposed action, reimbursements would not be made available for eligible owners and tenants who have already

engaged in repairs prior to applying for the program. Some of these residents undertook repairs with the understanding that reimbursements would eventually be made available. If relief is not granted, homeowners in future storm events may be dissuaded from making immediate and necessary repairs to their homes, and instead wait for a possible recovery program. This would further delay the recovery of neighborhoods and communities, as delaying repairs and rehabilitation would prolong the impacts related to community character, and take longer to restore normal conditions in affected.

Limited Area Alternatives

In certain limited areas with high flood risk, additional programs have been proposed for funding and are being assessed in forthcoming environmental assessments. Under the Limited Area Alternative - Buyout Option, funds would be authorized to purchase severely damaged residential properties, demolish any structures, and restore the property to natural conditions within Nassau County. This would help restore large parts of the floodplain to their natural state. Under the Limited Area Alternative- Acquisition Option, funding would be authorized to purchase damaged residential properties for the purpose of future resilient redevelopment within Nassau County.

Both of these options would involve relocating populations to less vulnerable areas away from the shore. This would result in a dramatic change to neighborhoods and communities, with associated local economies also being affected. Thus, the cost of the Buyout and/or Acquisition programs could be far greater than the cost of repairing and rebuilding in a more resilient manner in the existing developed parcel.

By themselves, these options do not satisfy the purpose and need of providing safe and adequate housing for residents of these homes and retaining neighborhood character. Therefore, these options have been eliminated from further consideration except in limited areas for certain counties.

Step Four: Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain

HCR has evaluated the alternatives to taking the proposed action in the floodplain, and has determined that the proposed activities must take place in the floodplain.

Potential impacts associated with the occupancy or modification of the floodplain include some degree of ongoing risk to residents who choose to live in the floodplain. While there are some inherent risks to living in a floodplain or area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Housing Recovery Program for 5+ Unit Residential Properties would have a positive impact on Nassau County communities by ensuring that residents are able to make repairs to their homes and increase the resiliency of residential buildings that are located within the floodplain.

While there is the potential for a cumulative impact from the generation of construction debris from the demolition and reconstruction of a great number of homes through the proposed action in conjunction with the other NY Rising Programs, most of the impact would be mitigated. Direct and indirect impacts on the floodplain from repair, reconstruction, and resiliency activities under the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would be minimal as these Program sites are already developed with 5+ unit residential buildings.

The Program would facilitate the removal of debris and wreckage from Applicant properties, and would protect public safety through the repair of unsafe buildings and the requirement that all substantially damaged residential properties located within the floodplain be elevated or flood-proofed to the strictest requirements. Rehabilitation of these parcels is necessary to maintain neighborhood characteristics, as the sites may be scattered and would be located within residential neighborhoods. As the properties would be repaired and improved through mitigation measures, the properties are also less likely to damage the floodplain with debris during future storm events.

As a result of the requirement that homeowners whose houses were substantially damaged be required to elevate or flood-proof their homes to the strictest standard, it is extremely unlikely that there would be a net increase in floodplain development in comparison to pre-hurricane conditions as a result of this program. In addition, the proposed activities would not likely increase floodplain occupancy, as the proposed activities would enable people to return to their homes, but would generally not expand the housing stock relative to conditions prior to Hurricane Irene and Superstorm Sandy.

Step Five: Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and to restore and preserve its natural and beneficial values.

HCR requires elevation or flood-proofing of all substantially damaged structures in the floodplain. When followed, these regulations would reduce the threat of flooding damage to the homes located in the floodplain. The FEMA BFEs represent the best available data.

Strict requirements for the disposal of debris are in place to prevent, to the extent possible, any negative impacts to the floodplain. The handling and disposal of demolition and construction debris, control of storm water runoff, and noise impacts resulting from the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would be in accordance with all local, state, and federal regulations as part of the acceptance of assistance funding.

The program would also implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing program activities in vegetated areas, including lawns. BMPs, such as silt fence and erosion prevention, may be implemented if required by permits or agency discretion. Work in areas of soils with high wind erosion potential may have to occur only during calm weather conditions or include additional watering and other dust suppression mitigation methods. Thorough planning, engineering review, and design through the local permitting process would minimize soil erosion and damage to the floodplain that could result from program activities on sites with marginal soil properties.

Step Six: Reevaluate the proposed action to determine: (1) Whether it is still practicable in light of its exposure to flood hazards in the floodplain, the extent to which it would aggravate the current hazards to other floodplains, and its potential to disrupt floodplain values; and (2) Whether alternatives preliminarily rejected at Step Three are practicable in light of the information gained in Steps Four and Five.

HCR has reevaluated the proposed action and determined that the NY Rising Housing Recovery Program for 5+ Unit Residential Properties is still practicable in light of its exposure to flood hazards in the floodplain. As the properties are already developed with 5+ unit dwellings, the Program would not aggravate current hazards to the floodplain, nor would the Program disrupt floodplain values.

Homeowners participating in this Program would be required to adhere to the following conditions to minimize the threat to property, minimize losses from flooding and high-wind events, and benefit floodplain values:

1. All proposed reconstruction and repair of substantially damaged structures in the floodplain must adhere to the latest (most recent) elevation requirements in accordance with 6 NYCRR Part 502 or the New York State Residential Building Code;
2. All participants in the Recovery Program must carry flood insurance on the subject structure, when mandated, in perpetuity; and
3. In the case of Coastal High Hazard areas (“V” or “VE” zones on the FEMA-issued Maps), the Applicant is required to adhere to construction standards, methods, and techniques requiring a registered professional engineer to either develop, review, or approve, per the associated location, specific Applicant elevation plans that demonstrate that the design meets the current standards for “V” zones in FEMA regulation 44 CFR Part 60.3 (e) as required by HUD Regulation 24 CFR Part 55.1 (c)(3). Therefore, the requirements of the Recovery Program would help ensure a minimal adverse impact to the floodplain.

HCR also reconsidered the alternatives discussed in Step Three and determined the best practicable alternative is the proposed action. The alternative actions considered are as follows: No Action, Limited Action Alternative—Rehabilitation without Resiliency Measures, Limited Action Alternative—Rehabilitation without Reimbursements, and Limited Area Options (Buyouts and Acquisitions). These alternatives do not meet the goals of the NY Rising Housing Recovery Program for 5+ Unit Residential Properties. Because the proposed action is specifically designed to repair and reconstruct multi-family residential properties, many of which are located within the floodplain, there is no practicable alternative to locating the proposed action in the floodplain.

An award under the Action Plan would require all proposed reconstruction and repair of substantially damaged structures in the floodplain to adhere to the latest (most recent) elevation requirements in accordance with 6 NYCRR Part 502 and the New York State Residential Building Code. Therefore, there would be less of an impact upon the floodplain than the alternatives considered.

Step Seven: If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the floodplain, publish a final notice.

It is HCR's determination that there is no better alternative than to provide funding for the proposed action in the floodplain. This is due to: 1) the need to provide safe, decent and affordable housing; 2) the desire to avoid displacing residents; and 3) the ability to mitigate and minimize impacts on human health, public property, and floodplain values. In accordance with 24 CFR 55, a 7-day "Notice for Final Public Review of a Proposed Activity in a 100-Year Floodplain" would be published in widely read local newspaper. A sample "Notice for Final Public Review of a Proposed Activity in a 100-Year Floodplain" has been included in Appendix S: Nassau County Sample Floodplain Management Public Notices. The notice would target local residents, including those in the floodplain. These notices would be aggregated as appropriate.

The notice would also be sent to the following state and federal agencies: FEMA, the USFWS, the EPA, the USACE, the NPS, NOAA, NMFS, NYSDEC, the OPRHP; the NYS Department of Transportation; and the NYS Office of Emergency Management. The notice would also be sent to Nassau County and the towns and villages within Nassau County.

The notice would describe the reasons why the project must be located in the floodplain, alternatives considered, and mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain values. All comments received would be considered.

Step Eight: Implement the Action

Step eight is implementation of the proposed action. HCR would ensure that all mitigation measures prescribed in the steps above would be adhered to. Furthermore, HCR would conduct a NEPA review in accordance with 24 CFR Part 58 and a NY State Environmental Quality Review Act (SEQR) review in accordance with 6 NYCRR Part 617.

4.2 Five-Step Decision Making Process for Proposed Action in the Floodplain

Floodplain management plans for all Applicants to the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County would meet the requirements of 24 CFR Part 55.20 and Executive Order 11988—Floodplain Management. For program sites that do not require substantial improvement, these floodplain management plans would document the five-step decision making process for the Program and pertain to activities within the SFHA as defined by FEMA, or its successors, pursuant to the NFIP, or a successor program, whether advisory, preliminary, or final.

Description of Proposed Activities in the SFHA

NYS was awarded CDBG-DR funding, to be administered by HCR, to provide financial assistance to homeowners whose primary residences were damaged by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee within various NYS counties, including Nassau County. HCR is awarding this funding in accordance with the Action Plan. The Action Plan provides for, among other things, assistance to owners and occupants of damaged 5+ unit residential properties in Nassau County, NY within the 100-year floodplain to repair those properties and mitigate against damage by future storms.

The proposed activities include repair of damaged residential buildings, including interior and exterior repairs, and reimbursement to owners and tenants who have already completed repairs.

Executive Order 11988 and 24 CFR Part 55

Projects located within a floodplain SFHA are subject to Executive Order 11988 as implemented by 24 CFR Part 55. Under the updated 24 CFR Part 55, a five-step decision making process may be completed instead of the eight-step process for proposed actions taking place in the floodplain so long as the proposed action involves repair to residential buildings that are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, the action does not meet the thresholds for “substantial improvement” under §55.2(b)(10), and the footprint of the structure and paved areas is not significantly increased.

Step One: Determine if a Proposed Action is in a 100-Year Floodplain

The geographic scope for the NY Rising Housing Recovery Program for 5+ Unit Residential Properties described herein is the jurisdictional area of Nassau County, covering approximately 289,900 acres, of which 104,368 acres are located within floodplains. Construction activities are expected to take place on multi-family residential properties throughout the communities in Nassau County, especially those most affected by Superstorm Sandy – the Towns of Hempstead and Oyster Bay, the City of Long Beach, and the Villages of Island Park and Freeport. Property owners of any location within the county that sustained damage from recent Hurricane Irene or Superstorm Sandy are able to apply for the program. Many eligible Applicants would own buildings in a NFIP “V” or “A” zone, as indicated on the FIRM.

Step Two: Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain

HCR has evaluated the alternatives to taking the proposed action in the floodplain, and has determined that the proposed activities must take place in the floodplain.

Potential impacts associated with the occupancy or modification of the floodplain include some degree of ongoing risk to residents who choose to live in the floodplain. While there are some inherent risks to living in a floodplain or area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Housing Recovery Program for 5+ Unit Residential Properties would have a positive impact on Nassau County communities by ensuring that residents are able to make repairs to their homes and increase the resiliency of residential buildings that are located within the floodplain.

While there is the potential for a cumulative impact from the generation of construction debris from the demolition and reconstruction of a great number of homes through the proposed action in conjunction with the other NY Rising Programs, most of the impact would be mitigated. Direct and indirect impacts on the floodplain from repair, reconstruction, and resiliency activities under the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would be minimal as these Program sites are already developed with 5+ unit residential buildings.

The Program would facilitate the removal of debris and wreckage from Applicant properties, and would protect public safety through the repair of unsafe buildings and the requirement that all substantially damaged residential properties located within the floodplain be elevated or flood-

proofed to the strictest requirements. Rehabilitation of these parcels is necessary to maintain neighborhood characteristics, as the sites may be scattered and would be located within residential neighborhoods. As the properties would be repaired and improved through mitigation measures, the properties are also less likely to damage the floodplain with debris during future storm events.

As a result of the requirement that homeowners whose houses were substantially damaged be required to elevate or flood-proof their homes to the strictest standard, it is extremely unlikely that there would be a net increase in floodplain development in comparison to pre-hurricane conditions as a result of this program. In addition, the proposed activities would not likely increase floodplain occupancy, as the proposed activities would enable people to return to their homes, but would generally not expand the housing stock relative to conditions prior to Hurricane Irene and Superstorm Sandy.

Step Three: Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and to restore and preserve its natural and beneficial values.

HCR requires elevation or flood-proofing of all substantially damaged structures in the floodplain. When followed, these regulations would reduce the threat of flooding damage to the homes located in the floodplain. The FEMA BFEs represent the best available data.

Strict requirements for the disposal of debris are in place to prevent, to the extent possible, any negative impacts to the floodplain. The handling and disposal of demolition and construction debris, control of storm water runoff, and noise impacts resulting from the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would be in accordance with all local, state, and federal regulations as part of the acceptance of assistance funding.

The program would also implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing program activities in vegetated areas, including lawns. BMPs, such as silt fence and erosion prevention, may be implemented if required by permits or agency discretion. Work in areas of soils with high wind erosion potential may have to occur only during calm weather conditions or include additional watering and other dust suppression mitigation methods. Thorough planning, engineering review, and design through the local permitting process would minimize soil erosion and damage to the floodplain that could result from program activities on sites with marginal soil properties.

Step Four: Reevaluate the proposed action to determine: Whether it is still practicable in light of its exposure to flood hazards in the floodplain, the extent to which it would aggravate the current hazards to other floodplains, and its potential to disrupt floodplain values;

HCR has reevaluated the proposed action and determined that the NY Rising Housing Recovery Program for 5+ Unit Residential Properties is still practicable in light of its exposure to flood hazards in the floodplain. As the properties are already developed with 5+ unit dwellings, the Program would not aggravate current hazards to the floodplain, nor would the Program disrupt floodplain values.

All participants in the Recovery Program must carry flood insurance on the subject structure, when mandated, in perpetuity.

Step Five: Implement the Action

Step five (5) is implementation of the proposed action. HCR would ensure that all mitigation measures prescribed in the steps above would be adhered to. Furthermore, HCR would conduct a NEPA review in accordance with 24 CFR Part 58 and a NY SEQR review in accordance with 6 NYCRR Part 617.

4.3 Decision Making Process for Proposed Action in a Wetland

It is HUD's current policy to use the same eight-step and five-step processes for proposed action in a floodplain, modified for wetlands, to comply with Executive Order 11990—Protection of Wetlands. The decision making process would take place on a site-specific basis if a site is determined to be in a wetland, as defined by HUD and Executive Order 11990. To the extent possible, reviews would be aggregated if the work would be to the same building or within the same floodplain.

Under Executive Order 11990, wetlands are defined as "those areas inundated by surface or ground water with a frequency sufficient to support and, under normal circumstances, do or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds".

Rehabilitation, reconstruction, and mitigation of residential properties in Nassau County may take place in or next to wetlands. All sites would be evaluated during the Tier 2 site-specific environmental assessment for location with regard to wetlands using NYSDEC and USFWS NWI maps. On-site wetlands delineation and coordination with NYSDEC and the USACE would take place for all sites determined to be in or near a wetland. If the on-site inspection determines that the project would impact a wetland, the eight-step decision making process outlined in 24 CFR Part 55.20, modified for wetlands, including public notices, would be completed for all program sites which require substantial improvements. The five-step decision making process allowed under 24 CFR Part 55.12 would be completed for all program sites that do not meet the threshold for substantial improvements for proposed project activities of the NY Rising Housing Recovery Program for 5+ Unit Residential Properties that are in or adjacent to wetlands.

5.0 Evaluation of Findings and Conclusions

In 2011, Nassau County was impacted by Hurricane Irene and was again impacted by Superstorm Sandy in 2012. This Tier 1 Programmatic Environmental Assessment has resulted in a Finding of No Significant Impact (FONSI) for the NY Rising Housing Recovery Program: Environmental Assessment for 5+ Unit Residential Properties in Nassau County, NY. In accordance with the December 11, 2012 HUD memorandum regarding Environmental Review Processing During Emergencies and Following Disasters under 24 CFR Part 58, the FONSI and NOIRROF public notices would be published together on the same date in order to combine public comment periods and facilitate the efficient review of this environmental assessment.

Programmatic compliance for certain environmental factors has been evaluated at the Tier 1 level so that further review for these factors is not necessary at the Tier 2 site-specific level. This Tier 1 PEA has also identified the environmental compliance factors which must be evaluated during the Tier 2 site-specific environmental assessments, and laid out the criteria and procedures for ensuring compliance.

Certain categories evaluated in the NEPA Checklist and Environmental Assessment Worksheet may have the potential for adverse effects. Program sites would be evaluated on the Tier 2 level to determine any potential adverse effects for that site. If adverse impacts are found to exist, appropriate mitigation measures would be required in order to comply with NEPA and HUD Environmental Standards. These mitigation measures are laid out in Section 3 and may include: 1) modification of site-specific project scope to avoid or minimize effects on historic or cultural resources, 2) flood hazard prevention and mitigation, 3) wetland protection, 4) modification of site-specific project scope to avoid or minimize effects on threatened or endangered species, and 5) standard construction BMPs to minimize project generated noise.

The environmental assessment checklists used to complete this Tier 1 assessment are included in the Exhibits section of this document. Maps, agency consultations, and research supporting the Tier 1 environmental assessment are presented in the Appendices.

The rehabilitation activities proposed by the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would take place on multi-family residential properties throughout the communities in Nassau County. The exact locations of these properties are not yet fully known, as the program is still accepting applications. After considering the alternatives, NYS has determined that there is no practical alternative other than to proceed with the proposed program. While there are some inherent risks to living in an area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Housing Recovery Program for 5+ Unit Residential Properties would contribute to a safer and more secure environment for a substantial number of its low- to moderate-income households still recovering from Hurricanes Sandy and Hurricane Irene. The program would provide a positive financial impact on neighborhoods, communities, and Nassau County.

6.0 List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]

1. City of Long Beach Police Department. Internet Website: <http://www.lbpd.com/>.
2. Federal Aviation Administration. National Plan of Integrated Airport Systems (NPIAS). Internet Website: http://www.faa.gov/airports/planning_capacity/npias/.
3. Federal Aviation Administration. Report to Congress - National Plan of Integrated Airport Systems (NPIAS). Internet Website: http://www.faa.gov/airports/planning_capacity/npias/reports/media/2013/npias2013Narrative.pdf.
4. Long Island Regional Planning Council. Long Island 2035 – Visioning Initiative Final Report. Internet Website: <http://www.lirpc.org/ADFiles/Final%202035%20Visioning%20Report.pdf>.
5. Nassau County. Department of Public Works. Sewage Treatment in Nassau County. Internet Website: <http://www.nassaucountyny.gov/agencies/DPW/WasteWater.html>.
6. Nassau County. Department of Public Works. Nassau County Storm Water Management. Internet Website: <http://www.nassaucountyny.gov/agencies/DPW/stormwater.html>.
7. Nassau County. Fire Commission. Internet Website: <http://www.nassaucountyny.gov/agencies/FireComm/firecom.html>.
8. Nassau County. Health Department. Internet Website: <http://www.nassaucountyny.gov/agencies/Health/>.
9. Nassau County. Nassau County Comprehensive Plan. Internet Website: <http://www.nassaucountyny.gov/agencies/Planning/documents/1998ComprehensiveMasterPlanCompletereducd.pdf>.
10. Nassau County Police Department. Internet Website: <http://www.police.co.nassau.ny.us>
11. Nassau County. Public Transportation. Internet Website: <http://www.nassaucountyny.gov/agencies/seniors/transportation/pubctransportation.html>.
12. New York State. Directory of Public and Non-Public Schools and Administrators in New York State. Internet Website: <http://www.p12.nysed.gov/irs/schoolDirectory/>.
13. New York State Department of Agriculture & Markets. Agricultural Districts. <http://www.agriculture.ny.gov/AP/agservices/agricultural-districts.html>.
14. New York State Department of Environmental Conservation, Region 2 Office. Long Island Landfills. Internet Website: <http://www.dec.ny.gov/chemical/23698.html>.
15. New York State Department of Environmental Conservation, Region 2 Office. Federally Protected Plants. Internet Website: <http://www.dec.ny.gov/animals/7133.html>.
16. New York State Department of Environmental Conservation, Region 2 Office. List of Endangered, Threatened and Special Concern Fish & Wildlife Species of New York State. Internet Website: <http://www.dec.ny.gov/animals/7494.html>.
17. New York State Department of Environmental Conservation, Region 2 Office. Outdoor Activities. Places To Go. Long Island – Region 1. Internet Website: <http://www.dec.ny.gov/outdoor/7809.html>.
18. New York State Department of Environmental Conservation, Region 2 Office. Unique Geologic Features. Internet Website: <http://www.dec.ny.gov/permits/53826.html>.
19. New York State Department of Environmental Conservation, Region 2 Office. Critical Environmental Areas in Nassau County. Internet Website: <http://www.dec.ny.gov/permits/25131.html>.
20. New York State Department of Environmental Conservation, Region 2 Office. List of New York State Wildlife Management Areas. Internet Website: <http://www.dec.ny.gov/outdoor/8297.html>.
21. New York State Department of Environmental Conservation, Region 2 Office. Wild, Scenic and Recreational Rivers. Internet Website: <http://www.dec.ny.gov/lands/32739.html>.
22. New York State Department of State, Office of Communities and Waterfronts. Coastal Boundary Map. Internet Website: <http://www.dos.ny.gov/opd/atlas/index.html>.
23. United States Census Bureau. 2011 American Community Survey. Internet Website: http://www.census.gov/acs/www/data_documentation/summary_file/.

24. United States Census Bureau. State and County Quick Facts. Internet Website: <http://quickfacts.census.gov/qfd/states/36/36059.html>.
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26. United States Department of Agriculture. Natural Resources Conservation Service. NY059 – Nassau County, New York. Internet Website: <http://soildatamart.nrcs.usda.gov/Report.aspx?Survey=NY059&UseState=NY>.
27. United States Department of Agriculture. Natural Resources Conservation Service. Prime and Other Important Farmlands. Internet Website: http://www.nrcs.usda.gov/wps/portal/nrcs/detail/ak/soils/surveys/?cid=nrcs142p2_035988.
28. United States Department of Agriculture. Natural Resources Conservation Service. Dwellings and Small Commercial Buildings. Internet Website: [http://www.nrcs.usda.gov/Internet/FSE MANUSCRIPTS/new_york/NY059/0/nassau.pdf](http://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/new_york/NY059/0/nassau.pdf)
29. United States Department of Housing and Urban Development. Community Development Block Grant Program – CDBG. Internet Website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs.
30. United States Department of Housing and Urban Development. Noise Abatement and Control. Internet Website <http://portal.hud.gov/hudportal/documents/huddoc?id=noiseabatement.pdf>
31. United States Department of Housing and Urban Development. Farmlands Protection. Internet Website: <http://portal.hud.gov/hudportal/documents/huddoc?id=farmland.pdf>.
32. United States Department of Housing and Urban Development. Wild and Scenic Rivers. Internet Website: <http://portal.hud.gov/hudportal/documents/huddoc?id=wildnarr.pdf>.
33. United States Department of Housing and Urban Development. Sole Source Aquifers – Checklist for HUD or Responsible Entity. Internet Website: http://portal.hud.gov/hudportal/documents/huddoc?id=23388_solesourceaquifers.pdf.
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**NY Rising Housing Recovery Program: 5+ Unit Residential Properties
Agency Consultation Record**

Agency Consulted	Type of Consultation	Date of Consultation	Date of Agency Response	Consultation Details
New York State Department of Environmental Conservation (NYSDEC)	Air Quality	August 6, 2013; August 29, 2013	None	NYSDEC has not provided a response to the request for consultation.
New York State Department of State (NYSDOS)	Coastal Zone Consistency	August 29, 2013	October 18, 2013	NYSDOS determined that the program is generally consistent with the New York State Coastal Management Program
New York Natural Heritage Program (NYNHP)	Threatened and Endangered Species	August 27, 2013	September 4, 2013	NYNHP did not identify any potential impacts to endangered, threatened, and/or rare species or their habitats by the proposed rehabilitation activities. If any new construction of buildings, any construction or widening of roads or driveways, or any clearing or disturbance of land more than 75 feet from the footprint of a building being rehabilitated or reconstructed is proposed, then a specific project site screening should be conducted.
National Marine Fisheries Service (NMFS)	Threatened and Endangered Species and Essential Fish Habitat	July 19, 2013; March 4, 2014 (email)	July 31, 2013; March 7, 2014 (email)	NMFS determined that the program would have no effect to NMFS listed species and that no ESA Section 7 consultation was necessary.
United States Fish and Wildlife Service (USFWS)	Threatened and Endangered Species	July 18, 2013; July 23, 2013; August 26, 2013	August 7, 2013; September 25, 2013	USFWS identified federally listed threatened and endangered species within Nassau County and advised that it is the action agency's responsibility to determine whether or not the proposed action would affect listed species.
<p>Notes: See Appendices for copies of consultation letters.</p> <p>Other agency coordination:</p> <p>New York State Historic Preservation Office – Activities under the proposed action would comply with the Programmatic Agreement among FEMA, the NYS Historic Preservation Office, the NYS Office of Emergency Management, the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the NYC Landmarks Preservation Commission, and the Advisory Council On Historic Preservation.</p> <p>Environmental Protection Agency (Sole Source Aquifers) - Activities under the proposed action would be reviewed in accordance with the Memorandum of Understanding between HUD and the EPA.</p>				

Exhibit 1:
NEPA Environmental Assessment Checklist

NEPA Environmental Assessment Checklist

[Environmental Review Guide HUD CPD 782, 24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27]

HCR has evaluated the significance of the effects of the proposal on the character, features and resources of the project area. Relevant base data, verifiable source documentation, and required mitigation measures supporting the finding are described below. The following impact codes describe determination of impact. **Impact Codes:** (1) - No impact anticipated; (2) - Potentially beneficial; (3) - Potentially adverse; (4) - Requires mitigation; (5) - Requires project modification. Additional materials have been attached as appendices, and conditions or mitigation measures required have been noted.

Land Development	Code	Source or Documentation
Conformance with Comprehensive Plans and Zoning	1	<p>The Nassau County Planning and Development Agency is responsible for county-wide land use planning and assisting municipalities in comprehensive planning. The most current plan regarding planning and zoning is the 2010 Nassau County Master Plan. Additionally, many of the individual communities in Nassau County have their own comprehensive plans and zoning laws.</p> <p>The program would provide funding to rehabilitate existing 5+ unit residences and mitigate future storm damage. The program would not require changes to existing land use designations, including zoning amendments. However, compliance with existing zoning regulations would be required.</p> <p>In addition, this program has been reviewed by the NYSDOS, which has determined that the program meets the department's general consistency concurrence criteria, and therefore the department has no objection to the use of HUD funds for this financial assistance activity based on the fact that the program involves rehabilitation. However, if a federal permit or other form of federal agency authorization is required for a program site, NYSDOS will conduct a separate review for those permit activities. In such a case, a copy of the federal application for authorization, a completed Federal Consistency Assessment Form, and all supporting information will be forwarded to NYSDOS at the same time it is submitted to the federal agency from which the necessary authorization is required. A NYSDOS Coastal Assessment Form (CAF) and analysis of the Program's consistency with NYS Coastal Management Policy have also been prepared. (See Appendix M: NYSDOS Coastal Consistency Consultation).</p> <p>In conjunction with the State's general concurrence determination, in cases where the project is located within the jurisdiction of a Local Waterfront Revitalization Program (LWRP), the Tier 2 reviewer would conduct an assessment in accordance with 19 NYCRR Part 600 to determine whether the project is likely to affect the achievement of the policies and purposes of such approved LWRP and State agency programs. Project activities would be undertaken in a manner which complies with the policies of the approved LWRP.</p> <p>Reimbursement Work conducted prior to the homeowner entering the NY Rising Housing Recovery Program would not be eligible for reimbursement if appropriate permits were not obtained or a zoning change or amendment was necessary.</p> <p>Source: 9 (list of sources can be found in section 6.0)</p>
Compatibility and Urban Impact	2	<p>Approximately 10.9% of the housing stock in Nassau County is comprised of 5+ unit buildings. The repair, reconstruction, and mitigation activities would provide a potentially beneficial urban design and compatibility effect by revitalizing their appearance and ensuring the long-term sustainability of these residences against future storm damage. This program would not require changes in land use, as land use would remain compatible with surrounding land uses or the adopted policies of the Nassau County Master Plan and local plans and ordinances.</p> <p>Source: 4, 9</p>

Land Development	Code	Source or Documentation
Slope	4	<p>According to the USGS topographic map (see Appendix A: Nassau County USGS Topographic Maps), Nassau County is generally flat with slopes of less than 10%. The program would rehabilitate and, in some cases, reconstruct 5+ unit residences on existing footprints, and would allow for the expansion of the structures of no more than 20% of the original pre-storm footprint where necessary. Adjustment to soil slope may result from properties requiring soil amendment or preparation for stilts and associated footings. This would preclude significant expansion of existing construction; therefore, adverse effects to slope are not anticipated. Incorporation of the Soil Erosion Conditions for Approval would address any potential adverse effects to soils as a result of the program.</p> <p>Source: 25</p>
Erosion	4	<p>According to the USGS topographic maps (see Appendix A: Nassau County USGS Topographic Maps), Nassau County is generally flat with slopes of less than 10%. There would be a short-term increase in the potential for erosion due to site disturbance for rehabilitation activities. Adjustment to soil slope may result from properties requiring soil amendment or preparation for stilts and associated footings. BMPs, such as silt fence and erosion prevention, would be implemented, if required by permits or agency discretion. State and local permitting requirements would incorporate BMPs (erosion blanketing, phasing & sequencing of construction) to eliminate erosion effects for specific locations that require excavation or soil modification. In addition, the program would incorporate the Soil Erosion Conditions of Approval, which would address potential effects from soil erosion; therefore, significant effects from erosion are not anticipated as a result of this program.</p> <p>Source: 25</p>
Soil Suitability	4	<p>The program involves the reconstruction or rehabilitation of existing, storm-damaged, 5+ unit residential properties. Reconstruction at specific properties would include raising homes. Homes that would be raised would require a soil suitability analysis in accordance with New York and local construction codes and regulations. Thorough planning and engineering review and design, as well as the local permitting process, potentially adverse effects that could result from marginal soil properties, as they relate to rehabilitation and reconstruction, would be mitigated. Soil texture amendments and/or anchoring stilts to subsurface bedrock would enable raising residences above the flood elevation at locations with limited building site ratings soil types. In addition, the program would incorporate the Soil Erosion Conditions of Approval, which include BMPs such as silt fencing and erosion prevention, to address potential effects to soil suitability.</p> <p>Source: 25, 26, 27, 28</p>
Hazards and Nuisances including Site Safety	4	<p>The activities of repairing and reconstructing residential buildings and protecting them from future storm damage would be typical of construction/remodeling activities which have known hazards. Typical nuisances from such activities could include sidewalk closures and fugitive dust and noise, which would be addressed under existing regulations governing construction activity in NYS, Nassau County, and local municipalities. The renovation and rebuilding activities could expose workers to potentially hazardous substances, including asbestos, lead-based paint, or other toxic materials. HCR is responsible for the overall inspection for hazardous materials for this program. According to the Hazardous Materials Conditions for Approval, QEPs may inspect sites for evidence of contamination from hazardous materials. If hazardous materials are found or assumed to be present, they would be managed appropriately, as called for in the Hazardous Materials Conditions for Approval.</p> <p>Source: 14</p>

Land Development	Code	Source or Documentation
Energy Consumption	2	<p>The program would utilize energy consumption, including the use of fossil fuels, for use of construction equipment and the shipment of materials required for repair and reconstruction activities. However, the program would not expand the housing stock relative to conditions prior to Hurricane Irene and Superstorm Sandy, and would not increase long-term energy consumption. Rehabilitated and reconstructed homes would be more energy-efficient as a result of the program, due to incorporation of energy efficient building materials and practices, resulting in a beneficial effect.</p> <p>Source: 9</p>
Noise - Contribution to Community Noise Levels	4	<p>The repair or reconstruction of 5+ unit residential properties would result in the same amount of development that existed at pre-storm levels and would not result in any significant increase in ambient noise levels. These activities would result in temporary increases in ambient noise levels. These increases would be mitigated by implementing the Noise Conditions for Approval, including outfitting of equipment with mufflers, and compliance with local noise ordinances including time-of-day work limitations. Following these temporary renovations and rebuilding activities, noise levels would be similar to pre-storm levels and would not result in any significant increase in ambient noise levels.</p> <p>Source: 30</p>

Land Development	Code	Source or Documentation
<p>Air Quality¹ Effects of Ambient Air Quality on Project and Contribution to Community Pollution Levels</p>	<p>4</p>	<p>The proposed action would be located in Nassau County, which is within an attainment maintenance area for inhalable particulate matter (PM_{2.5}) and is a "marginal" nonattainment area for the 8-hour ozone standard and a carbon monoxide maintenance area. Section 176(c) of the Clean Air Act (CAA) requires a federal agency that funds any activity in a nonattainment or maintenance area to conform to the NY State Implementation Plan (SIP). Conforming to a SIP means that an action would not:</p> <ul style="list-style-type: none"> • Cause or contribute to a new violation of any standard in any area; • Increase the frequency or severity of any existing violation of any standard in any area; or • Delay timely attainment of any standard or any required interim emission reduction or other milestones in any area. <p>The renovation and rebuilding activities may result in vehicle and fugitive dust emissions that could result in a short-term effect on air quality.</p> <p>These activities, including alteration or demolition of existing structures, would include implementation of the Air Quality Conditions for Approval as stated in the project description. These conditions include compliance with applicable federal, state, and local laws and regulations regarding construction emissions, including but not limited to the NYCRR, NYSDEC Air Quality Management Plan, and the SIP.</p> <p>As demonstrated in the conformity screening analysis for the proposed action, emissions from construction activities would be less than de minimis levels above which a general conformity analysis or determination would be required (see Appendix L: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans), and therefore a conformity assessment is not warranted. Construction activities as a result of the proposed action may result in temporary increases in emissions from on-site equipment, construction-related vehicles and nonroad engines, and fugitive dust. However, all activities under the proposed action would comply with applicable federal, state, and local laws and regulations regarding construction emissions, as discussed in Section 3.0, "Conditions for Approval and Mitigation."</p> <p>Overall, construction activities would occur at scattered sites under the proposed action, and air pollutant concentration increments from construction activities are highly localized, i.e., almost entirely due to construction activity in close proximity to receptor locations and not due to cumulative effects from the larger area.</p> <p>In cases where new appliances are required (e.g., boiler, HVAC, etc.), it is anticipated that newer, energy efficient appliances would be installed per applicable building codes and federal, state, and local ordinances, resulting in potential benefits in the form of cleaner air.</p> <p>Source: 35</p>

¹ EPA air quality attainment status determinations are frequently updated. The most recent determinations are announced in the Federal Register and updated in the Code of Federal Regulations.

Land Development	Code	Source or Documentation
Environmental Design Visual Quality - Coherence, Diversity, Compatible Use and Scale	2	Repairing, reconstructing, or storm-proofing residential housing with 5+ housing units damaged or destroyed by recent storms would result in a beneficial effect on the visual quality of the site and its surroundings. Reconstruction and rehabilitation efforts would follow relevant county building code regulations and incorporate Green Building Standards or comply with the HUD Green Building Retrofit Checklist. No changes are proposed in the footprint or Floor Area Ratio for the rehabilitations. Following these guidelines would likely result in similar building designs which could potentially provide a benefit by improving visual appearance of neighborhoods destroyed by Hurricanes Sandy and Irene. Additionally, the improved visual setting, combined with the compatibility of the use and scale of the affected neighborhoods, would contribute to the long-term viability of Nassau County by allowing existing residents to remain in the neighborhood. Because this program would repair and rebuild residences at existing locations, it would ensure the coherence and compatibility of land uses at the site and in the vicinity. Source: 4, 9,

Socioeconomic	Code	Source or Documentation
Demographic Character Changes	1	<p>The proposed use of CDBG-DR funding for the repair, reconstruction, and implementation of storm-mitigation measures would not alter the demographic character of Nassau County, as only existing residences with 5+ units would be repaired or reconstructed, and no new residences would be added. The occupants of residential properties under this program would most likely be the same occupants that resided in the area prior to Hurricane Irene and Superstorm Sandy. The proposed action would have no significant effect on the demographic character of Nassau County.</p> <p>Source: 23, 24</p>
Displacement	1	<p>One of the primary objectives of the NYS's response to Hurricane Irene and Superstorm Sandy and CDBG-DR funding is to avoid the permanent displacement of residents. Repairing, reconstructing or improving storm-mitigation of storm-damaged residential buildings with 5+ units would ensure that safe and sustainable housing would be provided, and that residents displaced by Hurricane Irene and Superstorm Sandy can return to their communities. No residents would be displaced as a result of this program.</p> <p>Source: 23, 24</p>
Employment and Income Patterns	2	<p>The program would temporarily increase employment and income, especially in the construction industry, through the repairing, reconstructing or mitigation efforts implemented for multi-family residences damaged by Hurricane Irene and Superstorm Sandy. Once all construction is complete, employment and income patterns are expected to return to pre-storm conditions as no new multi-family residences and associated population would be added.</p> <p>Source: 23, 24</p>

Community Facilities and Services	Code	Source of Documentation
Educational Facilities	1	<p>Using the proposed CDBG-DR funding for repairing, reconstructing, or rehabilitating residential properties with 5+ units would not result in adverse effects on these schools in Nassau County. The program would enable students displaced by Hurricane Irene and Superstorm Sandy to return to their local school. There would be no adverse effects on educational facilities as new multi-family residences are not being added, and existing structures are being repaired.</p> <p>Source: 12</p>
Commercial Facilities	2	<p>Repairing, reconstructing, or rehabilitating residential properties with 5+ units would not result in an adverse effect on existing commercial establishments. Returning residents would frequent commercial establishments in the neighborhood as they did before Hurricanes Sandy and Irene. This would be an economic benefit to all local businesses that experienced a loss in revenue since the storms.</p> <p>Source: 28, 53</p>
Health Care	1	<p>Repairing, reconstructing, or rehabilitating multi-family residential properties with 5+ units would not result in an increase in demands on the health care system. Any population increase would be a result of stabilization of the population to pre-storm levels. There would be no adverse effects on health care facilities as new multi-family residences are not being added and only existing structures are being repaired.</p> <p>Source: 8</p>
Social Services	1	<p>Repairing, reconstructing, or rehabilitating multi-family residential properties with 5+ units would not result in a new demand for social services because no new multi-family residences or population are being added, and only existing multi-family residences would be repaired. The program may reduce demand for social services as people move back into their homes and regain the life they had before Superstorm Sandy and Hurricane Irene.</p> <p>Source: 8</p>
Solid Waste	4	<p>The Long Island Landfill Law, ECL 27-0704, placed additional requirements and restrictions on Long Island Landfills. This refers to all landfills in Nassau and Suffolk Counties. As of February 2012, there were five landfills operating on Long Island, two of which collect C&D debris. All solid waste must be properly segregated and disposed of at any of these landfills. The proposed program would generate solid waste materials from repairing, reconstructing, or rehabilitating multi-family residential buildings, and would include implementation of the Solid Waste and Hazardous Materials Conditions for Approval as stated in the project description. All hazardous waste (asbestos-containing material, PCBs, etc.) would be segregated and disposed of at an appropriately licensed facility. Materials can be separated from C&D debris to be recycled or to be reused for a specific use. Material that is not recovered is sent to a municipal solid waste landfill or to a C&D debris landfill. Facilities and landfills would be determined based on proximity to site-specific properties.</p> <p>Source: 14</p>
Waste Water	1	<p>Repairing, reconstructing or rehabilitating residential properties with 5+ units should not generate a substantial amount of waste water or place an increased demand on Nassau County's two (2) sewage treatment plants or the ten (10) other independent treatment facilities operating in the county because new construction of additional multi-family residences would not occur. No significant effect would occur as a result of reconstructing multi-family residences, as the housing stock would not be increased beyond pre-storm conditions.</p> <p>Source: 5</p>

Socioeconomic	Code	Source or Documentation
Storm Water	4	<p>Repairing, reconstructing, or improving storm-mitigation of residential properties with 5+ units would not involve a change in the existing structures' footprint and associated storm water infrastructure and would have no effect on the existing storm water system or the county's groundwater recharge basins. All multi-family residential sites under this program would be evaluated for the need to comply with storm water permitting requirements, such as a NYSDEC general permit or a MS4 permit. If multiple adjacent sites are worked on, the sites would be aggregated for the purposes of construction storm water compliance.</p> <p>Reimbursement If the homeowner has requested reimbursement for work done prior to the homeowner entering the NY Rising Housing Recovery Program, the work would be evaluated to determine if it required a NYSDEC general permit or local MS4 permit. If it is determined that either permit was required, the homeowner must provide documentation that the permit had been obtained prior to the work being conducted, or evidence as to why the permit was not required for the work conducted. If the permit was required but was not obtained prior to the work conducted, that work would not be eligible for reimbursement.</p> <p>Source: 6</p>
Water Supply	1	<p>No additional demands would be placed on the Nassau County water supply as no new multi-family residences are being built. Repairing, reconstructing or rehabilitating residential properties with 5+ units and protecting them from future storm damage would return water supply demands to pre-storm conditions.</p> <p>Source: 8</p>
Public Safety - Police	3	<p>The proposed program would not result in additional multi-family residential development or associated population and would not increase the demand on the local police departments. The activities of repairing or reconstructing residences with 5+ units and protecting them from future storm damage would have a beneficial effect on local police precincts by reducing the amount of derelict properties which can be considered a threat to public safety. Once the program is complete, the long-term demand for police services are expected to return to pre-storm levels. Debris from construction activities would be managed to avoid impeding response times. It is possible debris or trucks may temporarily block access, though these hindrances would be minor and temporary.</p> <p>Source: 1, 10</p>
- Fire	3	<p>The proposed initiative would not result in additional multi-family residential development or associated population and would therefore not increase the demand on the nine fire battalions in Nassau County. Repairing, reconstructing, or rehabilitating residences with 5+ units and protecting them from future storm damage would reduce the amount of derelict properties, which pose potential fire hazards. Once the program is complete, the long-term demand for fire services is expected to return to pre-storm levels. Debris from construction activities would be managed to avoid impeding response times. It is possible debris or trucks may temporarily block access, though these hindrances would be minor and temporary.</p> <p>Source: 7</p>

Socioeconomic	Code	Source or Documentation
- Emergency Medical	3	<p>Repairing, reconstructing, or rehabilitating residential properties with 5+ units would not result in additional multi-family residential development or associated population and would therefore not increase the demand on local emergency medical departments because the overall population in Nassau County would return to pre-storm levels. The objective of CDBG-DR is to preserve existing neighborhoods by helping displaced homeowners return to their storm damaged properties. Therefore, once all rehabilitation is complete, the demand for emergency medical services is expected to return to pre-storm levels. Debris from construction activities would be managed to avoid impeding response times. It is possible debris or trucks may temporarily block access, though these hindrances would be minor and temporary.</p> <p>Source: 8, 54</p>
Open Space and Recreation - Open Space	1	<p>The program would not result in additional open space or increase demand for existing open space in Nassau County because reconstruction of existing residential buildings with 5+ units would take place in their existing footprints, and no new multi-family residential buildings or associated residents would be added.</p> <p>Source: 9</p>
- Recreation	1	<p>The program would not result in additional demand for existing recreation resources in Nassau County because no new multi-family residential buildings or associated residents would be added.</p> <p>Source: 9, 17</p>
- Cultural Facilities	1	<p>The rehabilitation program for residential buildings with 5+ units would not result in additional demand for existing cultural/historic resources in Nassau County because no new multi-family residential buildings or associated residents would be added.</p> <p>Source: 9, 17</p>
Transportation	4	<p>During the construction period, the program could generate an increase in vehicular traffic if multiple buildings are repaired, reconstructed or rehabilitated in the same area simultaneously. This potential increase in traffic would be temporary and localized, and would end when construction is complete. Any potential effects on transportation would be managed through Intelligent Transportation System Techniques such as message boards and traffic cameras (see Transportation Conditions for Approval). Conversely, it is likely that impacts to the local transportation system would not be realized if reconstruction takes place on fewer multi-family buildings at a given time in a specific location.</p> <p>Source: 4, 9, 11</p>

Natural Features	Code	Source or Documentation
Water Resources	4	<p>All of Nassau County is located over the Nassau-Suffolk Sole Source Aquifer (see Appendix I: Sole Source Aquifer Map and Memorandum of Understanding). Most of Nassau County is connected to municipal water supplies; however, some areas have private wells and are not connected to community systems. In accordance with the MOU between HUD and EPA dated August 24, 1990, programs involving rehabilitation of existing structures are not required to be reviewed for consistency with 40 CFR Part 149 (sole source aquifers).</p> <p>Because this program would occur on lands already containing multi-family residences, water supplies are already established and may remain in place or be removed as the lands are converted to coastal buffer zones. Hazardous materials, especially stored liquids such as fuels and pesticides in existing multi-family buildings and on or adjacent to program properties could be released during rehabilitation and be transported to groundwater through percolation. Potential hazardous materials and wastes would be assessed and remediated and all applicable laws and regulations complied with, as described in the Hazardous Materials Conditions for Approval. These procedures would minimize the potential for contamination of groundwater from building rehabilitation. Tier 2 mitigation plans would be developed, as necessary, to minimize effects on groundwater as the locations of participating multi-family properties are determined. No site altering activities would occur until mitigation plans are implemented.</p> <p>Reimbursement</p> <p>The total impervious area of a parcel would not be increased significantly, which is considered to be 30% for Safe Drinking Water Act purposes in Region II. This authority would not be triggered since these activities would not increase the preexisting footprint of structures, sidewalk, driveway, parking lot, or other developed areas.</p> <p>Source: 33, 34</p>

Natural Features	Code	Source or Documentation
Surface Water	4	<p>Nassau County includes Long Island Sound, including several bays and harbors on the north shore, and the Atlantic Ocean, including several bays and harbors, on the south shore. There are numerous freshwater ponds inland.</p> <p>There are no Wild and Scenic Rivers within Nassau County, as designated by the U.S. Department of the Interior, and no Wild, Scenic, or Recreational Rivers, as designated by the NYSDEC.</p> <p>Repair and reconstruction activities would be limited to the footprint of the affected multi-family properties. They are generally not expected to include surface water bodies but could be adjacent to water. Most rehabilitation activities would likely not involve earthwork that could disturb soils. However, where earthwork, such as grading, are needed to carry out the rehabilitation, there would be the potential for short-term adverse effects on surface waters from erosion, sedimentation, and hazardous materials.</p> <p>The Wetlands Protection, Water Quality, and Soil Erosion Conditions for Approval would be implemented during any work involving soil disturbances associated with rehabilitation. These measures would minimize erosion and deposition of sediment and eroded soil in on-site and off-site wetlands and waters.</p> <p>All sites would be evaluated for the presence of wetlands during Tier 2 evaluations in accordance with NYSDEC and USFWS NWI maps. When necessary, on-site wetlands inspection would occur in the Tier 2 site-specific assessment, and if project work on a specific site would impact a wetland, the five-step or eight-step decision making process outlined in 24 CFR Part 55.20, modified for wetlands, would be completed. If the wetland impacts cannot be avoided, appropriate permits would be obtained in compliance with Executive Order 11990. These include those under Sections 401 and 404 of the Clean Water Act, as well as any applicable local or state permits.</p> <p>Reimbursement</p> <p>If the work was completed prior to the homeowner entering the NY Rising Housing Recovery Program the homeowner must provide documentation that the applicable permits or authorizations were obtained prior to the work taking place or provide other documentation deemed sufficient to document compliance or conformance with applicable laws.</p> <p>For work yet to be initiated Program would implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing project activities in vegetated areas, including lawns.</p> <p>Source: 9, 21, 22, 32, 36, 45</p>
Unique Natural Features and Agricultural Lands	1	<p>Jamaica Bay Tributaries, Tidal Wetlands and Regulated Adjacent Areas are the only NYSDEC designated Critical Environmental Area (CEA) in Nassau County. There are no NYSDEC-designated Unique Geologic Features in the County.</p> <p>Rehabilitated multi-family homes may be within view from the Jamaica Bay CEA; however, adverse effects from the program are not anticipated, as plans would be developed on a site-specific level to avoid disturbance in this area and would be compatible with current land use of the surrounding urban upland areas. There are sand dunes along the Atlantic Ocean beaches in the county.</p> <p>No rehabilitation properties are expected to be identified as farmland. If rehabilitation activities do occur on agricultural land, the rehabilitation activities would not result in agricultural land use conversion. There are no New York State agricultural districts in Nassau County.</p> <p>Source: 13, 19, 26, 27, 29, 31, 46</p>

Natural Features	Code	Source or Documentation
Vegetation and Wildlife	4	<p>Information has been received from NYSDEC NY Natural Heritage Program, the USFWS NY Field Office, and NMFS. Consultation with these agencies has been initiated for the Program. According to NYSDEC, the rehabilitation or rebuilding of a multi-family housing property would not impact endangered, threatened, and/or rare species or their habitats (see Appendix N: NY Natural Heritage Program Consultation, Appendix Q: NMFS Consultation Letters, and Appendix R: USFWS Consultation Letters).</p> <p>Section 7 of the ESA requires the action agency (HCR) to make a determination of effect on any federally listed species or designated critical habitat that may occur from an action that is funded, authorized, or carried out by the action agency. HCR is acting as HUD's designated representative for this program. The determination of effect and USFWS consultation would be carried out during the Tier 2 site-specific reviews as described in the Vegetation and Wildlife Conditions for Approval.</p> <p>In accordance with the August 7, 2013 and September 25, 2013 letters from USFWS, each site would be reviewed to determine the level of adverse effect in accordance with the USFWS 7-Step Project Review Process and/or other compliance review tools as directed by USFWS. Further consultation with USFWS would be conducted in the event that an adverse effect is determined. Additionally, HCR would determine if there are areas of multiple sites in close proximity that may result in an adverse effect so that those sites can be reviewed together, if necessary. There are four (4) federally listed species known to occur in Nassau County (see Appendix J: USFWS Natural Resources of Concern. There are also two species proposed for listing). No program sites are anticipated to include habitat for these species in their footprint. The most likely situation where a program action could trigger the necessity for a Section 7 consultation is if a site is immediately adjacent to an Atlantic Ocean beach, where piping plovers are known to occur, and if work would be done between March and September.</p> <p>HCR would comply with the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act as described in the Vegetation and Wildlife Conditions of Approval.</p> <p><u>Reimbursement</u></p> <p>Consultation is not required under Section 7 of the ESA when CDBG-DR assistance is provided for costs incurred, because physical activities were undertaken before HCR could review programs with the potential to affect biological resources. However, all properties would be reviewed for compliance with Section 7 of the ESA at the Tier 2 site-specific level.</p> <p>Source: 16, 20, 38, 39, 40, 41, 42, 43, 44</p>

Exhibit 2:
Environmental Assessment Worksheet

Environmental Assessment Worksheet

This worksheet provides a suggested format that may be used to complete the Environmental Assessment process.

Program Name and Description:

Program Name: NY Rising Housing Recovery Program for 5+ Unit Residential Properties

Location: Multi-family Residential Sites, Nassau County, NY

Activities included in the project: Repairing, reconstructing, or rehabilitating residential properties with five (5) or more units in Nassau County damaged or destroyed by recent storm events.

Directions: HCR has determined whether the activities affiliated with the project will affect the resource under consideration and trigger formal compliance consultation procedures with the appropriate oversight agency and/or subsequent mitigation, as described, below. If the activity affects the resource, “A” is indicated in the Status Determination Column below, and a site-specific Tier 2 review will be conducted for the category. “B” is indicated in the column if the activity does not affect the resources under consideration. The compliance documentation column indicates what source documentation was used to make the compliance determination and copies of all necessary documentation are attached to the Environmental Review Record (ERR).

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Flood Disaster Protection Act [Flood Insurance] [§58.6(a)]	A	Portions of the program may be located within a SFHA based on a review of the FEMA FIRMs No. 36059CIND1A, revised 9/11/2009, for Nassau County, NY (see Appendix B: Nassau County FEMA Flood Insurance Rate Map). At the Tier 2 level, if any multi-family building requires rehabilitation in a floodplain, that site will be reviewed in accordance with the eight-step (or five-step) decision making process under 24 CFR Part 55.20. All sites will be reviewed for their location within the floodplain, and if they are in the SFHA, the applicant will be required to purchase and maintain flood insurance. Compliance requirements will be determined in a Tier 2 environmental review.
Coastal Barrier Resources Act/Coastal Barrier Improvement Act [§58.6(c)]	A	Portions of Nassau County are within the John H. Chafee CBRS (see Appendix F: Coastal Barrier Resources Map). Each site will be checked with regard to its location within the CBRS, and no HUD funding will be used in a system unit of the CBRS. Compliance requirements will be determined in a Tier 2 environmental review.
Airport Runway Clear Zone or Clear Zone Disclosure [§58.6(d)]	B	The program will not be proposing any multi-family site acquisitions; therefore, 24 CFR Part 58.6(d) is not applicable.

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
<p>Wetland Protection [Executive Order 11990]</p>	<p>A</p>	<p>The program involves repair and reconstruction of 5+ unit residential buildings, and most activities are expected to occur in the current building footprint. The Wetlands Protection and Water Quality and Soil Erosion Conditions for Approval will be implemented. These measures will minimize erosion and deposition of sediment and eroded soil in on-site and off-site wetlands and waters.</p> <p>All sites would be evaluated for the presence of wetlands during Tier 2 evaluations in accordance with NYSDEC and USFWS NWI maps. When necessary, on-site wetlands inspection would occur in the Tier 2 site-specific assessment, and if project work on a specific site would impact a wetland, the five-step or eight-step decision making process outlined in 24 CFR Part 55.20, modified for wetlands, would be completed. If the wetland impacts cannot be avoided, appropriate permits would be obtained in compliance with Executive Order 11990. These include those under Sections 401 and 404 of the Clean Water Act, as well as any applicable local or state permits.</p> <p><u>Reimbursement</u></p> <p>If the work was completed prior to the homeowner entering the NY Rising Housing Recovery Program the homeowner must provide documentation that the applicable permits or authorizations were obtained prior to the work taking place or provide other documentation deemed sufficient to document compliance or conformance with applicable laws.</p> <p>For work yet to be initiated Program would implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing project activities in vegetated areas, including lawns.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Coastal Zone Management [Coastal Zone Management Act, 1972]	B	<p>This program has been reviewed by the NYSDOS, which has determined that the program meets the department's general consistency concurrence criteria, and therefore the department has no objection to the use of HUD funds for this financial assistance activity based on the fact that the program involves rehabilitation. However, if a federal permit or other form of federal agency authorization is required for a program site, NYSDOS will conduct a separate review for those permit activities. In such a case, a copy of the federal application for authorization, a completed Federal Consistency Assessment Form, and all supporting information will be forwarded to NYSDOS at the same time it is submitted to the federal agency from which the necessary authorization is required. A NYSDOS Coastal Assessment Form (CAF) and analysis of the Program's consistency with NYS Coastal Management Policy have also been prepared. (See Appendix M: NYSDOS Coastal Consistency Consultation and NYS Coastal Assessment Form).</p> <p>In conjunction with the State's general concurrence determination, in cases where the project is located within the jurisdiction of a Local Waterfront Revitalization Program (LWRP), the Tier 2 reviewer would conduct an assessment in accordance with 19 NYCRR Part 600 to determine whether the project is likely to affect the achievement of the policies and purposes of such approved LWRP and State agency programs. Project activities would be undertaken in a manner which complies with the policies of the approved LWRP.</p>
Historic Preservation [36 CFR Part 800]	A	<p>A Programmatic Agreement (see Appendix O: NY Historic Preservation Programmatic Agreement) with the NY State Historic Preservation Office (SHPO) has been executed, and all multi-family properties will be reviewed under Section 106 of the National Historic Preservation Act for compliance with the Programmatic Agreement and forwarded to NYS OPRHP for further review as required by the Programmatic Agreement.</p> <p>Compliance requirements will be determined in a Tier 2 environmental review.</p> <p><u>Reimbursement</u></p> <p>If the homeowner has requested reimbursement for work done prior to the homeowner entering the NY Rising Housing Recovery Program for 5+ Unit Residential Properties, the work will be evaluated to determine compliance with the Programmatic Agreement. If the work conducted by the homeowner did not comply with the Programmatic Agreement, the homeowner must provide documentation that the OPRHP had been consulted prior to the work starting. If the homeowner cannot provide the documentation, the project will not be eligible for reimbursement until it has been sent for further review to the OPRHP and all recommendations made by the OPRHP have been completed.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Floodplain Management [Executive Order 11988; 24 CFR Part 55]	A	<p>Program sites may be located within a 100-year floodplain and will be reviewed in accordance with 24 CFR Part 55.20. At the Tier 2 level, if any multi-family building requires substantial rehabilitation in a floodplain, that site will be reviewed in accordance with the eight-step decision-making process under 24 CFR Part 55.20. If a multi-family building requires non-substantial rehabilitation and is located within the floodplain, a five-step decision-making process as allowed under 24 CFR Part 55.12 will be completed. A floodplain management plan will be written and public notices will be published (as necessary) for all sites located within the floodplain. To the extent possible, these reviews would be aggregated.</p> <p>Compliance requirements will be determined in a Tier 2 site-specific environmental review.</p> <p><u>Reimbursement</u></p> <p>Homeowners requesting reimbursement for work completed prior to the homeowner entering the NY Rising Housing Recovery Program for 5+ Unit Residential Properties must provide documentation that the work meets the standards discussed above. If the work that has been done prior to the homeowner entering the NY Rising Housing Recovery Program for 5+ Unit Residential Properties does not meet these standards, that work will not be eligible for reimbursement until compliance with these standards are documented through the building permit and/or elevation certificate, which are required eligibility documents under this Program.</p>
Sole Source Aquifers [40 CFR Part 149]	B	<p>All of Nassau County is located over the Nassau-Suffolk Sole Source Aquifer (see Appendix I: Sole Source Aquifer Map and Memorandum of Understanding). The proposed program will occur in areas where water services have already been established, and will have no effect on sole source aquifers. A memorandum of understanding between EPA and HUD states that the following activities will not create a significant hazard to public health and do not require review for potential affect to sole source aquifers:</p> <ul style="list-style-type: none"> • Rehabilitation of residential units (See Appendix I: Sole Source Aquifer Map and Memorandum of Understanding) <p><u>Reimbursement</u></p> <p>The total impervious area of a parcel will not be increased significantly, which is considered to be 30% for Safe Drinking Water Act purposes in Region II. This authority will not be triggered since these activities will not increase the preexisting footprint of structures, sidewalk, driveway, parking lot, or other developed areas.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
<p>Endangered Species Act [50 CFR Part 402]</p>	<p>A</p>	<p>Coordination has been conducted with the NYSDEC NY Natural Heritage Program, the USFWS, and NMFS regarding state and federal threatened and endangered species (see Appendix N: NY Natural Heritage Program Consultation, Appendix Q: NMFS Consultation Letters, and Appendix R: USFWS Consultation Letters).</p> <p>Section 7 of the ESA requires the action agency (HCR) to make a determination of effect on any federally listed species or designated critical habitat that may occur as a result of an action that is funded, authorized, or carried out by the action agency. HCR is acting as HUD's designated representative for this program. The determination of effect will be completed in the Tier 2 site-specific reviews. In accordance with the August 7, 2013 and September 25, 2013 letters from USFWS, each site will be reviewed to determine effect. Further consultation with USFWS will be conducted in the event that an individual project may affect a listed species. Additionally, HCR will determine if there are areas of multiple sites in close proximity that may result in an effect so that those sites can be reviewed together, if necessary. A "may affect, but not likely to adversely affect," determination requires USFWS written concurrence. A "may affect, likely to adversely affect," requires formal consultation with USFWS and results in the USFWS issuance of a biological opinion.</p> <p>There are four (4) federally listed species that are known to occur in Nassau County (locations and habitats of these species are described in Appendix J: USFWS Natural Resources of Concern). There are also two species proposed for listing. The proposed actions of the rehabilitation program will occur outside of these resource areas; therefore, they will not be affected by the proposed program.</p> <p>Compliance requirements will be determined in a Tier 2 environmental review.</p> <p>Reimbursement</p> <p>Consultation is not required under Section 7 of the ESA when CDBG-DR assistance is provided for costs incurred, because physical activities were undertaken before HCR could review projects with the potential to affect biological resources. However, all properties will be reviewed for compliance with Section 7 of the ESA at the Tier 2 site specific level.</p>
<p>Wild and Scenic Rivers [16 USC 1271, Sec. 7(b), (c)]</p>	<p>B</p>	<p>There are no wild and scenic rivers in Nassau County, as designated by the U.S. Department of the Interior and NYSDEC. No effects will result and further assessment is not required (see Appendix H: Nassau County Wild, Scenic, or Recreational Rivers).</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Clean Air Act¹ [40 CFR Parts 6, 51, 93]	B	<p>The proposed action would be located in Nassau County, which is within a maintenance area for inhalable particulate matter (PM2.5), a marginal nonattainment area for the eight-hour ozone standard, and a carbon monoxide maintenance area.</p> <p>Project activities would be completed on existing residential developed sites and existing structures. As demonstrated in the conformity screening analysis for the proposed action, emissions due to construction activities would fall below de minimis levels for an air quality conformance (see Appendix L: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans), and therefore a conformity assessment is not warranted. Air quality effects would be short-term and localized. No significant effects on air quality would result and further assessment is not required.</p>
Farmland Policy Act [7 CFR Part 658]	B	<p>The program will not convert farmland to nonagricultural purposes and will not violate the Farmland Policy Protection Act. Further assessment is not required (see Appendix K: Farmland Protection Checklist).</p>
Environmental Justice [Executive Order 12898]	B	<p>The program is not expected to result in EJ impacts, as it is intended to provide funding for rehabilitating residential properties with five (5) or more units to stabilize the community regardless of origin, race, age, etc. Applications for funding in EJ areas will be treated the same as applications in non-EJ areas and will have equal opportunity (see Appendix E: Nassau County Potential Environmental Justice Area Maps).</p> <p>Reimbursement</p> <p>These projects will not raise EJ issues and have no potential for new or continued disproportionately high and adverse human health and environmental effects on minority or low-income populations.</p>
Noise Abatement and Control [24 CFR Part 51, Subpart B]	B	<p>The rehabilitation program could cause temporary increases in noise levels. Temporary increases in noise levels will be mitigated by complying with local noise ordinances. HCR has determined that noise abatement and control is not applicable to a disaster recovery program which meets the definition of 24 CFR Part 51.101(a)(3) for emergency assistance under disaster provisions or appropriations provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster. The program will not increase the amount of development in existence prior to Superstorm Sandy and Hurricane Irene; therefore, no long-term impacts to noise and noise levels will occur (see Appendix P: HUD Noise Abatement and Explosive Operations Email).</p> <p>Reimbursement</p> <p>HUD's noise policy at 24 CFR part 51 subpart B is not applicable to assistance that has the effect of restoring facilities substantially as they existed prior to the disaster (see 51.101(a)(3)).</p>

¹ EPA air quality attainment status determinations are frequently updated. The most recent determinations are announced in the Federal Register and updated in the Code of Federal Regulations.

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Explosive and Flammable Operations [24 CFR Part 51 C]	B	<p>ASD requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. Environmental review for housing repair or reconstruction to existing 5+ unit residential buildings where the number of units is not increasing will not be required to apply 24 CFR Part 51 Subpart C as the number of people exposed to explosive or flammable operations will not increase (see Appendix P: HUD Noise Abatement and Explosive Operations Email).</p> <p>Reimbursement HUD's ASD at 24 CFR part 51 subpart C is not applicable if the project is not adding density.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Toxic Chemicals and Radioactive Materials [24 CFR Part 58, Sec 5(i)(2)]	A	<p>HUD policy requires that the proposed site and adjacent areas be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants of the property. As part of this program, each rehabilitation site will undergo a desktop review using NEPAAssist, and other environmental databases to determine if further investigation is warranted. If further investigation is warranted and conducted, and contaminants are identified, they will, if required, be remediated, as necessary, in accordance with applicable city, state and federal regulations.</p> <p>All activities must comply with applicable federal, state, and local laws and regulations regarding lead-based paint, including but not limited to, EPA RRP Rule (40 CFR 745.80 Subpart E), HUD's lead-based paint regulations in 24 CFR Part 35 Subparts A, B, H, J, and R, and HUD "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing." The Guidelines complement regulations that have been issued by HUD, the EPA, and OSHA, and policies from the CDC. In general, these regulations apply to housing constructed prior to 1978.</p> <p>Structures to be reconstructed or rehabilitated may include materials containing asbestos, and will conform to: Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (Cited as 12 NYCRR Part 56), the National Emission Standard for Asbestos-Standard for demolition and renovation 40 CFR Part 61.145, and National Emission Standard for Asbestos-Standard for waste disposal for manufacturing, fabricating, demolition, and spraying operations 40 CFR Part 61.150.</p> <p>Mold can also have an adverse effect on human health and is a very common problem in houses that have been flooded. All homes will be inspected for mold contamination and mold remediation will be conducted as appropriate.</p> <p>According to the U.S. EPA, Nassau County is located in Radon Zone 3, where the predicted average indoor radon screening level is less than 2 picocuries per liter (pCi/L). Radon testing will not be required for multi-family sites in Nassau County; however, radon mitigation will be included for all counties in EPA Radon Zone 1 and Radon Zone 2.</p> <p>Compliance requirements will be determined in a Tier 2 environmental review. This review will include site-specific assessments to identify any toxic or radioactive substances on, adjacent to, or near the subject properties.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Toxic Chemicals and Radioactive Materials (continued) [24 CFR Part 58, Sec 5(i)(2)]	A	<p>Reimbursement</p> <p>All homes will be inspected for mold contamination and mold remediation will be conducted as appropriate.</p> <p>If the home is in a county located in EPA Radon Zone 1 or Zone 2, the homeowner must provide documentation that radon level testing has been completed. Nassau County is located in a Radon Zone 3, and no radon testing or mitigation measures are required for reimbursement.</p> <p>Assistance provided for an applicant's incurred rehabilitation costs may be exempt from the Lead Safe Housing Rule if the unit falls within a regulatory exemption set forth at 24 CFR Part 35.115. A housing unit is likely to fall within an exemption if:</p> <ul style="list-style-type: none"> • The housing unit was constructed on or after January 1, 1978; • The CDBG-DR applicant undertook CDBG-eligible activities that qualify as emergency actions immediately necessary to safeguard against imminent danger to human life, health, or safety, or to protect the property from further structural damage due to natural disaster, fire, or structural collapse. This exemption applies only "to repairs necessary to respond to the emergency" as provided in 24 CFR Part 35.115(a)(9); • The rehabilitation did not disturb any painted surface; • The property meets the definition of "housing for the elderly," or the residential property is designated "exclusively for persons with disabilities"; but only if no child less than six (6) years of age resides or is "expected to reside" in the dwelling unit (see definitions at 24 CFR Part 35.110); • An inspection performed according to HUD standards found the property contained no lead-based paint; or • According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance. <p>If the homeowner has requested reimbursement for work done prior to the homeowner entering the NY Rising Housing Recovery Program for 5+ Unit Residential Properties, the homeowner must provide documentation that the above regulations were followed. If the homeowner cannot provide the documentation, a qualified asbestos inspector must perform a comprehensive building asbestos survey to identify the location and condition of asbestos throughout the structure. If the asbestos survey indicates the presence of asbestos or the presence of asbestos is assumed, an asbestos Operations and Maintenance (O&M) plan will be required prior to funding.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Airport Clear Zones and Accident Potential Zones [24 CFR Part 51 D]	B	Based on guidance provided by HUD in Fact Sheet #D1, the National Plan of Integrated Airport Systems was reviewed for civilian, commercial service airports within the vicinity of the program area, as projects located within 2,500 feet of a civil airport will require consultation with the appropriate civil airport operator. Projects in southwestern Nassau County will be located within close proximity to John F. Kennedy Airport, but are not within the airport clear zone areas (see Appendix G: Nassau County Airport Clear Zones Maps). Projects in east central Nassau County will be located within close proximity to Republic Airport but will not be within the airport clear zone areas (see Appendix G). No known military airports are located within 15,000 feet of the project area.

Determination: HCR has complied with all provisions of 24 CFR Part 58, Subpart E – Environmental Review Process: Environmental Assessments, has examined alternatives to the project itself and feasible ways to modify the project to eliminate or minimize adverse impacts, and based on steps (a) through (f) found in the regulations, made the following determination:

Finding of No Significant Impact (FONSI), whereby HCR may proceed to dissemination and publication of the FONSI, per regulations found at 24 CFR Part 58.43(a).

PREPARER SIGNATURE:



PREPARER NAME:

Rebecca A. Steffen, ProSource Technologies, LLC

DATE:

10 February 2014

PREPARER SIGNATURE:



PREPARER NAME:

Ashley Ley, AKRF, Inc.

DATE:

11 June 2014

Exhibit 3:
Site-Specific Checklist

TIER 2 SITE SPECIFIC CHECKLIST

Application#:

Project Address:

**TIER 2 ENVIRONMENTAL REVIEW RECORD
SITE SPECIFIC CHECKLIST**

Department of Housing and Urban Development Appropriation Act, 2013
The Community Development Block Grant Program Disaster Recovery Program –
Housing Assistance Programs – 5+ Unit

Application#:
Property address:

- Reimbursement
- Repair
- Reimbursement and Repair

For Reimbursement and Repair applications:

Date of Reimbursement application: _____

Date work was completed: _____

Substantial Damage? Yes (Attach substantial damage documentation) No

Elevation required? Yes (Attach elevation compliance documentation) No

Optional Elevation? Yes (Attach elevation compliance documentation) No

Building construction date:

Will any ground disturbance be conducted?

Description of project work (reference sections of ECR and/or AA):

Repair:

SEQRA CLASSIFICATION

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the SEQRA Negative Declaration for Unlisted Actions dated June 27, 2013.

NEPA CLASSIFICATION

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the Tier 1 and FONSI dated: _____.

- Part or all of the project is located in an area identified as a floodplain or wetland. For projects located in a floodplain or wetland, evidence of compliance with Executive Orders 11988 and/or 11990 is required.

Finding of Tier 2 Review:

The proposed activity complies with environmental requirements for funding. The closeout items must be completed. The closeout items are listed at the end of this document.

The proposed activity does not comply with environmental requirements for funding for the following reasons; i.e., permanent impact to wetland or inconsistency with the coastal program

A finding cannot be made without (describe missing or needed information or documentation).

TIER 2 SITE SPECIFIC CHECKLIST

Application#:

Project Address:

**SITE SPECIFIC STATUTORY CHECKLIST
& ADDITIONAL NYS REQUIREMENTS**

Check "A" if further close-out documentation is required.
Provide written discussion of compliance or necessary mitigation measures.

Check "B" if the criteria review is complete.
Provide written discussion and attach any supporting materials.

Area of Statutory - Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
Procedures to comply with Related Laws at 24 CFR 58.6			
Flood Disaster Protection Act of 1973			
Coastal Barrier Resources Act			
Runway Clear Zones (development)		X	No programs involve assistance to purchase residential properties. Accordingly, this requirement is not applicable to any potential activities to be funded by these programs.
Procedures to comply with Related Laws at 24 CFR 58.5 and Other NYS Requirements			
Historic Properties			
Floodplain Management			
Wetland Protection			
Coastal Zone Management		X	This program has been reviewed by the New York Department of State (NYS DOS), which made a "general concurrence determination" based on the fact that the program involves rehabilitation.
Local Waterfront Revitalization Program			
Sole Source Aquifers		X	The proposed program would have no effect on sole source aquifers. A memorandum of understanding between EPA and HUD states that the rehabilitation of residential units would not create a significant hazard to public health and do not require review for potential impact to sole source aquifers.
Endangered Species			
Wild and Scenic Rivers		X	Not applicable. The property is not located in a component of the National Wild and Scenic River System, or a river officially designated by Congress as a "study river" for possible inclusion in the system, or a river designated Wild, Scenic, or Recreational by the New York State Department of Environmental Conservation. No impacts would result and further assessment is not required.
Air Quality		X	The program would not substantively affect the State Implementation Plan (SIP). No significant impacts on air quality will result and further assessment is not required.

TIER 2 SITE SPECIFIC CHECKLIST

Application#:

Project Address:

Area of Statutory - Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
Farmlands Protection (including NYS Ag & Market Law)		X	The program will not convert farmland to nonagricultural purposes and, therefore, would not violate the Farmland Policy Protection Act and will comply with the New York State Agriculture and Markets Law.
Noise Abatement and Control		X	Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.
Thermal/ Explosive Hazards		X	Acceptable separation distance requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. Therefore, the environmental review for grants to elevate, rehabilitate, or reconstruct housing that existed prior to the disaster where the number of dwelling units is not increased, is not required to apply 24 CFR Part 51 Subpart C.
HUD Environmental Standards			
Environmental Justice		X	Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.
Asbestos & Lead-Based Paint			
Radon		X	The property is not located in a Radon Zone 1 or 2 county, according to the EPA Map of Radon Zones for NYS. No additional steps are required for radon mitigation.

TIER 2 SITE SPECIFIC CHECKLIST

Application#:

Project Address:

ADDITIONAL SEQRA REVIEW

Check "A" if further close-out documentation is required.
Provide written discussion of compliance or necessary mitigation measures.

Check "B" if the criteria review is complete.
Provide written discussion and attach any supporting materials.

Area of Statutory - Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
National Natural Landmark			
Significant Wildlife Habitat			
Unique or Unusual Landforms			
Aesthetic Resources, Open Space and Recreation			
State Protected Waterbody			
Critical Environmental Areas			
Historic Properties			
Agricultural and Markets Law			

TIER 2 SITE SPECIFIC CHECKLIST

Page 5 of 5

Application#:

Project Address:

TO BE FILLED OUT BY PERSON WHO PREPARED DOCUMENT:

Prepared by:

Signature

Date:

**TO BE FILLED OUT BY HCR CERTIFYING OFFICER OR OTHER
APPROPRIATELY DESIGNATED OCR OFFICIAL:**

This Site Specific Checklist is determined to be acceptable.

Signature:

Printed Name:

Date:

Exhibit 4:
Site-Specific Checklist Template

TIER 2 SITE SPECIFIC CHECKLIST

Application#:

Project Address:

**TIER 2 ENVIRONMENTAL REVIEW RECORD
SITE SPECIFIC CHECKLIST**

Department of Housing and Urban Development Appropriation Act, 2013
The Community Development Block Grant Program Disaster Recovery Program –
Housing Assistance Programs – 5+ Unit

Application#:
Property address:

- Reimbursement
- Repair
- Reimbursement and Repair

For Reimbursement and Repair applications:

Date of Reimbursement application: _____

Date work was completed: _____

Substantial Damage? Yes (Attach substantial damage documentation) No

Elevation required? Yes (Attach elevation compliance documentation) No

Optional Elevation? Yes (Attach elevation compliance documentation) No

Building construction date:

Will any ground disturbance be conducted?

Description of project work (reference sections of ECR and/or AA):

Repair:

SEQRA CLASSIFICATION

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the SEQRA Negative Declaration for Unlisted Actions dated June 27, 2013.

NEPA CLASSIFICATION

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the Tier 1 and FONSI dated: _____.

- Part or all of the project is located in an area identified as a floodplain or wetland. For projects located in a floodplain or wetland, evidence of compliance with Executive Orders 11988 and/or 11990 is required.

Finding of Tier 2 Review:

- The proposed activity complies with environmental requirements for funding. The closeout items must be completed. The closeout items are listed at the end of this document.
- The proposed activity does not comply with environmental requirements for funding for the following reasons; i.e., permanent impact to wetland or inconsistency with the coastal program
- A finding cannot be made without (describe missing or needed information or documentation).

TIER 2 SITE SPECIFIC CHECKLIST

Application#:

Project Address:

**SITE SPECIFIC STATUTORY CHECKLIST
& ADDITIONAL NYS REQUIREMENTS**

Check “A” if further close-out documentation is required.
Provide written discussion of compliance or necessary mitigation measures.

Check “B” if the criteria review is complete.
Provide written discussion and attach any supporting materials.

Area of Statutory - Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
Procedures to comply with Related Laws at 24 CFR 58.6			
Flood Disaster Protection Act of 1973			<p><i>Is the property located in a Special Flood Hazard Area (SFHA)?</i></p> <p>a) <i>No – review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. The property is not located in a Special Flood Hazard Area.</p> <p>b) <i>Yes – Create map to document. Put an X in Column A. Add text:</i> The property is located in a Special Flood Hazard Area, and proof of insurance is required. Grantees must adhere to the guidelines stipulated in the construction contract.</p>
Coastal Barrier Resources Act			<p><i>Is the property located within 150 feet of a Coastal Barrier Resources System?</i></p> <p>a) <i>No: review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. The property is not located within a designated Coastal Barrier Resources System.</p> <p>b) <i>Yes: create map to document. Property will require coordination with USFWS. Documentation of coordination must be included with the file.</i></p>
Runway Clear Zones (development)		X	No programs involve assistance to purchase residential properties. Accordingly, this requirement is not applicable to any potential activities to be funded by these programs.
Procedures to comply with Related Laws at 24 CFR 58.5 and Other NYS Requirements			
Historic Properties			<p>1) <i>Are the project activities covered by the Tier 1 Allowances in the Programmatic Agreement? (in particular, are those activities limited to repair and retrofit* of a building less than 45 years old?)</i></p> <p>a) <i>Yes – review concluded. Put an X in Column B and add text:</i> The house was constructed in [year] and is less than 45 years old. The proposed rehabilitation activities are limited to repair and retrofit. As such, the proposed activities comply with Tier I Allowance II.A.</p> <p>b) <i>No – Go to Step 2.</i></p> <p>2) <i>An architectural historian will be reviewing all houses and their attached structures that are 45 years and older. The historian will make a recommendation on whether the house is eligible for the National Register and you will be provided with the report.</i></p> <p>a) <i>If the historian determines it is not eligible for the National Register, then put an X in Column B and add text:</i> Based on a Section 106 project review in accordance with the Programmatic Agreement, the house and its attached structures are not eligible for the National Register.</p> <p>b) <i>If the historian determines it is eligible for the National Register and</i></p>

TIER 2 SITE SPECIFIC CHECKLIST

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		<p><i>the activities meet the Tier 2 allowances, then review concluded. Put an X in Column B and add text: The project complies with Tier II Allowance(s).</i></p> <p><i>c) If the historian determines it is eligible for the National Register and the activities do not meet the Tier 2 allowances then: A Qualified professional will undertake a Section 106 project review in accordance with the Programmatic Agreement, coordinate with HCR, and add text documenting that review process.</i></p> <p><i>*Repair and retrofit activities are limited to the building footprint, the building will not be raised higher than 1 foot above base flood elevation, and pile driving will not occur at the property.</i></p>
Floodplain Management		<p><i>Is the property located in a 100-year floodplain?</i></p> <p><i>a) No – review concluded. Create the Floodplain Map to document. Put an X in Column B and add text: Not applicable. The property is not located in a 100-year floodplain.</i></p> <p><i>b) Yes – Create map to document. Put an X in Column A and add text for the decision-making process. Does the program site require substantial improvement?</i></p> <p><i>(1) Yes. A floodplain management plan detailing the Eight-Step Decision-Making Process in 24 CFR Part 55.20 was completed for the program site. A notice for final public review was published on Month, XX, 201X. A policy to prohibit redevelopment in the floodplain is not considered practicable. Grantees must adhere to elevation and other requirements outlined in the Floodplain Management Plan.</i></p> <p><i>(2) No. A floodplain management plan detailing the Five-Step Decision Making Process allowed under 24 CFR Part 55.12 was completed for the program site. A policy to prohibit redevelopment in the floodplain is not considered practicable. Grantees must adhere to elevation and other requirements outlined in the Floodplain Management Plan.</i></p>
Wetland Protection		<p><i>Are project activities to be conducted within wetlands identified through the National Wetlands Inventory or New York State Department of Conservation (NYSDEC) or their adjacent areas (within 100 feet of NYSDEC freshwater wetlands or 300 feet of NYSDEC tidal/coastal wetlands)?</i></p> <p><i>a) No – review concluded. Create map to document. Put an X in Column B and add text: Not applicable. The property boundary is greater than 300 feet from a tidal wetland and greater than 100 feet from a freshwater wetland.</i></p> <p><i>i) Yes (activities in the wetland) – Coordinate with HCR regarding additional compliance steps.</i></p> <p><i>ii) Yes (activities in the tidal/coastal wetland buffer only) – create map to document. Are the project activities a compatible use under Tidal Wetlands Land Use Regulations (6NYCRR Part 661.5 http://www.dec.ny.gov/permits/6347.html)?</i></p> <p><i>1) Yes – Review concluded. Put an X in Column B and add text: The property is adjacent to a wetland; however, project activities are exempt under 6 NYCRR Part 661.5.</i></p> <p><i>2) No. Is there a functional and substantial man-made structure (including, but not limited to paved streets, highways, railroads, bulkheads, sea walls and rip-rap walls), a minimum of 100 feet in length, running parallel to all sides of</i></p>

TIER 2 SITE SPECIFIC CHECKLIST

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Project Address:

			<p><i>the wetland (like a barrier) between the house and the waterbody? Note that garages and sheds do not count.</i></p> <p><i>Yes – Review concluded. Put an X in Column B and add text:</i></p> <p>There is a [type of structure] which is a functional and substantial fabricated structure, a minimum of 100 feet in length, located between the house and the wetland and, therefore, the house is not located in an adjacent area as defined in 6 NYCRR Part 661.4.</p> <p>3) <i>No. If project activities located in the tidal/coastal wetland buffer are not a compatible use or occur in the freshwater wetland buffer, then determine whether only a NYSDEC permit is needed (not U.S. Army Corps jurisdictional determination).</i></p> <p>A) <i>If yes, only a NYSDEC needs to be obtained, then put an X in Column A and add text:</i> Project activities will be conducted in the wetlands buffer. A New York State Department of Environmental Conservation permit will be obtained prior to conducting project activities.</p> <p>B) <i>No. Coordinate with HCR regarding additional compliance steps.</i></p>
Coastal Zone Management		X	<p>This program has been reviewed by the New York Department of State (NYSDOS), which made a “general concurrence determination” based on the fact that the program involves rehabilitation.</p>
Local Waterfront Revitalization Plan			<p><i>Is the project site located within the Bayville LWRP?</i></p> <p>a) <i>If yes, prepare an LWRP policy analysis and submit to the local Waterfront Revitalization Committee for their recommendation and allow 30 days for their recommendation. Once recommendation is received, make determination whether action would be consistent with the LWRP.</i></p> <p>i) <i>If consistent, insert text:</i> The proposed action would be consistent with the Bayville LWRP per attached letter dated _____.</p> <p>ii) <i>If not consistent, consult with HCR.</i></p> <p>b) <i>If no, insert text:</i> The project site is not located within the jurisdiction of an approved LWRP.</p>
Sole Source Aquifers		X	<p>The proposed program would have no effect on sole source aquifers. A memorandum of understanding between EPA and HUD states that the rehabilitation of residential units would not create a significant hazard to public health and do not require review for potential impact to sole source aquifers.</p>
Endangered Species			<p><i>Determine if the project activities will have “no effect” on or “is not likely to adversely affect” any federal or state protected (listed or proposed) rare, threatened or endangered species nor adversely modify designated critical habitats. [This finding is to be based on the review of designated critical habitats, consultation with U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS) or NYSDEC, or through a special study completed by a biologist or botanist. A determination of “no effect” based on the well-documented absence of listed species and critical habitats does not require USFWS or NYSDEC concurrence.] To make this determination:</i></p> <p>a) <i>Review NYSDEC Resource Mapper for known occurrences. See list of species for your county (FWS 8/7/13 letter) and if new FWS GIS layers apply.</i></p> <p>b) <i>Review GAP land use maps for suitable habitat</i></p>

TIER 2 SITE SPECIFIC CHECKLIST

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			<p><i>c) Is a protected species documented or is suitable habitat is present?</i></p> <p><i>i) No – review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. According to information reviewed from the New York State Environmental Resource Mapper at http://www.dec.ny.gov/imsmaps/ERM/viewer.htm, no rare, threatened or endangered species are known to exist in the property’s vicinity. The property is located in a [high/medium/low (choose one)] -density residential development and does not support or provide habitat for any rare, threatened or endangered plant or animal species. Therefore, the project would not affect any natural habitats containing such species or any designated or proposed critical habitat.</p> <p><i>ii) Yes - create map to document. Will the project activities have an effect on the documented protected species or suitable habitat (project activities inside the house, replacing siding or roof, painting, etc.)?</i></p> <p><i>1) No. Put an X in Column B and add text:</i> Not applicable. According to information reviewed from the New York State Environmental Resource Mapper at http://www.dec.ny.gov/imsmaps/ERM/viewer.htm and the guidance provided by the U.S. Fish and Wildlife Service, rare, threatened or endangered species are known to exist in the property’s vicinity. However, the project activities will have no effect on the documented rare, threatened or endangered plant or animal species and any natural habitats containing such species or any designated or proposed critical habitat.</p> <p><i>2) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>
Wild and Scenic Rivers		X	Not applicable. The property is not located in a component of the National Wild and Scenic River System, or a river officially designated by Congress as a “study river” for possible inclusion in the system, or a river designated Wild, Scenic, or Recreational by the New York State Department of Environmental Conservation. No impacts would result and further assessment is not required.
Air Quality		X	The program would not substantively affect the State Implementation Plan (SIP). No significant impacts on air quality will result and further assessment is not required.
Farmlands Protection (including NYS Ag & Market Law)		X	The program will not convert farmland to nonagricultural purposes and, therefore, would not violate the Farmland Policy Protection Act and will comply with the New York State Agriculture and Markets Law.
Noise Abatement and Control		X	Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.
Thermal/ Explosive Hazards		X	Acceptable separation distance requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. Therefore, the environmental review for grants to elevate, rehabilitate, or reconstruct housing that existed prior to the disaster where the number of dwelling units is not increased, is not required to apply 24 CFR Part 51 Subpart C.

TIER 2 SITE SPECIFIC CHECKLIST

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<p>HUD Environmental Standards</p>		<p><i>Is the property:</i></p> <ul style="list-style-type: none"> • <i>Listed on an EPA Superfund National Priorities or CERCLA list or equivalent State list?</i> • <i>Located within 3,000 feet of a toxic or solid waste landfill site?</i> • <i>Known to contain an underground storage tank other than a residential fuel tank?</i> • <i>Known or suspected to be contaminated by toxic chemicals or radioactive materials?</i> <p>a) <i>No – review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. The property is not listed on a U.S. Environmental Protection Agency (EPA) Superfund National Priorities or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list or equivalent State list, is not located within 3,000 feet of a toxic or solid waste landfill site, does not have an underground storage tank other than a residential fuel tank, and is not known or suspected to be contaminated by toxic chemicals or radioactive materials.</p> <p>b) <i>Yes. Create map to document. Consult with an environmental professional to determine if the hazard could impact the residences at the property.</i></p> <p>c) <i>No – review concluded. Put an X in column B and add text:</i> _____ [insert issue] was identified in the area of the property. However, based on _____ [insert reason why not a problem] it is not expected to pose a hazard to the residents of the property. No further review is necessary.</p> <p>d) <i>Additional coordination with HCR required. Add text:</i> Additional study will be completed to assess if a hazard is present that could affect the health and safety of occupants or conflict with the intended utilization of the property.</p>
<p>Environmental Justice</p>	<p align="center">X</p>	<p>Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.</p>
<p>Asbestos & Lead-Based Paint</p>		<p><i>Was the dwelling constructed prior to 1978?</i></p> <p>a) <i>No – review concluded. Put an X in Column A. Add text:</i> The house was constructed after 1978 and is not expected to contain lead-based paint. An asbestos survey will be performed by qualified professionals prior to any disturbance of suspected materials. Structures to be reconstructed or rehabilitated must conform to Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (Cited as 12 NYCRR Part 56), the National Emission Standard for Asbestos pertaining to demolition and renovation in 40 CFR 61.145, and the National Emission Standard for Asbestos pertaining to waste disposal for manufacturing, fabricating, demolition, and spraying operations in 40 CFR 61.150.</p> <p>b) <i>Yes – review concluded. Review DASNY checklist. Put an X in Column A. Add text:</i> The house was constructed prior to 1978. Asbestos and lead-based paint surveys will be performed by qualified professionals and a clearance report will be submitted prior to any disturbance of suspected materials.</p> <p>Structures to be reconstructed or rehabilitated must conform to Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (Cited as 12 NYCRR Part 56), the National Emission Standard for Asbestos pertaining to demolition and renovation in 40 CFR 61.145, and the National</p>

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		<p>Emission Standard for Asbestos pertaining to waste disposal for manufacturing, fabricating, demolition, and spraying operations in 40 CFR 61.150. All project activities must comply with applicable federal, state, and local laws and regulations regarding lead-based paint, including but not limited to, HUD’s lead-based paint regulations in 24 CFR Part 35 Subparts B, H, and J.</p>
<p>Radon</p>		<p><i>Is the property located in a Radon Zone 1 (high risk) county: Albany, Broome, Chemung, Chenango, Columbia, Delaware, Dutchess, Greene, Orange, Otsego, Putnam, Rensselaer, Schoharie, Sullivan, Tioga, Ulster or Washington?</i></p> <p><i>a) Yes – review concluded. Put an X in Column A. Add text:</i> The property is located in ___ County, a Radon Zone 1 county, according to the EPA Map of Radon Zones for NYS. Radon mitigation measures and testing will be conducted by a qualified professional in accordance with applicable federal, state, and local laws and regulations unless localized radon information is provided to show that radon mitigation measures are not necessary.</p> <p><i>b) No – Is the property located in a Radon Zone 2 (moderate risk) county: Oneida, Montgomery, Saratoga or Schenectady?</i></p> <p><i>c) No – Is the property located in Herkimer County?</i></p> <p><i>i. Yes – review concluded pick either “a Radon Zone 2” or “Herkimer County” from the brackets and leave as text. Put an X in Column A. Add text:</i> The property is located in [<u>a Radon Zone 2 or Herkimer</u>] county, according to the EPA Map of Radon Zones for NYS. Radon mitigation measures and testing will be conducted by a qualified professional in accordance with applicable federal, state, and local laws and regulations unless localized radon information is provided to show that radon mitigation measures are not necessary.</p> <p><i>ii. No – review concluded. Put an X in column B and add text:</i> The property is not located in a Radon Zone 1 or 2 county, according to the EPA Map of Radon Zones for NYS. No additional steps are required for radon mitigation.</p>

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ADDITIONAL SEQRA REVIEW

Check "A" if further close-out documentation is required.
Provide written discussion of compliance or necessary mitigation measures.

Check "B" if the criteria review is complete.
Provide written discussion and attach any supporting materials.

Area of Statutory - Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
National Natural Landmark			<p><i>Is the property located at or adjacent to a National Natural Landmark?</i></p> <p><i>a) If no, then put an X in Column B and add text:</i> Not applicable. There are no national natural landmarks located at or adjacent to the property.</p> <p><i>b) If yes, then coordinate with HCR regarding additional compliance steps.</i></p>
Significant Wildlife Habitat			<p><i>Is the property located in, adjacent to, or less than 100 feet away from a Significant Coastal Fish and Wildlife Habitat?</i></p> <p><i>a) No – review concluded. Put an X in Column B and add text:</i> Not applicable. Based on a review of NYSDEC designated Significant Coastal Fish and Wildlife Habitats (SCFWH), no SCFWHs are located in or substantially contiguous to the property.</p> <p><i>b) Yes – Will the project result in the removal of any portion of a significant wildlife habitat?</i></p> <p><i>i) No – review concluded. Put an X in Column B and add text:</i> Not applicable. The project activities will not result in the removal of any portion of a Significant Coastal Fish and Wildlife Habitat.</p> <p><i>ii) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>
Unique or Unusual Landforms			<p><i>Is the property located in, adjacent to, or less than 100 feet away from a unique or unusual landform?</i></p> <p><i>a) No – Review Concluded. Put an X in Column B and add text:</i> Not applicable. The property is not located in or substantially contiguous to a unique or unusual landform.</p> <p><i>b) Yes – Create map to document.</i></p> <p><i>i) Will the project activities result in modification or destruction of, or inhibit access, to any unique or unusual land forms located on or substantially contiguous to the property?</i></p> <p><i>(1) No – review concluded. Put an X in Column B and add text:</i> Not applicable. The project will not affect the quantity or quality of _____ [insert name of that unique or unusual landform].</p> <p><i>(2) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>

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<p>Aesthetic Resources, Open Space and Recreation</p>		<p><i>Is the property located in, adjacent to, or within 100 feet away from an aesthetic resource, open space or recreational area?</i></p> <p><i>a) No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The property is not located in or substantially contiguous to an aesthetic resource, open space or recreation area.</p> <p><i>b) Yes – Create map to document. Will the project activities result in land use obviously different from, or in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource, or result in a loss of recreational opportunities or a reduction of an open space resource?</i></p> <p><i>i) No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The project activities will not significantly affect the quantity or quality of _____ [insert name of that aesthetic resource, open space or recreational area] or recreational opportunities associated with it.</p> <p><i>ii) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>
<p>State Protected Waterbody</p>		<p><i>Is the property located in, adjacent to, or less than 100 feet away from any waterbody (e.g., streams, rivers, etc.) designated as protected [Article 15 the Environmental Conservation Law (ECL)]?</i></p> <p><i>a) No – review concluded. Create map to document. Put an X in Column B. Add text:</i> Not applicable. The property is not located in or substantially contiguous to a state protected waterbody.</p> <p><i>b) Yes – create map to document. Will the project result in the disturbance of the waterbody or its natural bank (i.e., undeveloped land within 50 feet of mean high water (MHW) line)?</i></p> <p><i>i) No – review concluded. Put an X in Column B. Add text:</i> The project activities will not result in the disturbance of a waterbody located within 50 feet of the mean high water (MHW) line.</p> <p><i>ii) Yes – Create a map to document. Coordinate with HCR regarding additional compliance steps.</i></p>
<p>Critical Environmental Areas</p>		<p><i>Is the property located in, adjacent to, or less than 100 feet away from a Critical Environmental Area designated pursuant to Article 8 of the ECL and 6 NYCRR 617?</i></p> <p><i>a) No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The property is not located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL and 6 NYCRR 617.</p> <p><i>b) Yes. Will the project activities result in:</i></p> <ul style="list-style-type: none"> <i>• A reduction in the quantity of the resource?</i> <i>• A reduction in the quality of the resource? Or</i> <i>• Affect the use, function or enjoyment of the resource?</i> <p><i>i) No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The project activities will not result in a reduction in the quantity or quality of the _____ [name that CEA], nor affect the use, function or enjoyment of the _____ [name that CEA].</p> <p><i>ii) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>

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Historic Properties		<p><i>Is the building a National Register of Historic Places (NRHP)-listed property or located adjacent to a NRHP listed property or a Historical District?</i></p> <p><i>a. No – review concluded. Place X in Column B. Add text: Not applicable. The building is not a historic property or located adjacent to a historic property; therefore, there is no potential effect on historic properties.</i></p> <p><i>b. Yes. Coordinate with a qualified professional to evaluate the potential impact to adjacent historic properties and coordinate with HCR.</i></p>
Agricultural and Markets Law		<p><i>Is the property located within 500 feet of agricultural land?</i></p> <p><i>a. No – review concluded. Place X in Column B. Add text: This project will comply with the New York State Agriculture and Markets Law.</i></p> <p><i>b. Yes. Do any of the following apply?</i></p> <p><i>i) The project would sever, cross or limit access to agricultural land (including cropland, hayfields, pasture, vineyard, orchard, etc.).</i></p> <p><i>ii) Construction activity would excavate or compact the soil profile of agricultural land.</i></p> <p><i>iii) The project would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.</i></p> <p><i>(1) No – review concluded. Place X in column B. Add text: Not applicable. The project activities have no potential to affect agricultural lands.</i></p> <p><i>(2) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>

TIER 2 SITE SPECIFIC CHECKLIST

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Project Address:

TO BE FILLED OUT BY PERSON WHO PREPARED DOCUMENT:

Prepared by:

Signature

Date:

**TO BE FILLED OUT BY HCR CERTIFYING OFFICER OR OTHER
APPROPRIATELY DESIGNATED OCR OFFICIAL:**

This Site Specific Checklist is determined to be acceptable.

Signature:

Printed Name:

Date:

Exhibit 5:
DASNY Site Inspection Checklist

**NEW YORK STATE HOMES & COMMUNITY RENEWAL
OFFICE OF COMMUNITY RENEWAL
SUPPLEMENTAL ENVIRONMENTAL QUESTIONNAIRE**

Department of Housing and Urban Development Appropriation Act, 2013
Community Development Block Grant Program Disaster Recovery Program –
NY Rising Housing Recovery Program – 5+ Unit Residential Properties

Property address: _____

Application #: _____

TO BE COMPLETED BY THE FIELD INSPECTOR; ATTACH ANY SPECIFIC NOTES, PHOTOS, AND ADDITIONAL MATERIAL:

	Yes	No	Compliance Data Attach Supporting Material
1	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, is there any visible apparent evidence of explosive or fire-prone materials such as liquid propane, gasoline, or other storage tanks adjacent to or visible from the project site? If yes, provide details.
2	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, is there any visible apparent evidence that the project site is near a commercial or industrial property? If yes, which company and the approximate distance.
3	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, is there any visible apparent evidence of soil problems (foundations cracking or settling, basement flooding, etc.) in the area of the site? If yes, specify which.
4	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, there any visible apparent evidence of any natural areas or parks, or are there any ponds or parks adjacent to the site? If yes, specify what.
5	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent indication of any of the following (check all that apply): <input type="checkbox"/> distressed vegetation <input type="checkbox"/> oil/chemical spills <input type="checkbox"/> waste material/containers <input type="checkbox"/> loose/empty drums, barrels <input type="checkbox"/> soil staining, pools of liquid <input type="checkbox"/> abandoned machinery, cars, <input type="checkbox"/> transformers, fill/vent pipes, refrigerators, etc. pipelines, drainage structures If yes, attach photos and note where on the property these items are located.
6	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent evidence of an underground or above-ground storage tank? If yes, specify which one and the location. Also specify the tank contents if possible. Please take a photograph of any tank(s).
7	<input type="checkbox"/>	<input type="checkbox"/>	Are there active rills and gullies on site? If yes, provide photographs.

SUPPLEMENTAL ENVIRONMENTAL QUESTIONNAIRE

	Yes	No	Compliance Data Attach Supporting Material
8	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent indication of mold? If yes, describe location and extent.
9	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent evidence of asbestos, lead-based paint, or hazardous materials present in the structure? Are removal plans or third-party clearance reports or operations and maintenance plans available from the property owner? If yes, attach copies.
10	<input type="checkbox"/>	<input type="checkbox"/>	Are there other unusual conditions on site? Explain in attached supporting material. Please take photographs, if possible.

Inspector's Signature: By signing this document I agree that I performed, or am familiar with, the site inspection(s) that are described above and certify that, to the best of my knowledge, the information provided is true and correct.

Printed Name: _____

Signature: _____

Date: _____

Property address: _____

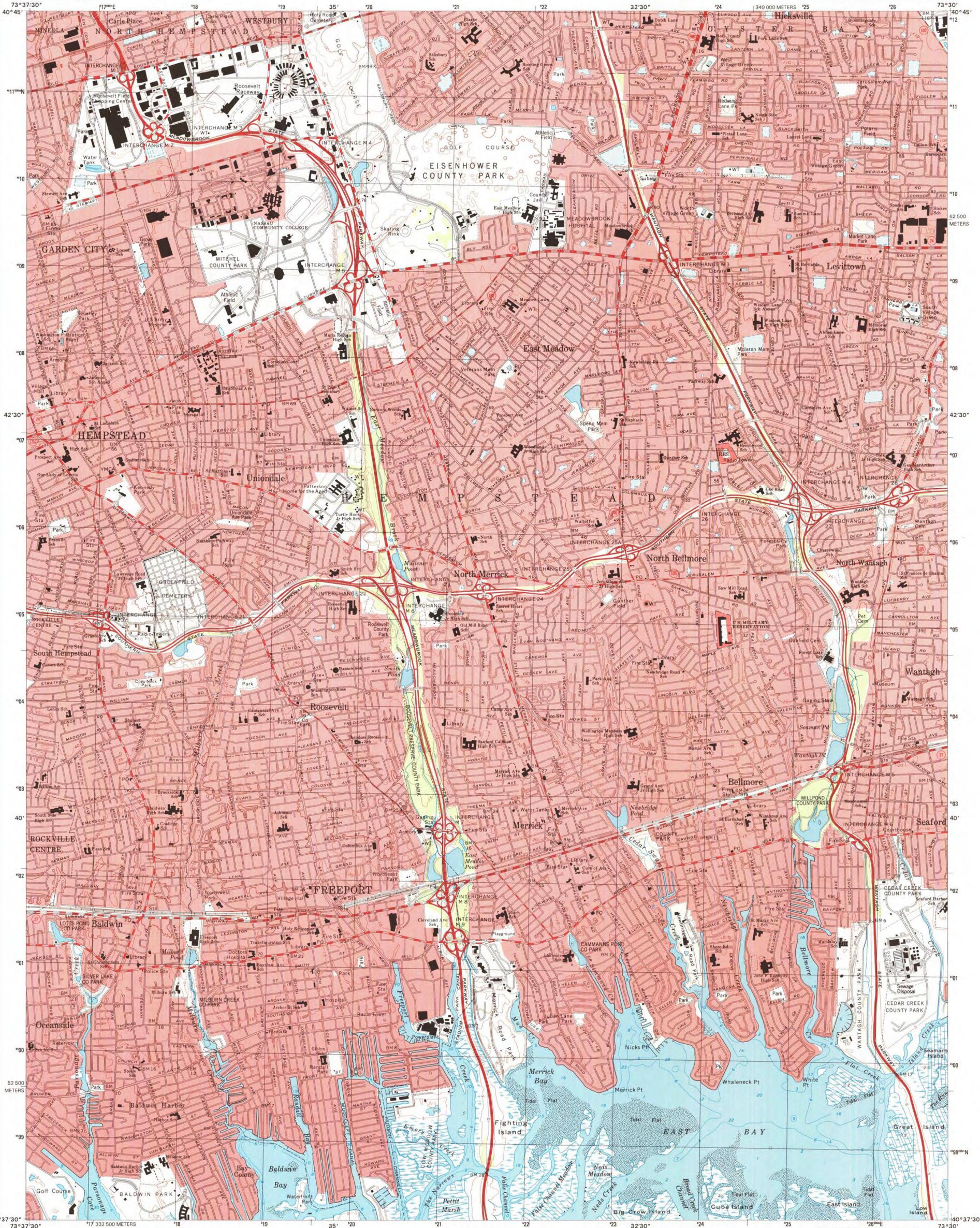
Application #: _____

Appendix A:
Nassau County USGS Topographic Maps

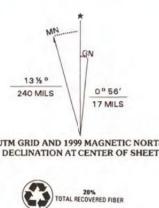
Nassau County Topographic Map

NOTES: Data available from U.S. Geological Survey, National Geospatial Program.





Produced by the United States Geological Survey
Topography compiled 1966. Planimetry derived from imagery taken 1994 and other sources. Survey control current as of 1969
Selected hydrographic data compiled from NOS Chart 120-SC (1969). This information is not intended for navigational purposes
North American Datum of 1983 (NAD 83). Projection and 1 000-meter grid: Universal Transverse Mercator, zone 18
2 500-meter ticks: New York Coordinate System of 1983 (Long Island zone)
North American Datum of 1927 (NAD 27) is shown by dashed corner ticks. The values of the shift between NAD 83 and NAD 27 for 7.5-minute intersections are obtainable from National Geodetic Survey NADCON software
There may be private inholdings within the boundaries of the National or State reservations shown on this map
Landmark buildings verified 1969



CONTOUR INTERVAL 5 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929
TO CONVERT FROM FEET TO METERS, MULTIPLY BY 0.3048
DEPTH CURVES AND SOUNDINGS IN FEET. DATUM IS MEAN LOWER LOW WATER
THE RELATIONSHIP BETWEEN THE TWO DATUMS IS VARIABLE
THE MEAN RANGE OF TIDE IS APPROXIMATELY 2.7 FEET

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, P.O. BOX 25286, DENVER, COLORADO 80225
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



QUADRANGLE LOCATION

ROAD CLASSIFICATION
Primary highway
hard surface
Secondary highway
hard surface
Unimproved road
Light-duty road, hard or
improved surface
Unimproved road
Interstate Route
U.S. Route
State Route

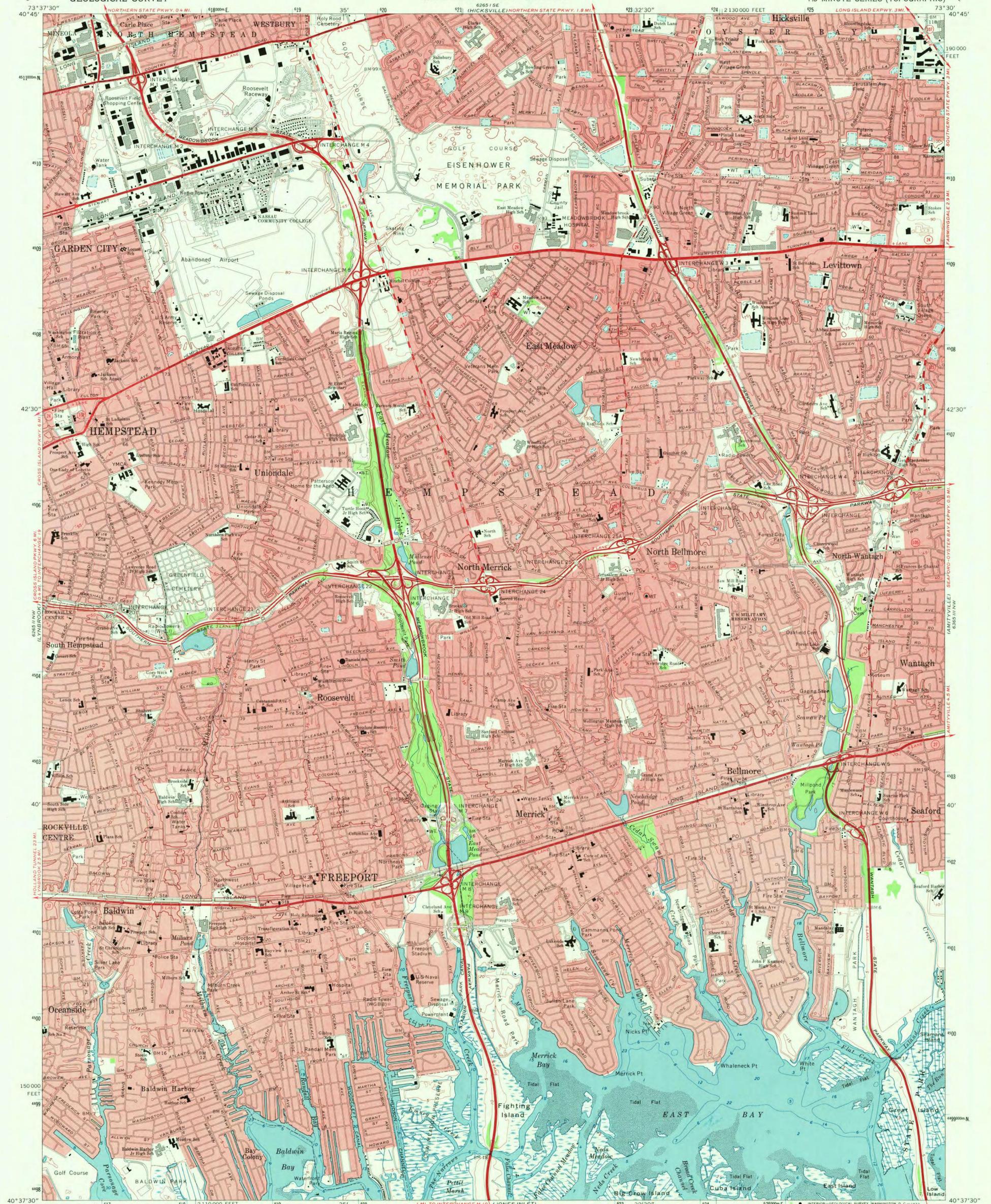
1	2	3	1 Sun Cliff
			2 Hicksville
			3 Huntington
4	5	6	4 Lynbrook
			5 Amityville
			6 Lawrence
6	7	8	7 Jones Inlet
			8 West Gilgo Beach

FREEPORT, NY
1994

NIMA 6265 II NE-SERIES 5821

RECEIVED
AUG 31 2000
USGS NW0
HISTORICAL MAP ARCHIVES





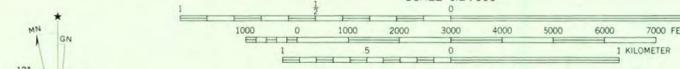
Mapped, edited, and published by the Geological Survey

Control by USGS, USC&GS, USCE, and Nassau County
Topography by photogrammetric methods from aerial
photographs taken 1966. Field checked 1969
Supersedes Army Map Service map dated 1955

Selected hydrographic data compiled from USC&GS Chart
120SC (1969). This information is not
intended for navigational purposes

Polyconic projection. 1927 North American datum
10,000-foot grid based on New York coordinate system. Long Island zone
1000-meter Universal Transverse Mercator grid ticks, zone 18,
shown in blue

Red tint indicates areas in which only landmark buildings are shown



CONTOUR INTERVAL 5 FEET

DATUM IS MEAN SEA LEVEL

DEPTH CURVES AND SOUNDINGS IN FEET—DATUM IS MEAN LOW WATER

SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
THE MEAN RANGE OF TIDE IS APPROXIMATELY 2.7 FEET



ROAD CLASSIFICATION

Heavy-duty	Light-duty
Medium-duty	Unimproved dirt
State Route	

FREEMPORT, N. Y.
N4037.5—W7330/7.5

1969

AMS 6265 II NE—SERIES V821

USGS
HISTORICAL FILE
TOPOGRAPHIC DIVISION

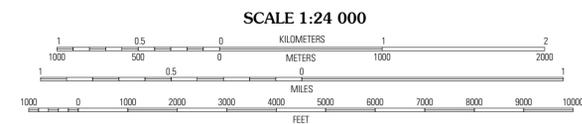
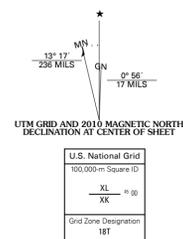
JUL 19 1972

4105

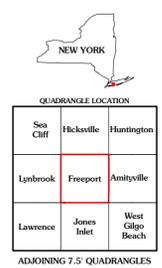


Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84). Projection and
1 000-meter grid: Universal Transverse Mercator, Zone 18T
10 000-foot ticks: New York Coordinate System of 1983
(Long Island zone)

Imagery:.....NAP, July 2006
Roads:.....US Census Bureau TIGER data
with limited USGS updates, 2004
Names:.....GNIS, 2008
Hydrography:.....National Hydrography Dataset, 2006
Contours:.....National Elevation Dataset, 1998



This map was produced to conform with version 0.5.10 of the
draft USGS Standards for 7.5-Minute Quadrangle Maps.
A metadata file associated with this product is also draft version 0.5.10

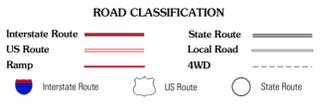
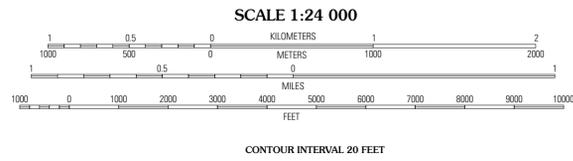


FREEPORT, NY
2010



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84). Projection and
1 000-meter grid: Universal Transverse Mercator, Zone 18T
10 000-foot ticks: New York Coordinate System of 1983
(Long Island zone)

Imagery.....NAP, July 2006
Roads.....US Census Bureau TIGER data
with limited USGS updates, 2004
Names.....GNIS, 2008
Hydrography.....National Hydrography Dataset, 2006
Contours.....National Elevation Dataset, 1998

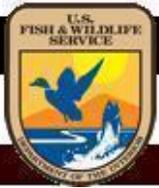


This map was produced to conform with version 0.5.10 of the
draft USGS Standards for 7.5-Minute Quadrangle Maps.
A metadata file associated with this product is also draft version 0.5.10

HICKSVILLE, NY
2010

Appendix B:
Nassau County FEMA Flood Insurance Rate Map

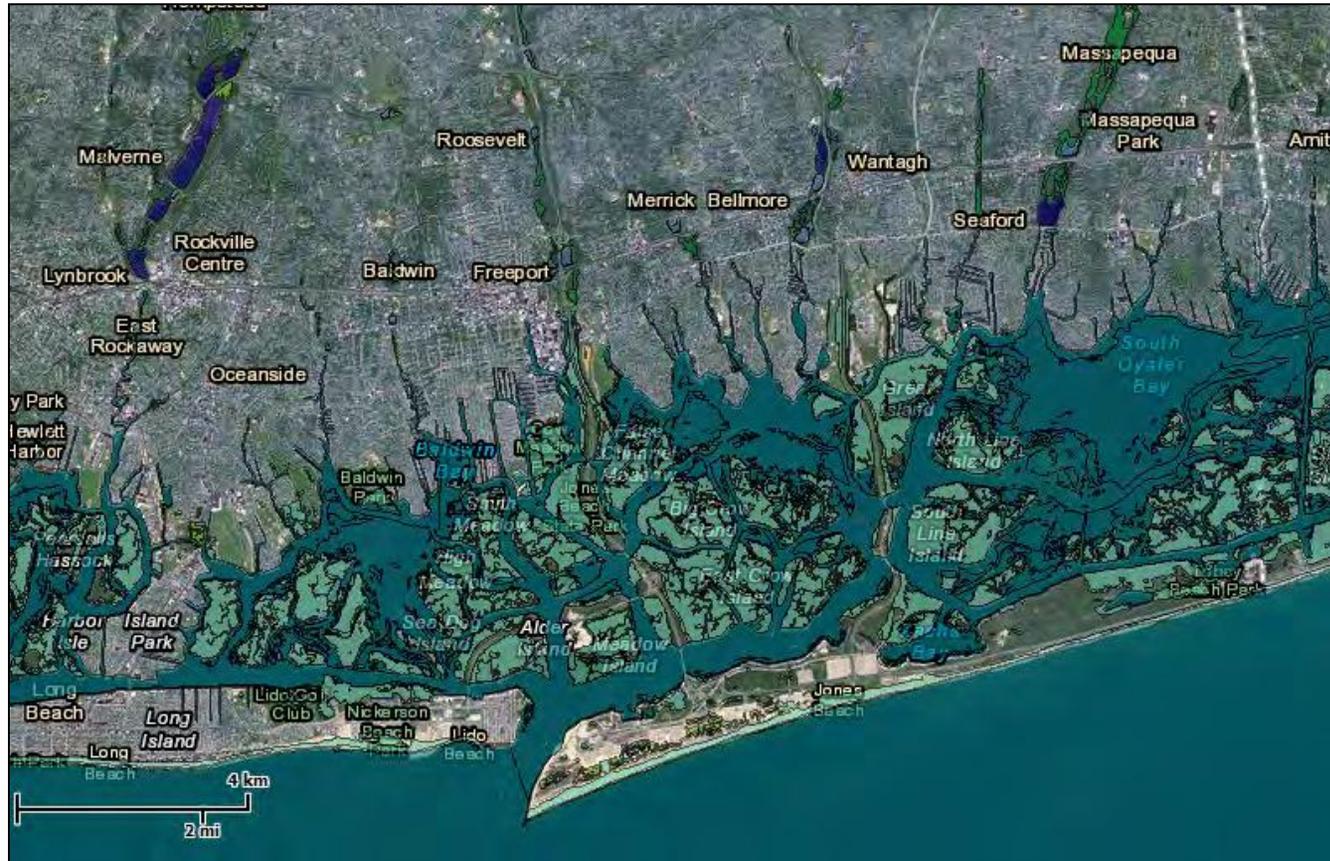
Appendix C:
Nassau County Wetlands Maps



U.S. Fish and Wildlife Service National Wetlands Inventory

Nassau County, NY Wetlands Map

Nov 18, 2013



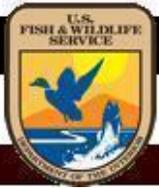
Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

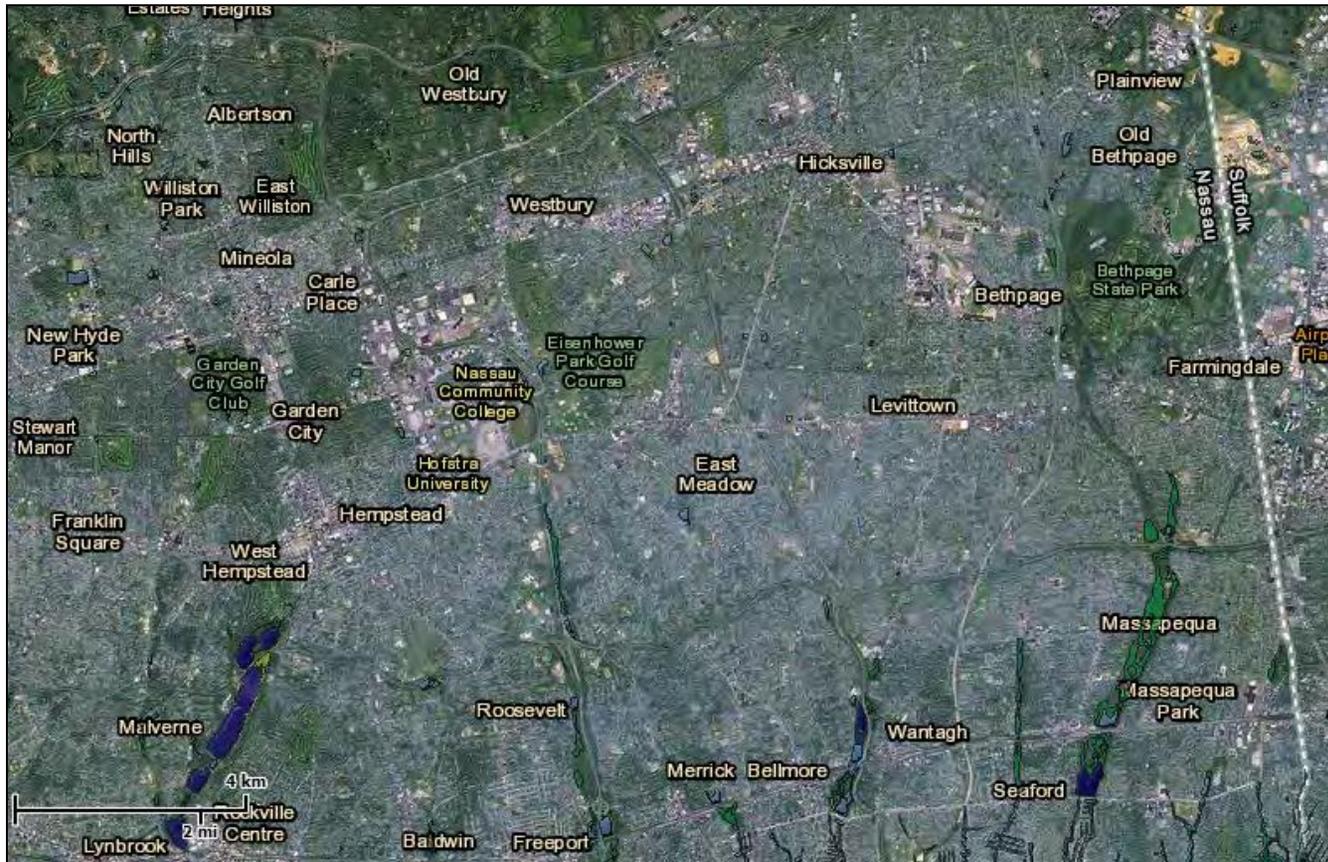
11/18/2013



U.S. Fish and Wildlife Service National Wetlands Inventory

Nassau County, NY Wetlands Map

Nov 18, 2013



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

11/18/2013



U.S. Fish and Wildlife Service National Wetlands Inventory

Nassau County, NY Wetlands Map

Nov 18, 2013



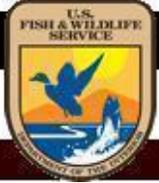
Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

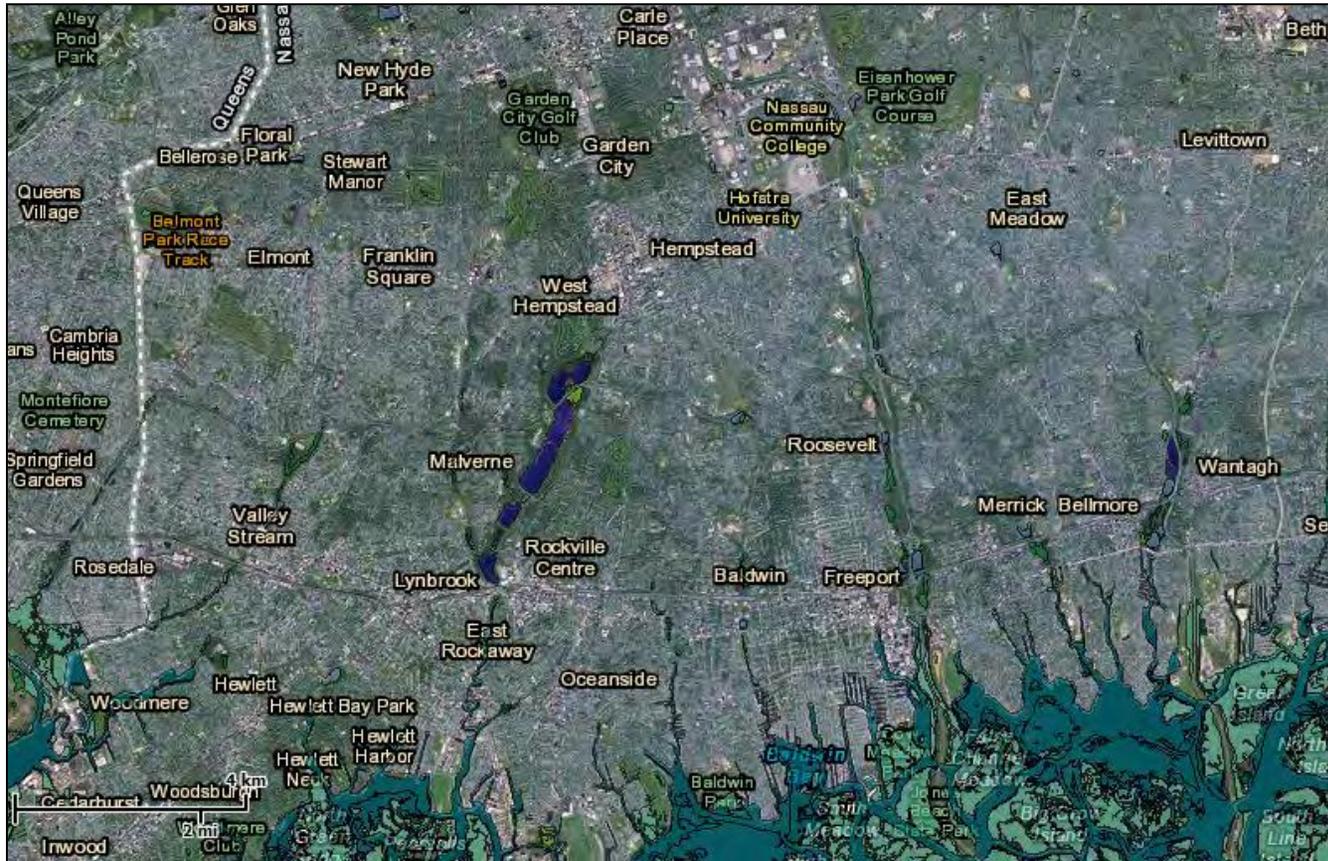
11/18/2013



U.S. Fish and Wildlife Service National Wetlands Inventory

Nassau County, NY Wetlands Map

Nov 18, 2013



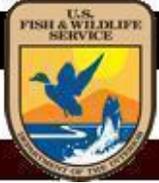
Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

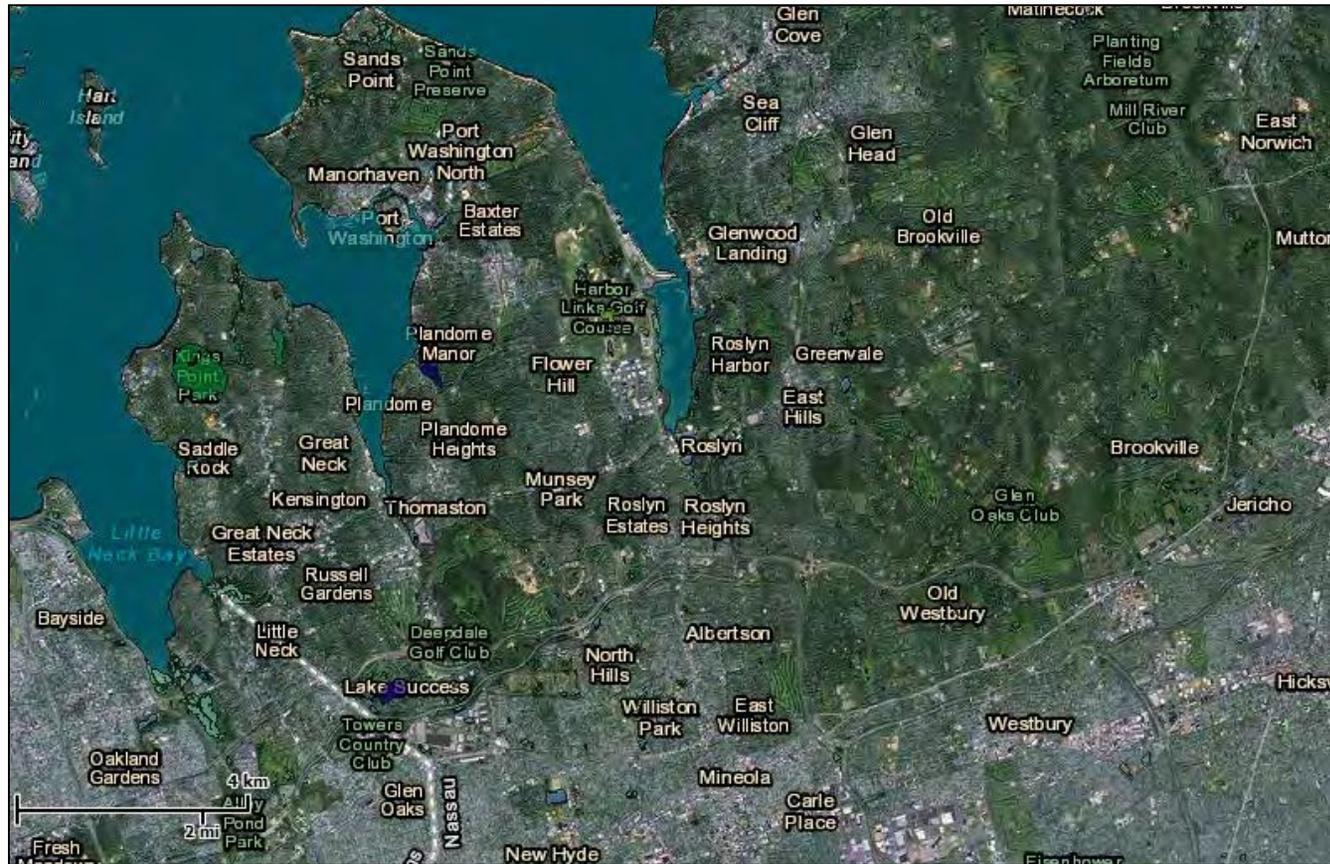
11/18/2013



U.S. Fish and Wildlife Service National Wetlands Inventory

Nassau County, NY Wetlands Map

Nov 18, 2013



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

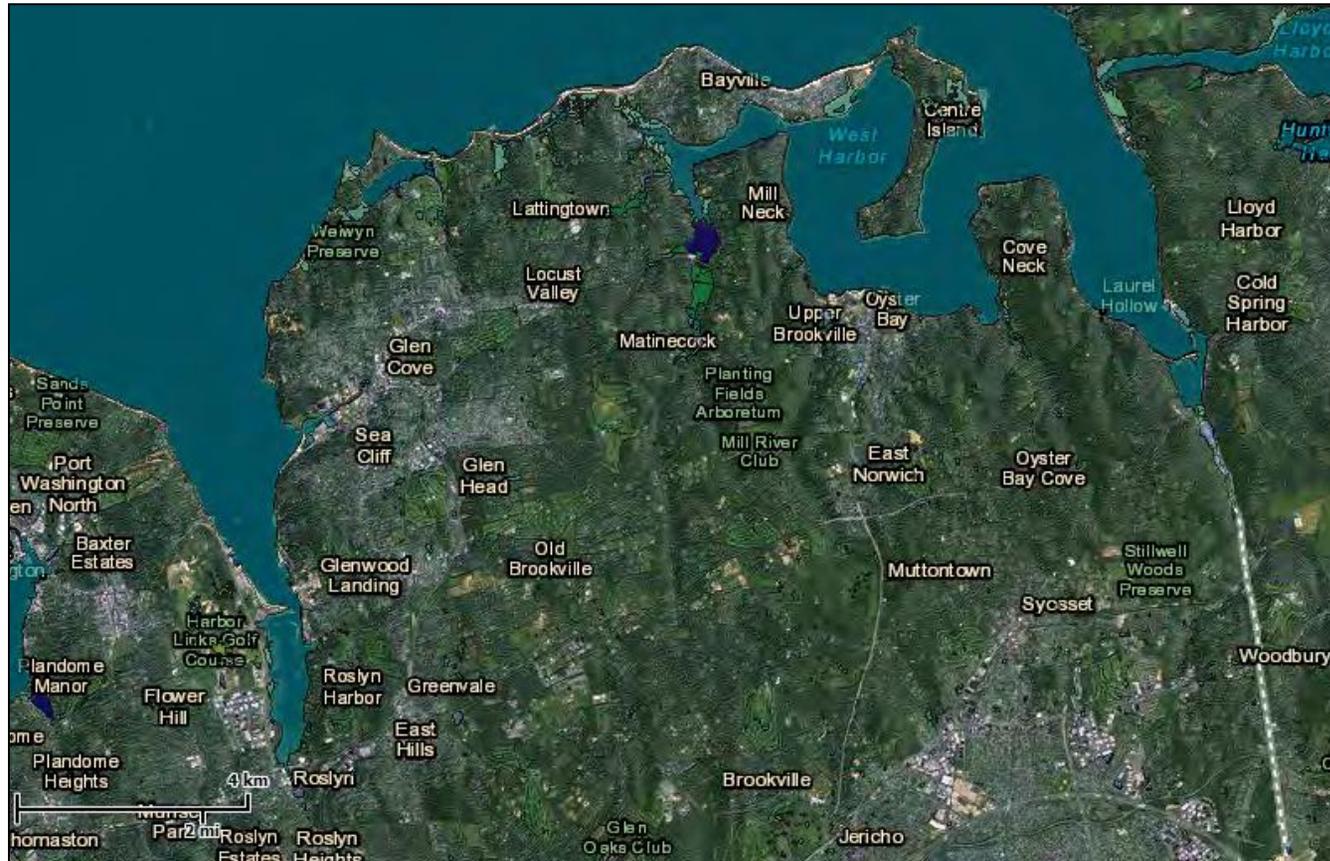
11/18/2013



U.S. Fish and Wildlife Service
National Wetlands Inventory

Nassau County, NY
Wetlands Map

Nov 18, 2013



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

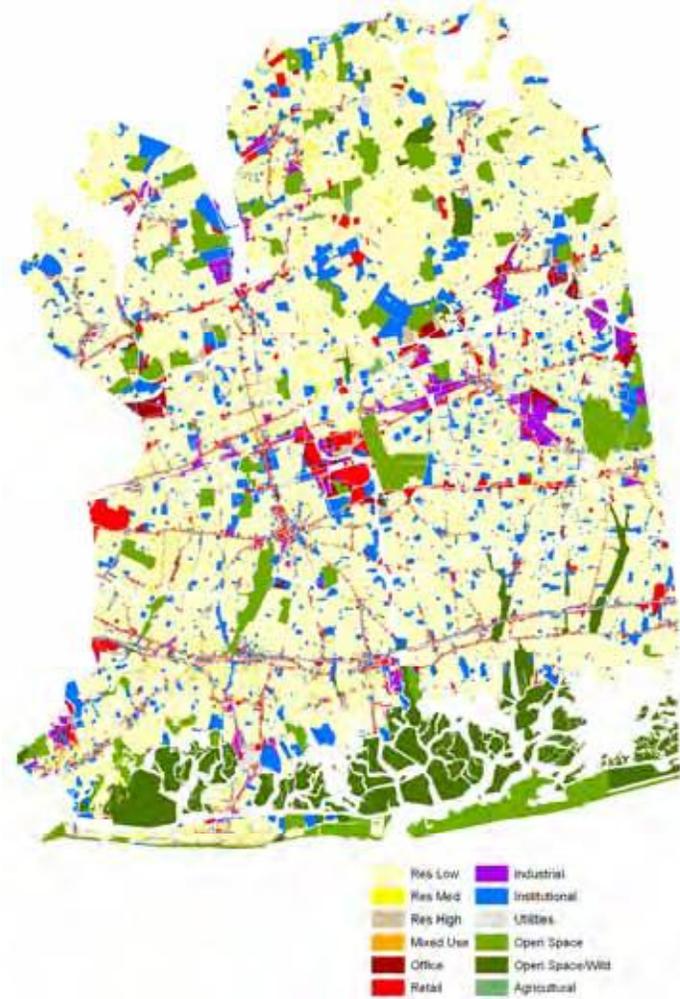
This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

11/18/2013

Appendix D:
Nassau County Land Use and Zoning Maps

Existing Land Use Map



Source: Nassau County GIS, 2009

Nassau County: Existing Land Uses

Land Use	Percent of Total Land Area
Residential	60%
Retail	4%
Office	2%
Industrial	2%
Institutional	11%
Open Space/Recreation	17%
Vacant	4%
<i>Total</i>	<i>100</i>

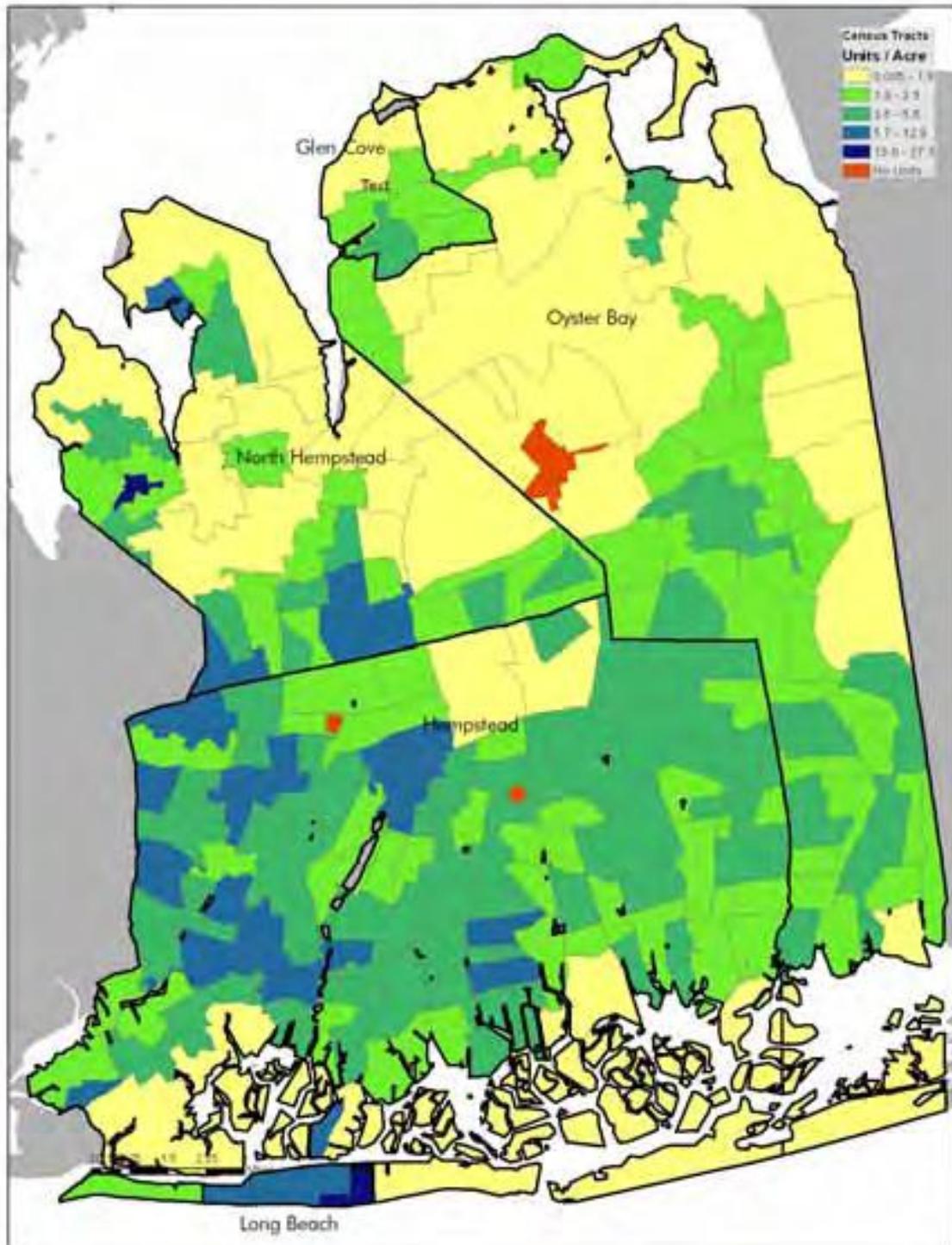
Source: Urbanomics, 2009

Designated Open Space in Nassau County



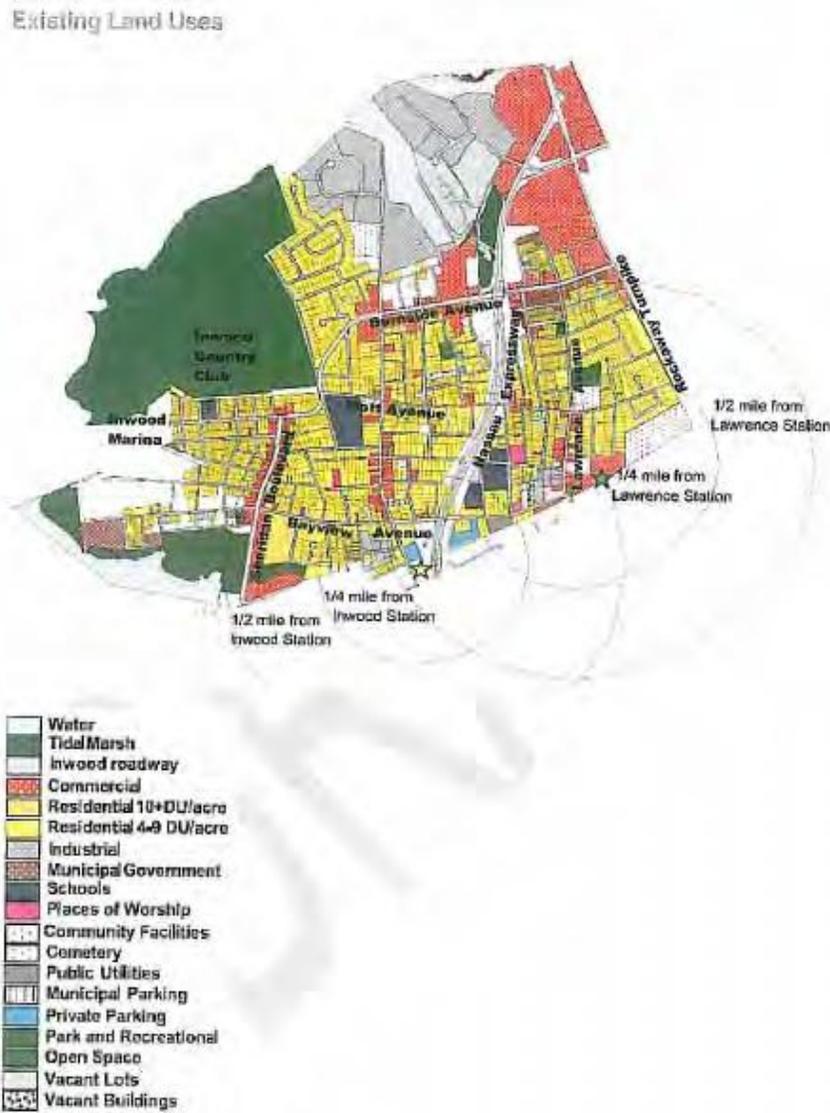
Source: Nassau County GIS

Figure 1-14
Nassau County Housing Unit Density by Census Tract, 2000



Source: US Census 2000 SF1

Inwood Study Area – Existing Land Uses



Land Use

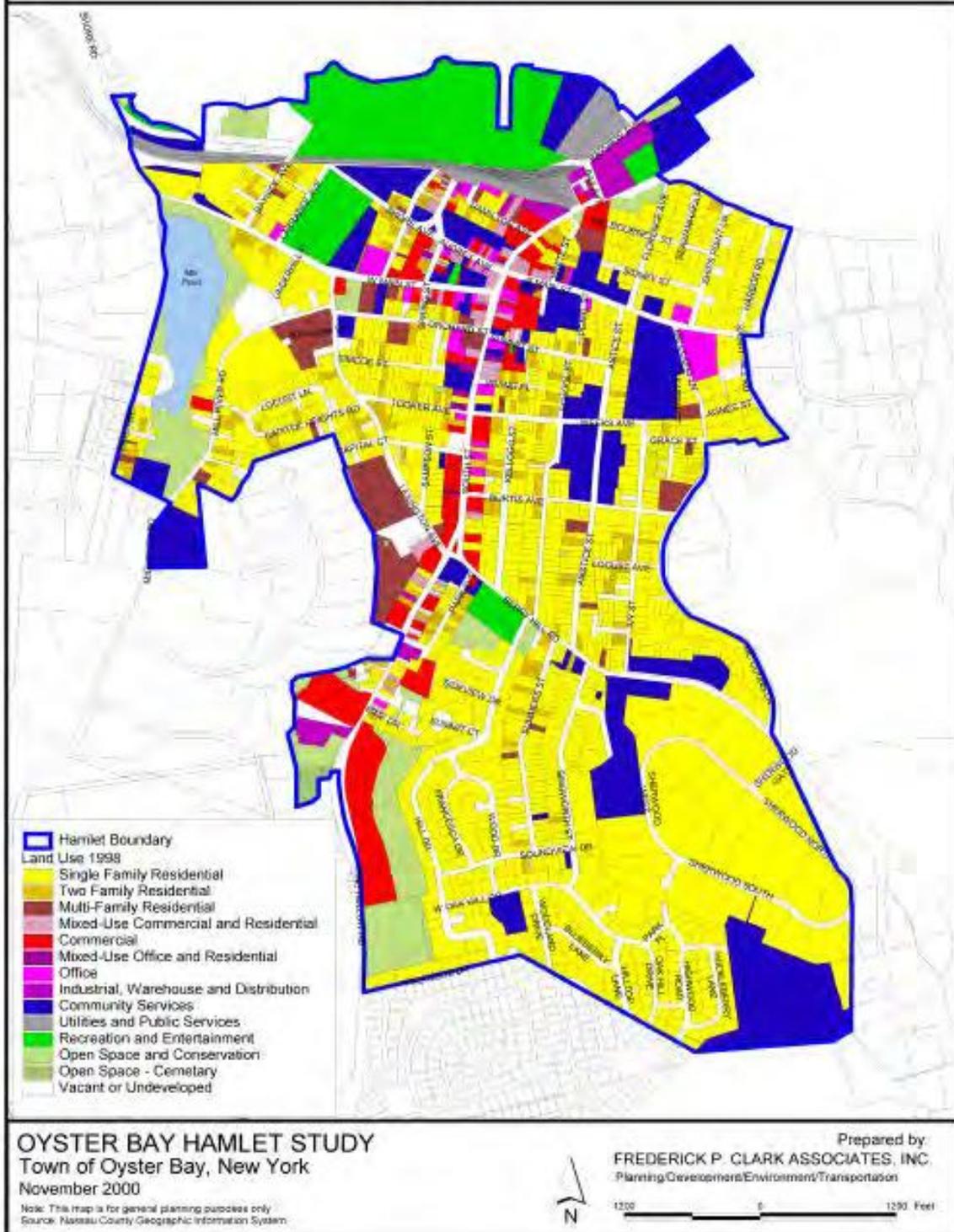


Figure 4A

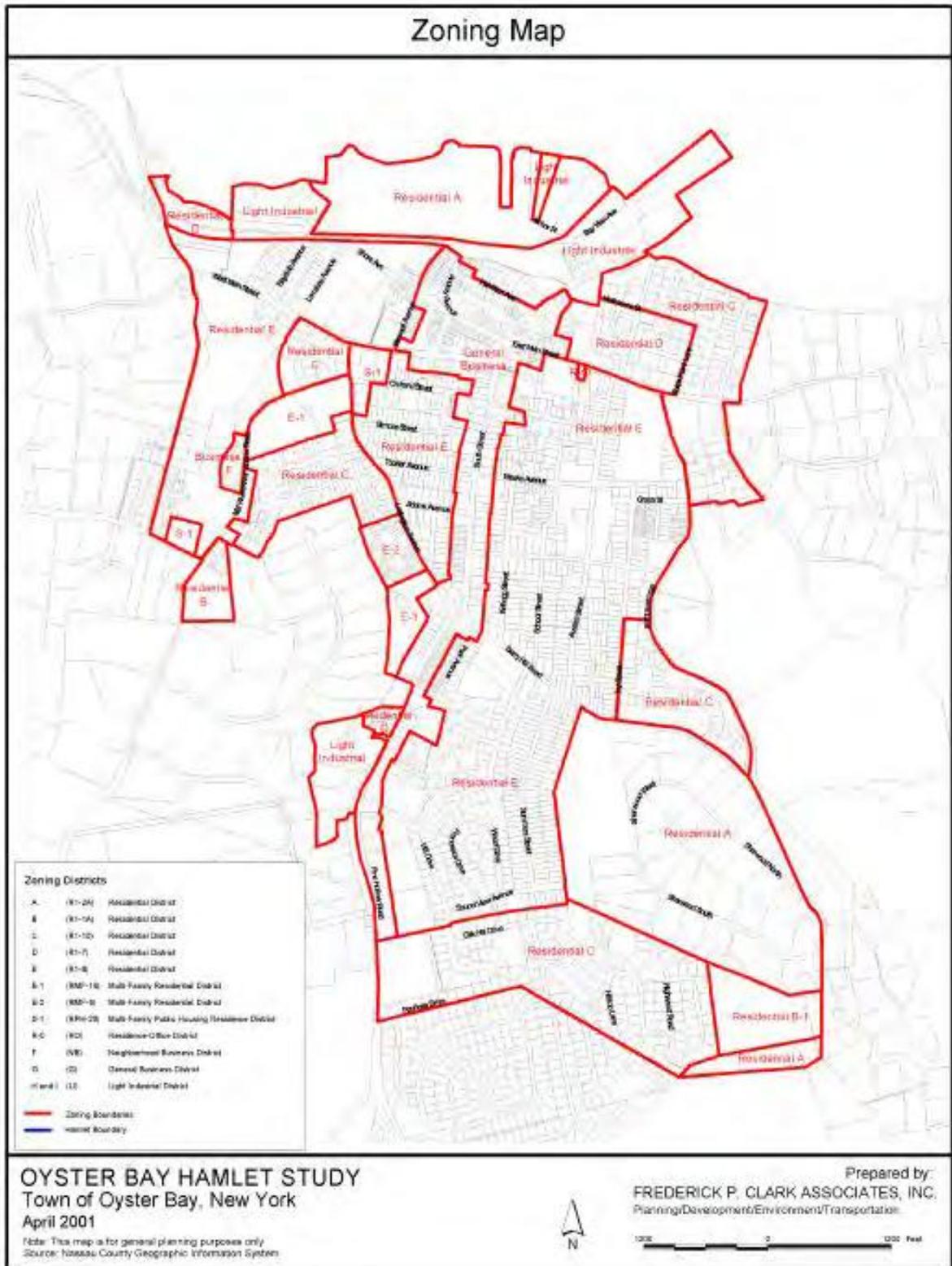
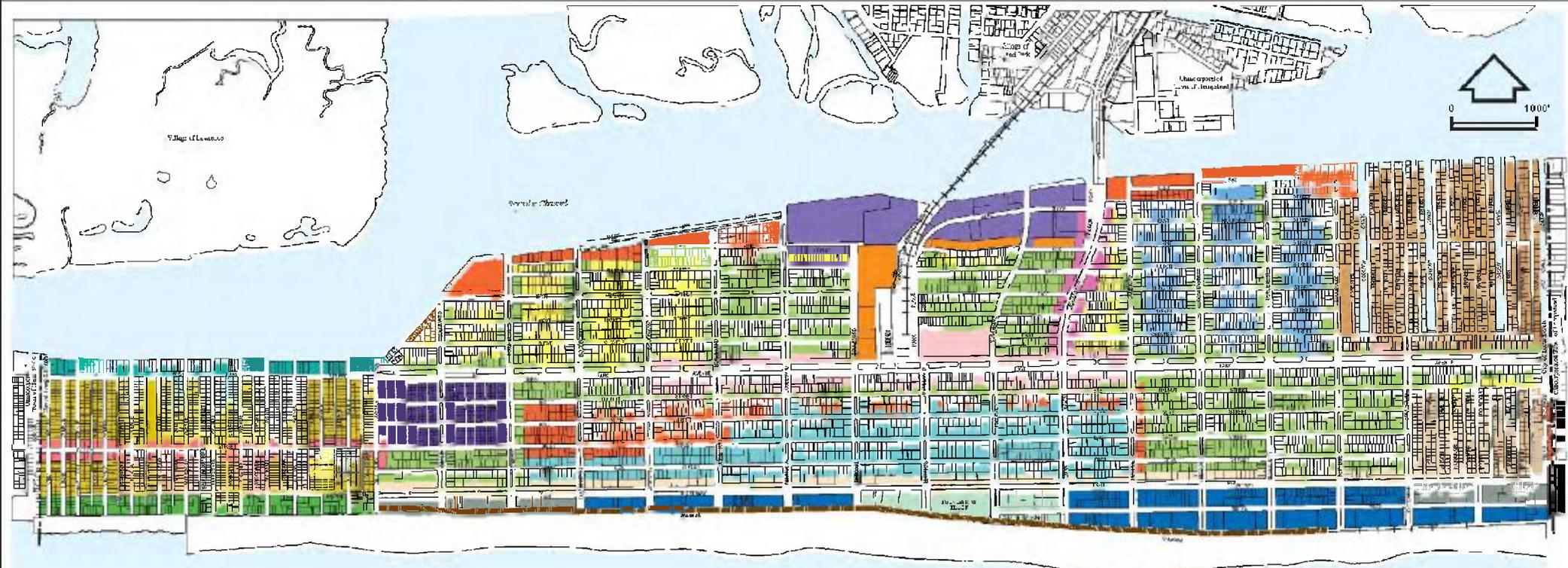


Figure 4B

Parks, Preserves and Trails



Figure 6



Zoning Districts		
	A	One-Family Residential
	B	One-Family Residential
	C	Two-Family Residential
	D	Two-Family Residential
	DD	One-Family Residential
	E	One-Family Residential
	EE	One-Family Residential
	FF	One-Family Residential
	F	Two-Family Residential
	G	One-Family Residential
	H	Multi-Family Residential (12 Units Max.)
	J	Multi-Family Residential (12 Units Max.)
	K	Multi-Family Residential
	L	Multi-Family Residential
	M	One-Family Residential
	RES/BUS A	Multi-Family/Business
	BUS A	Business
	BUS B	Business
	BUS C	Business
	I	Industrial

Exhibit 12
EXISTING ZONING
LOCAL WATERFRONT REVITALIZATION PROGRAM
 City of Long Beach, New York

Saccardi & Schiff, Inc. - Planning and Development Consultants

SOURCE: City of Long Beach Official Zoning Map, 8/21/87
 BASE MAP SOURCE: Nassau County GIS

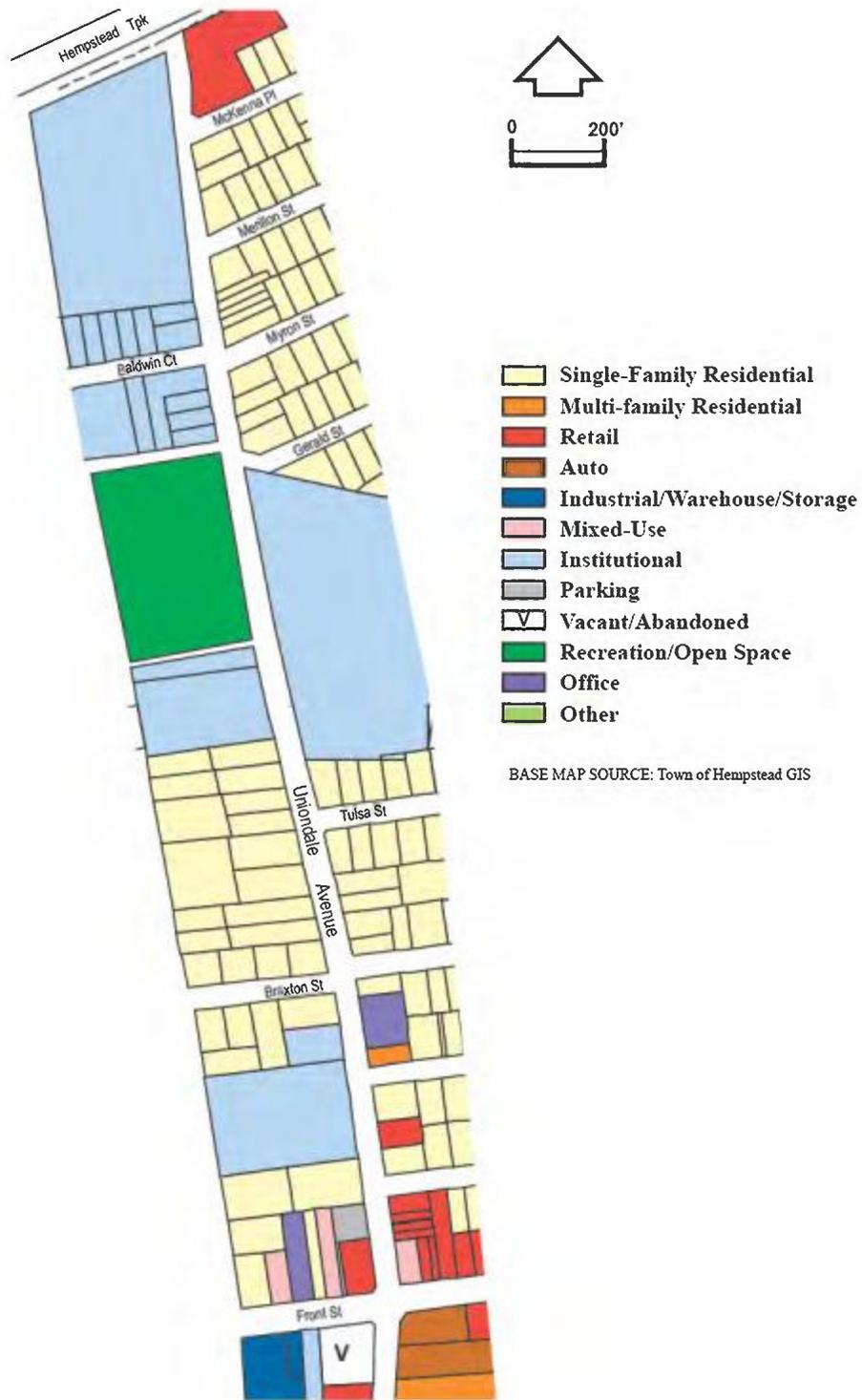


Figure III-3
General Existing Land Use - Uniondale Avenue Corridor North

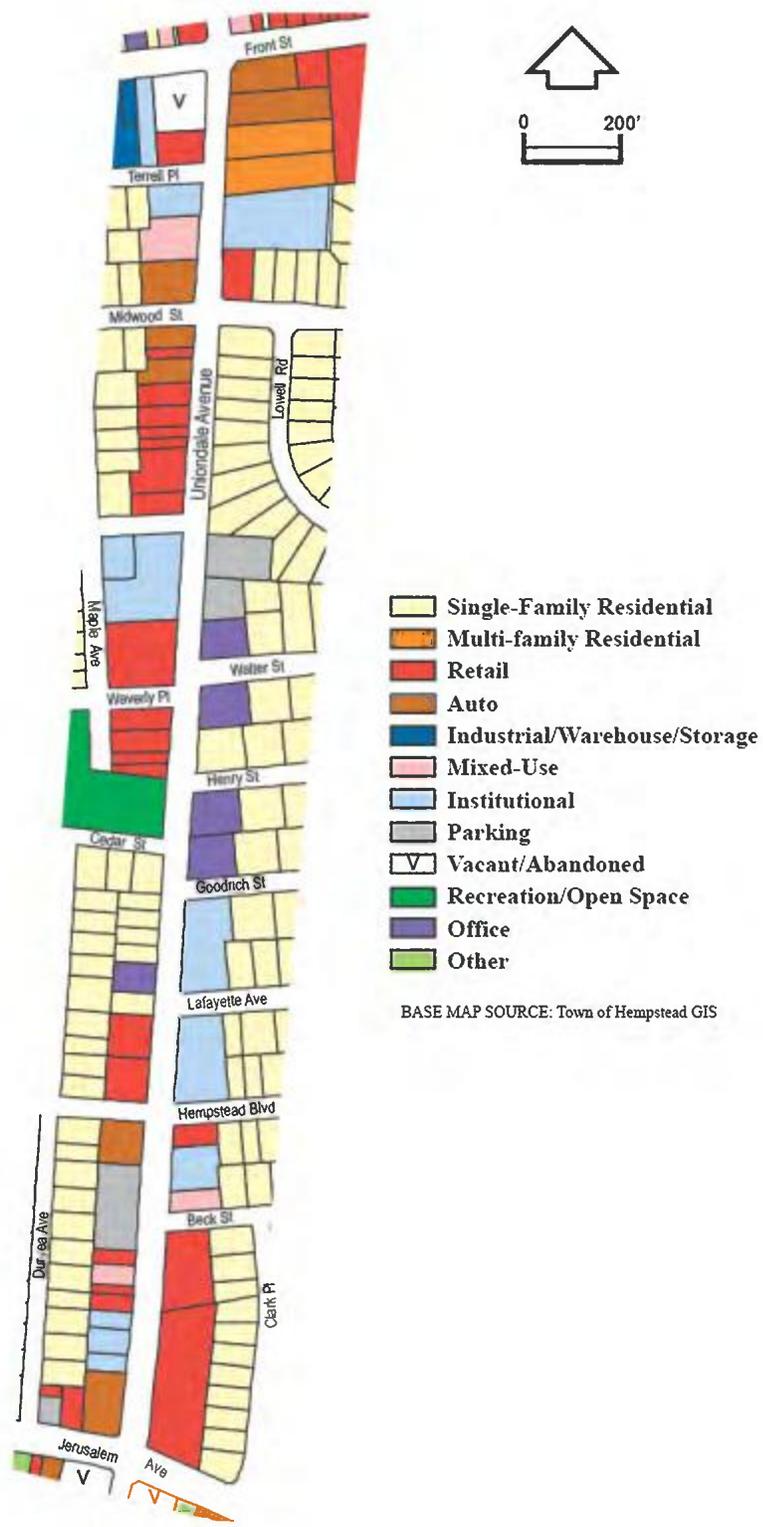


Figure III-4
General Existing Land Use - Uniondale Avenue Corridor Middle



Figure III-5
General Existing Land Use - Uniudale Avenue Corridor South

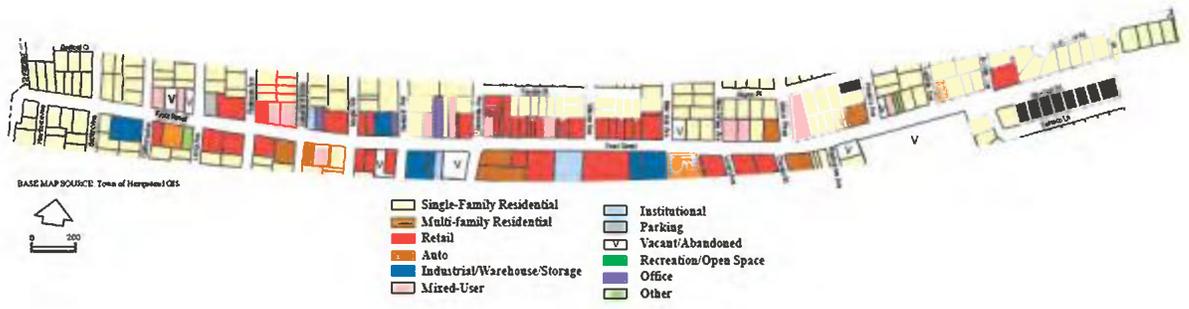


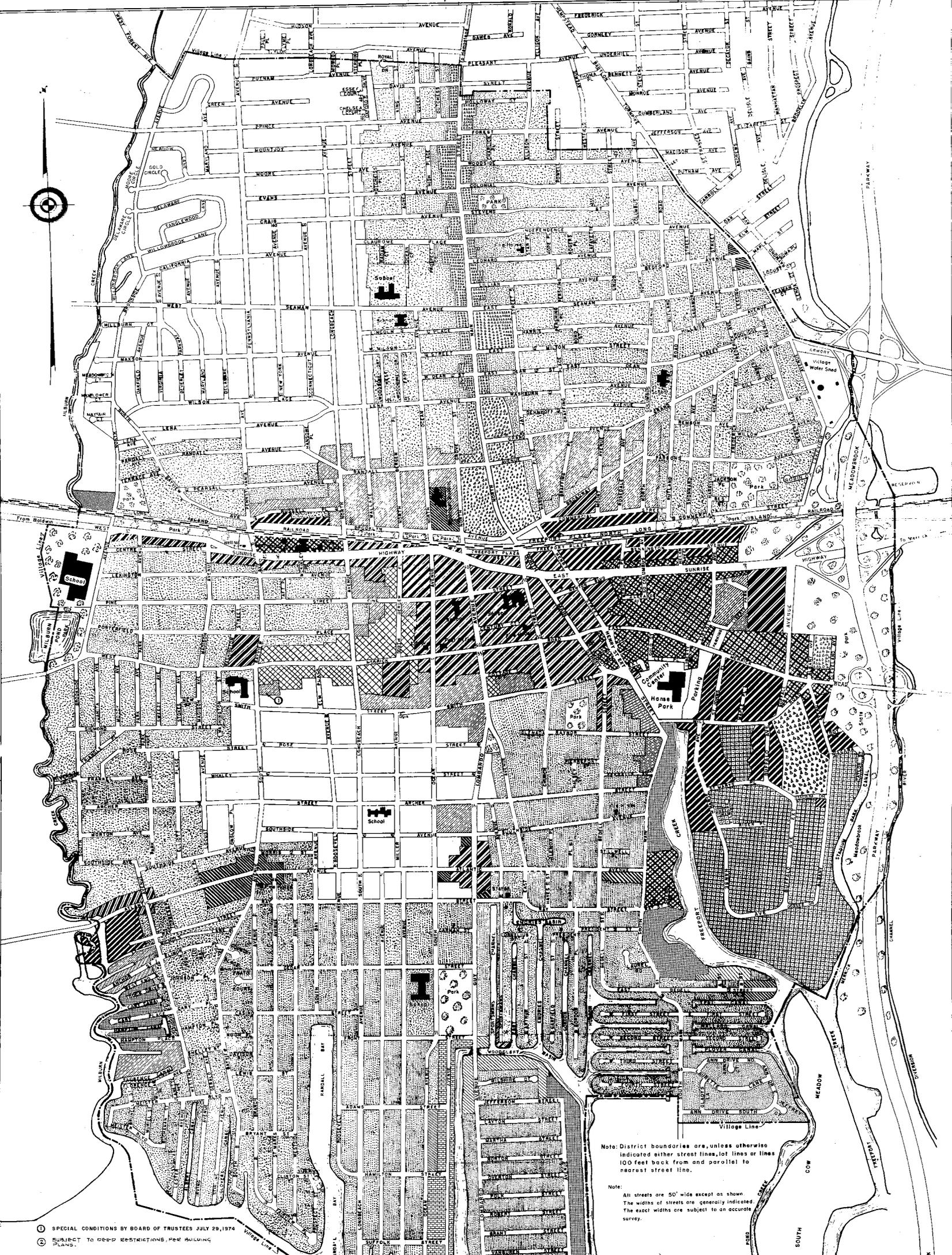
Figure III-6
General Existing Land Use - Front Street Corridor



Figure III-7
Generalized Existing Land Use - Jerusalem Avenue Corridor



Figure III-8
Generalized Existing Land Use - Nassau Road Corridor



- ① SPECIAL CONDITIONS BY BOARD OF TRUSTEES JULY 29, 1974
- ② SUBJECT TO DEED RESTRICTIONS, PER BUILDING PLANS.

BUILDING ZONE MAP

VILLAGE OF FREEPORT

TOWN OF HEMPSTEAD NASSAU COUNTY, N.Y.

ADOPTED FEBRUARY 2, 1987 BY THE BOARD OF TRUSTEES

DOROTHY STORM MAYOR

- C. JAMES CLARK
- VICTOR COHEN
- THOMAS C. DE VINCENZO, VILLAGE CLERK
- DAVID R. LOVEJOY P.E., SUPT. OF PUBLIC WORKS
- VINCENT J. DI COSTANZO
- RALPH SMITH

DISTRICTS

- | | | |
|-----------------|-------------------|--|
| RESIDENCE AA | BUSINESS A | MARINE APARTMENT/BOATL AND CONDOMINIUM |
| RESIDENCE A | BUSINESS B | MARINE RESIDENCE |
| BUSINESS AA | MANUFACTURING | MARINE COMMERCE |
| APARTMENT | INDUSTRIAL | SERVICE BUSINESS |
| MARINE BUSINESS | MARINE INDUSTRIAL | INDUSTRIAL B |
| | | HISTORICAL PRESERVATION DISTRICT |

Note: District boundaries are, unless otherwise indicated either street lines, lot lines or lines 100 feet back from and parallel to nearest street line.

Note:
All streets are 50' wide except as shown.
The widths of streets are generally indicated.
The exact widths are subject to an accurate survey.

State of New York
County of Nassau s.s.

I, Thomas De Vincenzo, Village Clerk, of the Incorporated Village of Freeport, do hereby certify that this Building Zone Map, as amended by all zoning changes made from the original adoption of November 3, 1982 through the year 1986, and as proposed by the Village Engineer, be adopted this 2nd day of February, 1987, as the official Building Zone Map of the Incorporated Village of Freeport.

Thomas De Vincenzo Clerk

State of New York
County of Nassau s.s.

I hereby certify that the annexed is the Building Zone Map, and of the whole thereof, of the Incorporated Village of Freeport, N.Y., duly and regularly adopted by the Board of Trustees of said Village on the Second day of February 1987 as part of Ordinance No. 210-4 commonly called the Zoning Ordinance of the Village of Freeport, N.Y.

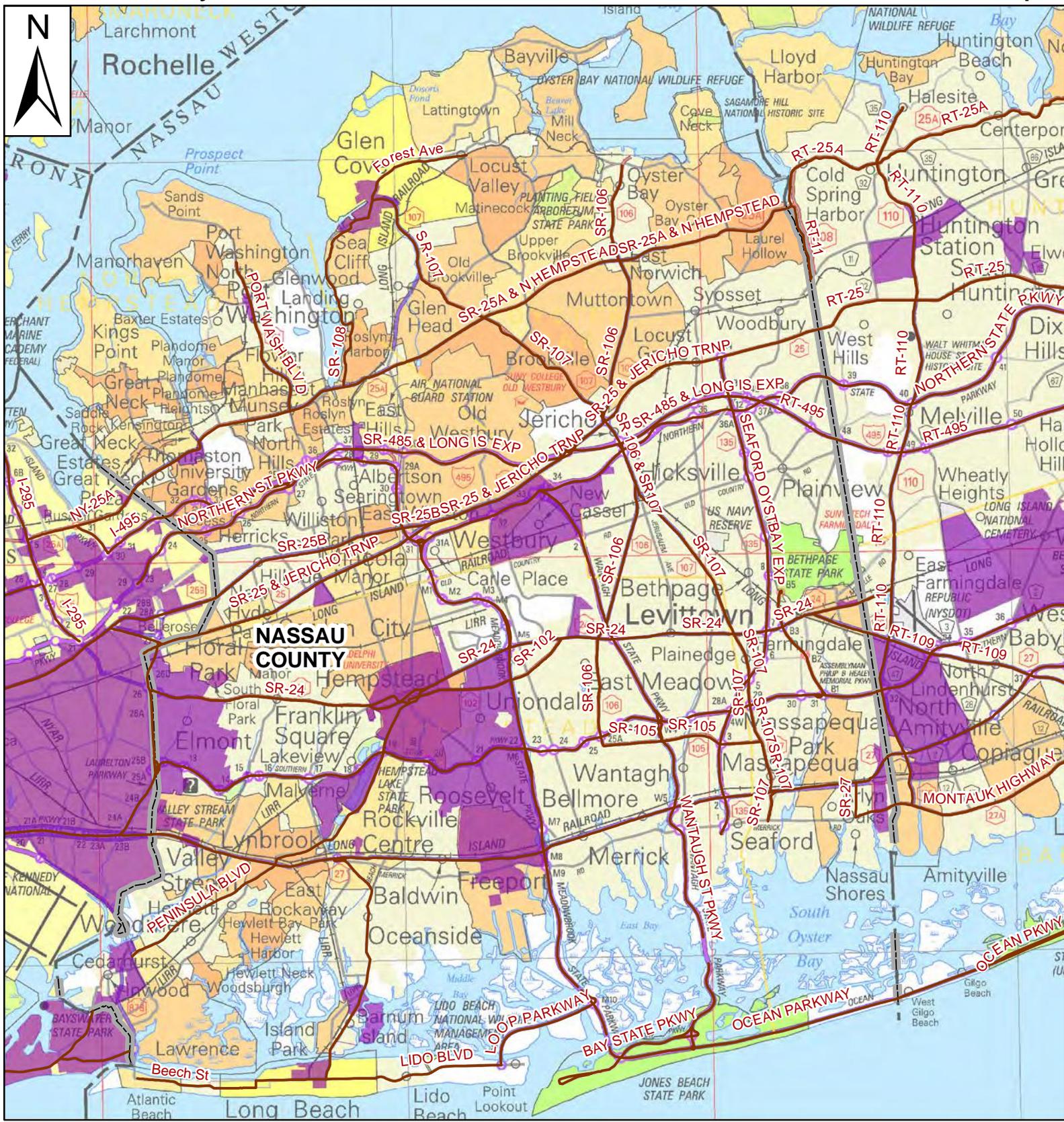
Thomas De Vincenzo
Village Clerk of the Incorporated Village of Freeport, N.Y.

REVISED MAY 20, 1994
REVISED JUNE 28, 1999
REVISED MARCH 27, 1991
REVISED NOV. 13, 1989
REVISED JAN. 25, 1988
REVISED JAN. 9, 1988

Appendix E:
Nassau County Potential Environmental Justice Area Maps

Potential Environmental Justice Areas in Nassau County, New York

Click on any Potential EJ Area outlined in blue for a detailed map



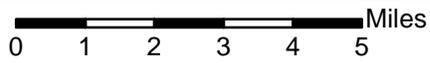
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Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

Legend

- Potential EJ Area
- County Boundary

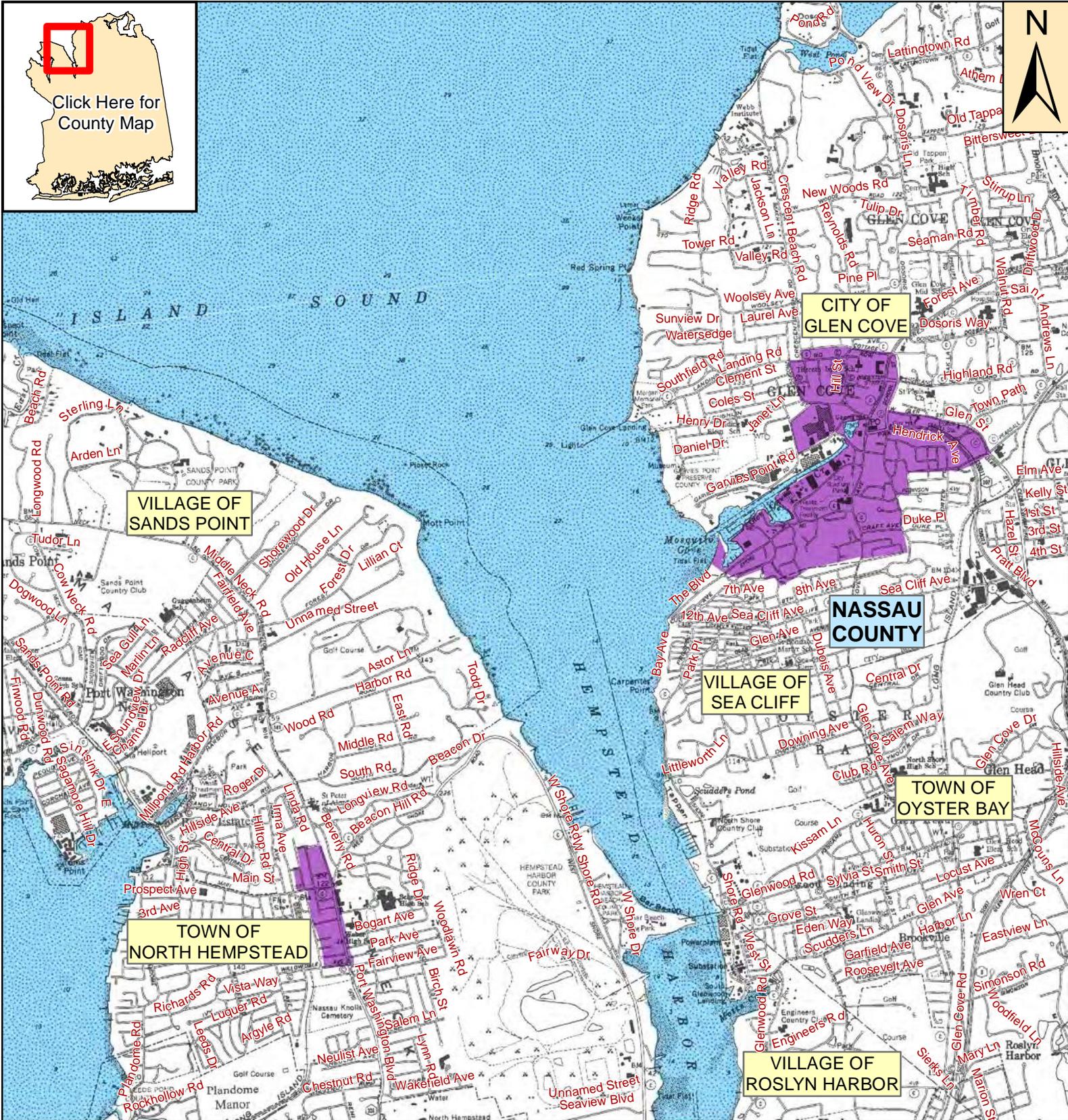


SCALE: 1:175,000

For questions about this map contact:
 New York State Department of
 Environmental Conservation
 Office of Environmental Justice
 625 Broadway, 14th Floor
 Albany, New York 12233-1500
 (518) 402-8556
 ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the City of Glen Cove and Town of North Hempstead, Nassau County, New York



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Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

Legend

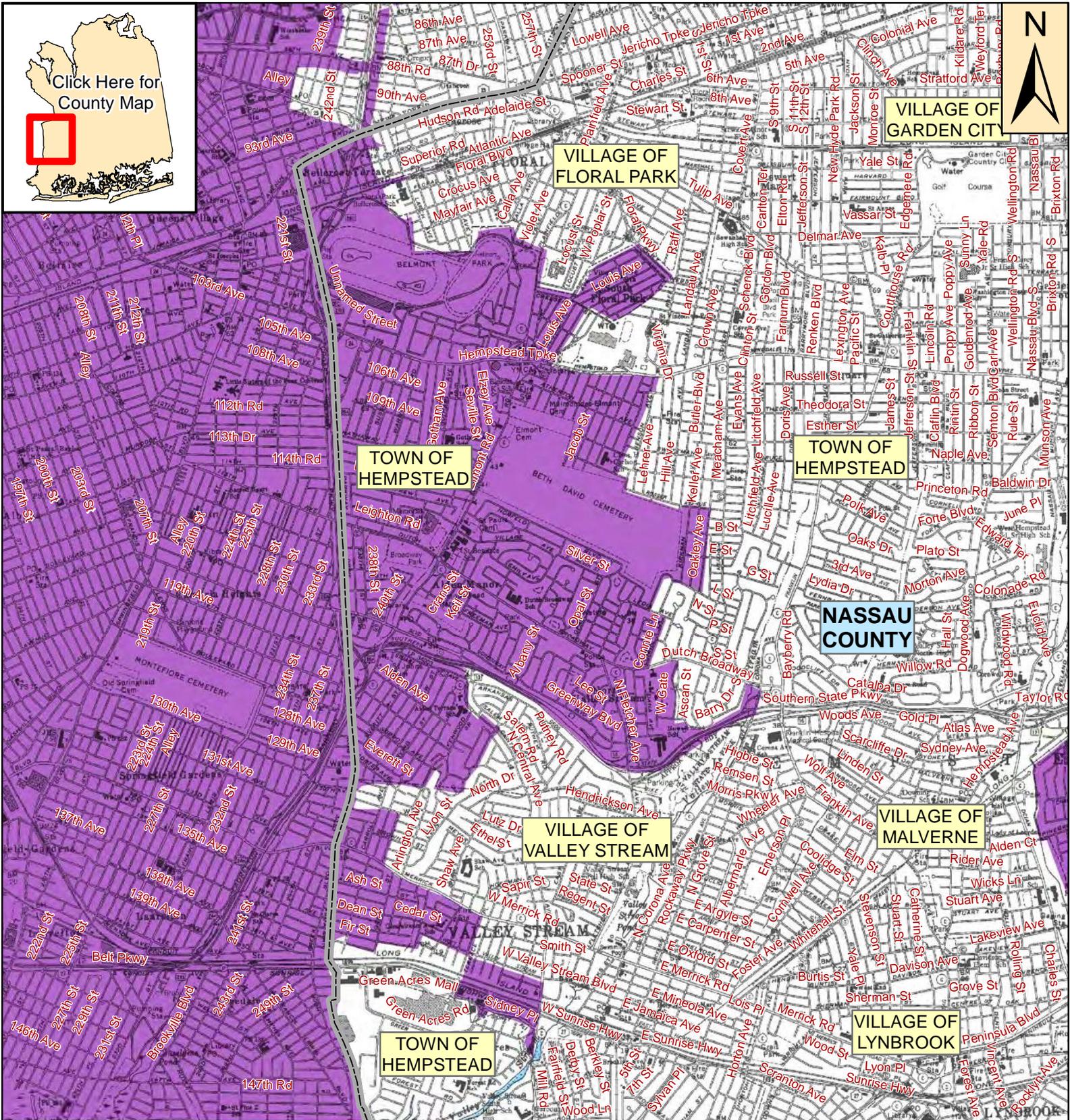
-  Potential EJ Area
-  County Boundary
-  Waterways

Miles
0 0.2 0.4 0.6 0.8 1
SCALE: 1:40,000

For questions about this map contact:
New York State Department of
Environmental Conservation
Office of Environmental Justice
625 Broadway, 14th Floor
Albany, New York 12233-1500
(518) 402-8556
ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the Town of Hempstead (west detail), Nassau County, New York

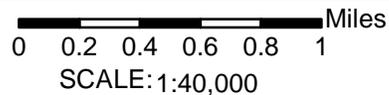


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Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

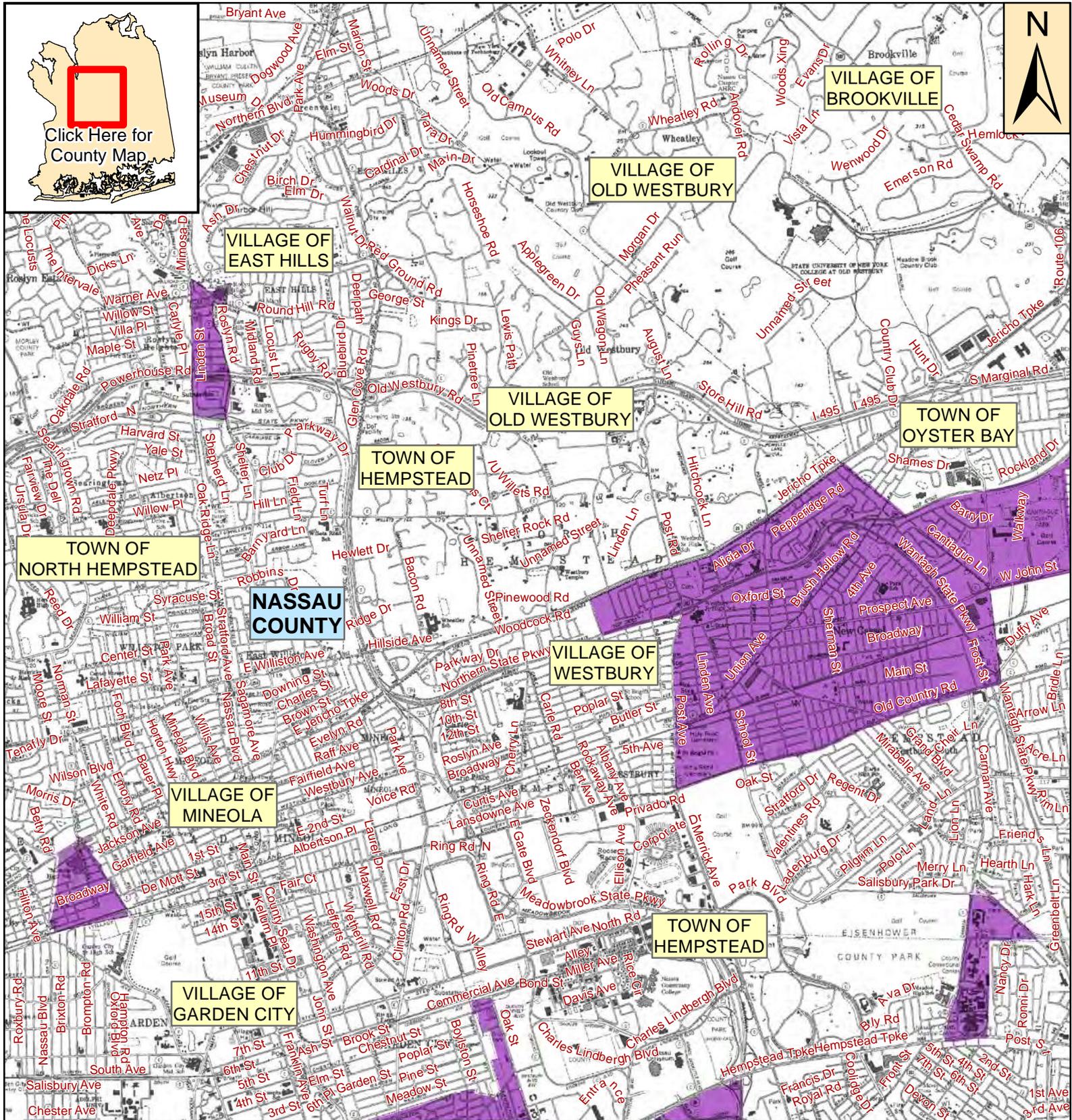
- Legend**
- Potential EJ Area
 - County Boundary
 - Waterways



For questions about this map contact:
New York State Department of Environmental Conservation
Office of Environmental Justice
625 Broadway, 14th Floor
Albany, New York 12233-1500
(518) 402-8556
ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the Village of Westbury and Town of North Hempstead, Nassau County, New York



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Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

Legend

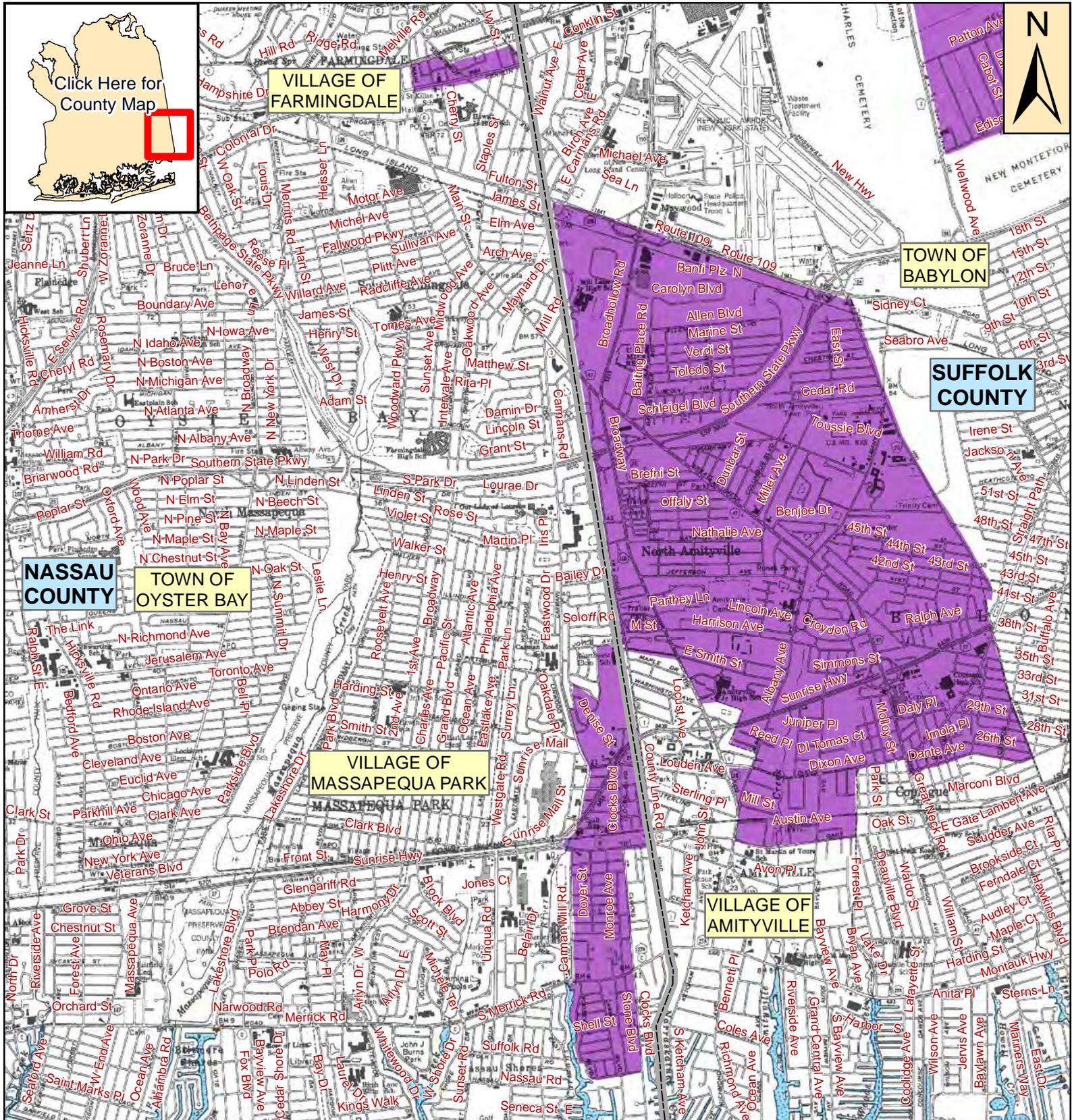
- Potential EJ Area
- County Boundary
- Waterways

Miles
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SCALE: 1:50,000

For questions about this map contact:
New York State Department of
Environmental Conservation
Office of Environmental Justice
625 Broadway, 14th Floor
Albany, New York 12233-1500
(518) 402-8556
ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the Town of Oyster Bay (SE detail) and Village of Farmingdale, Nassau County, New York



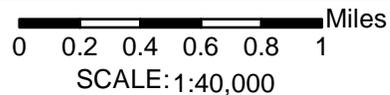
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Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

Legend

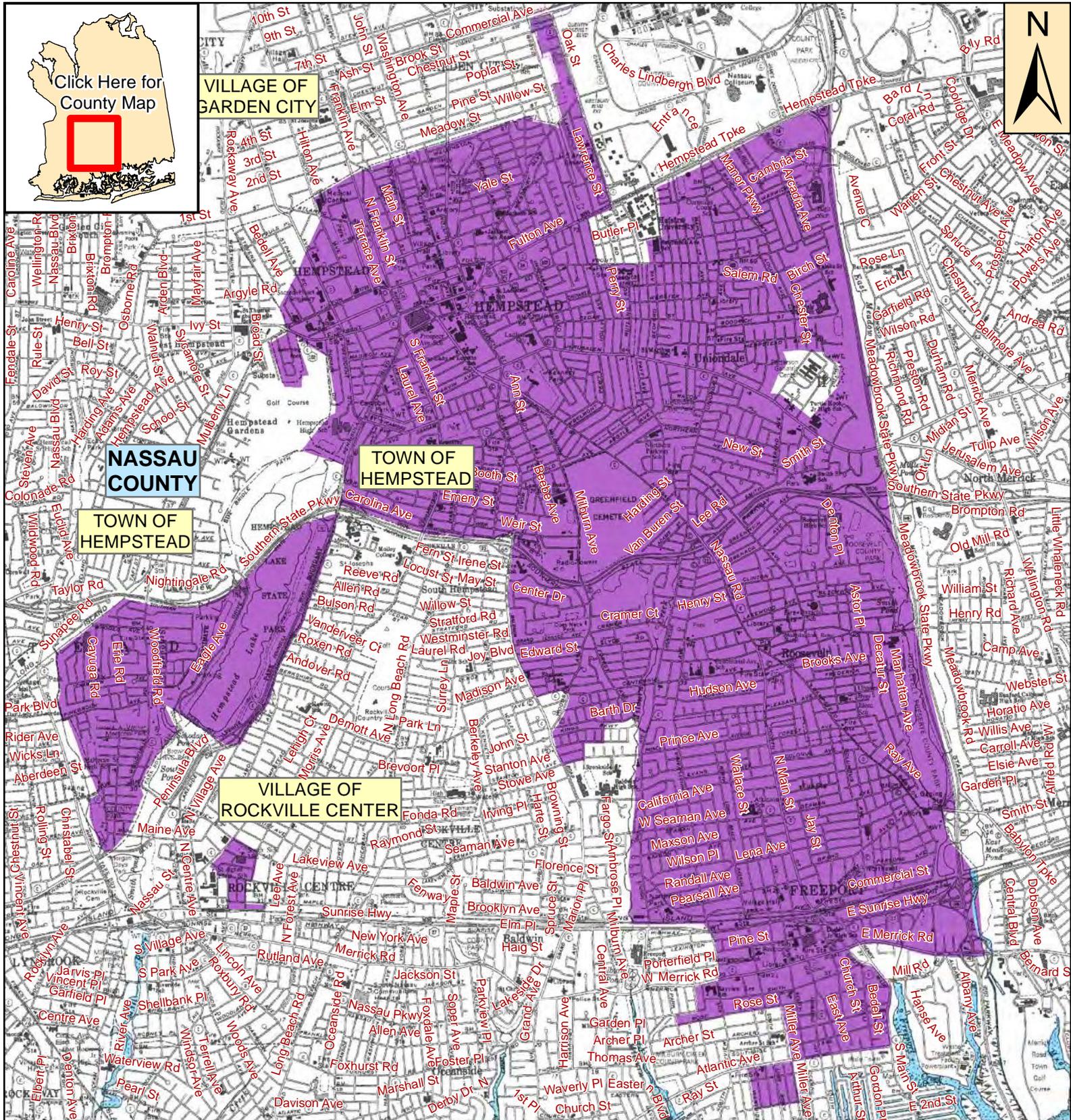
- Potential EJ Area
- County Boundary
- Waterways



For questions about this map contact:
 New York State Department of
 Environmental Conservation
 Office of Environmental Justice
 625 Broadway, 14th Floor
 Albany, New York 12233-1500
 (518) 402-8556
 ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the Town of Hempstead (central detail) and Village of Freeport, Nassau County, New York



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Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

Legend

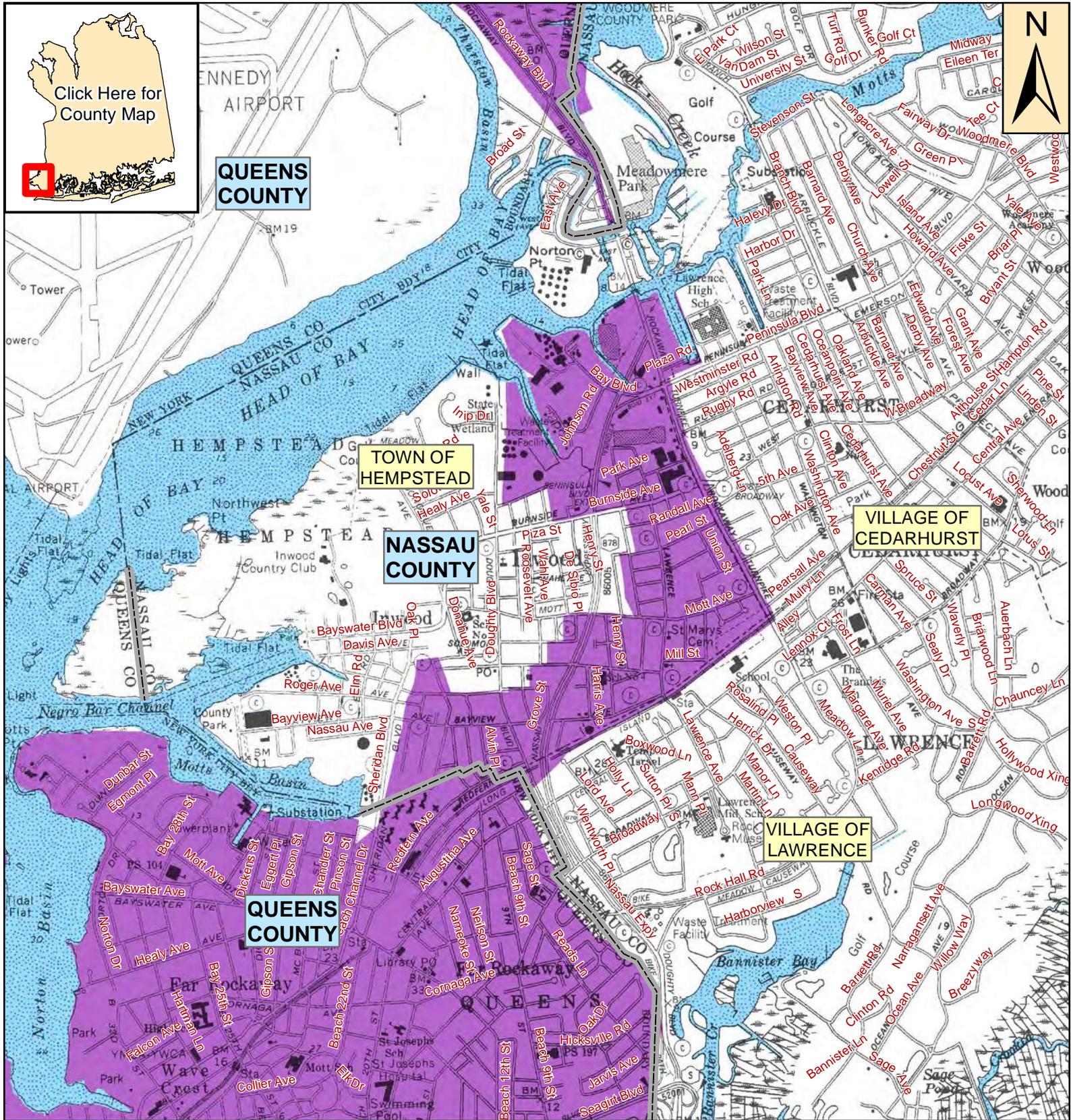
-  Potential EJ Area
-  County Boundary
-  Waterways

0 0.2 0.4 0.6 0.8 1 Miles
SCALE: 1:45,000

For questions about this map contact:
New York State Department of
Environmental Conservation
Office of Environmental Justice
625 Broadway, 14th Floor
Albany, New York 12233-1500
(518) 402-8556
ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the Town of Hempstead (southwest detail), Nassau County, New York



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Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

Legend

- Potential EJ Area
- County Boundary
- Waterways

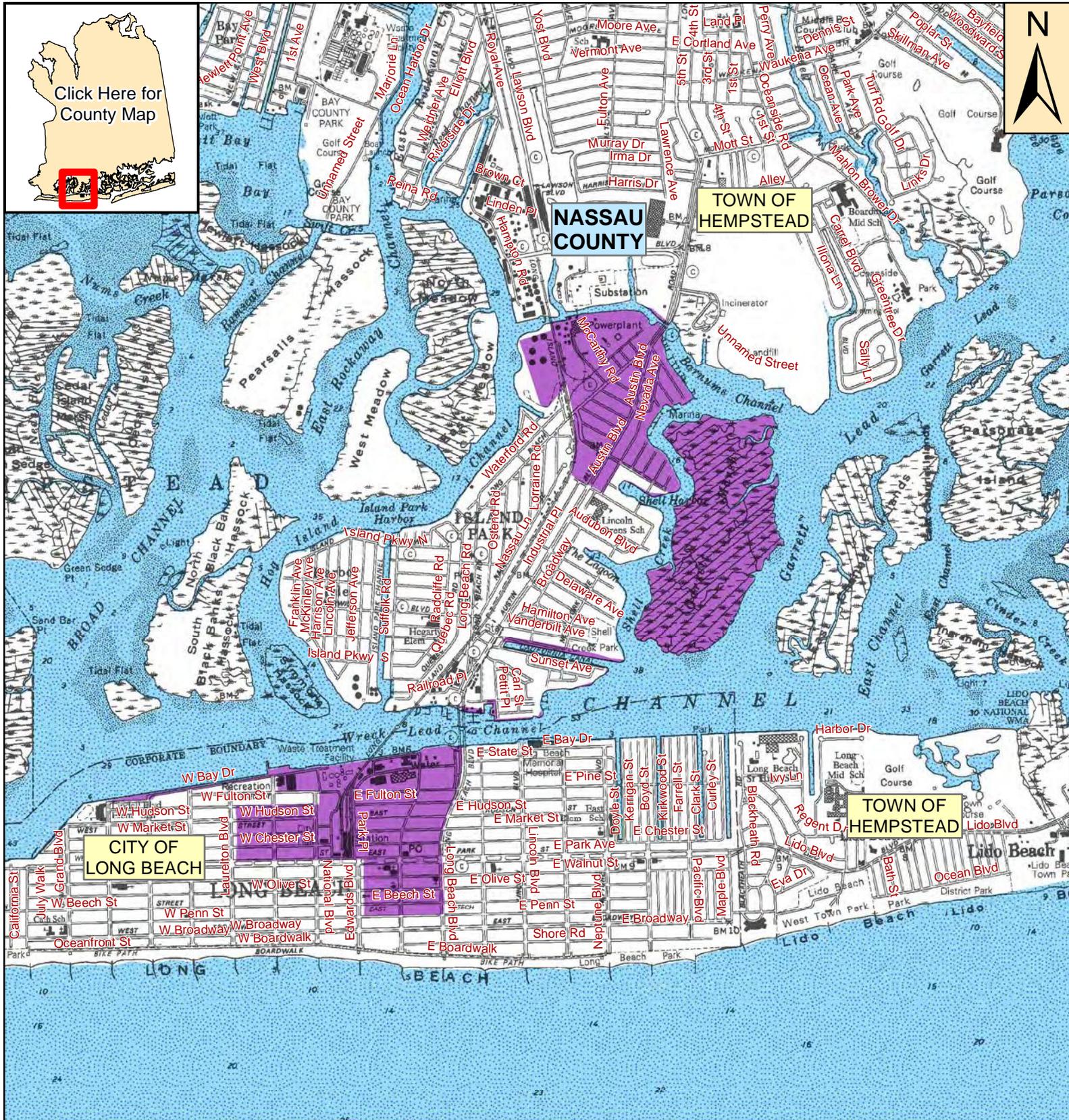
0 0.2 0.4 0.6 0.8 1 Miles

SCALE: 1:24,000

For questions about this map contact:
 New York State Department of
 Environmental Conservation
 Office of Environmental Justice
 625 Broadway, 14th Floor
 Albany, New York 12233-1500
 (518) 402-8556
 ej@gw.dec.state.ny.us



Potential Environmental Justice Areas in the Town of Hempstead (south detail) and City of Long Beach, Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas:
U.S. Census Bureau, 2000 U.S. Census

Legend

- Potential EJ Area
- County Boundary
- Waterways

0 0.2 0.4 0.6 0.8 1 Miles

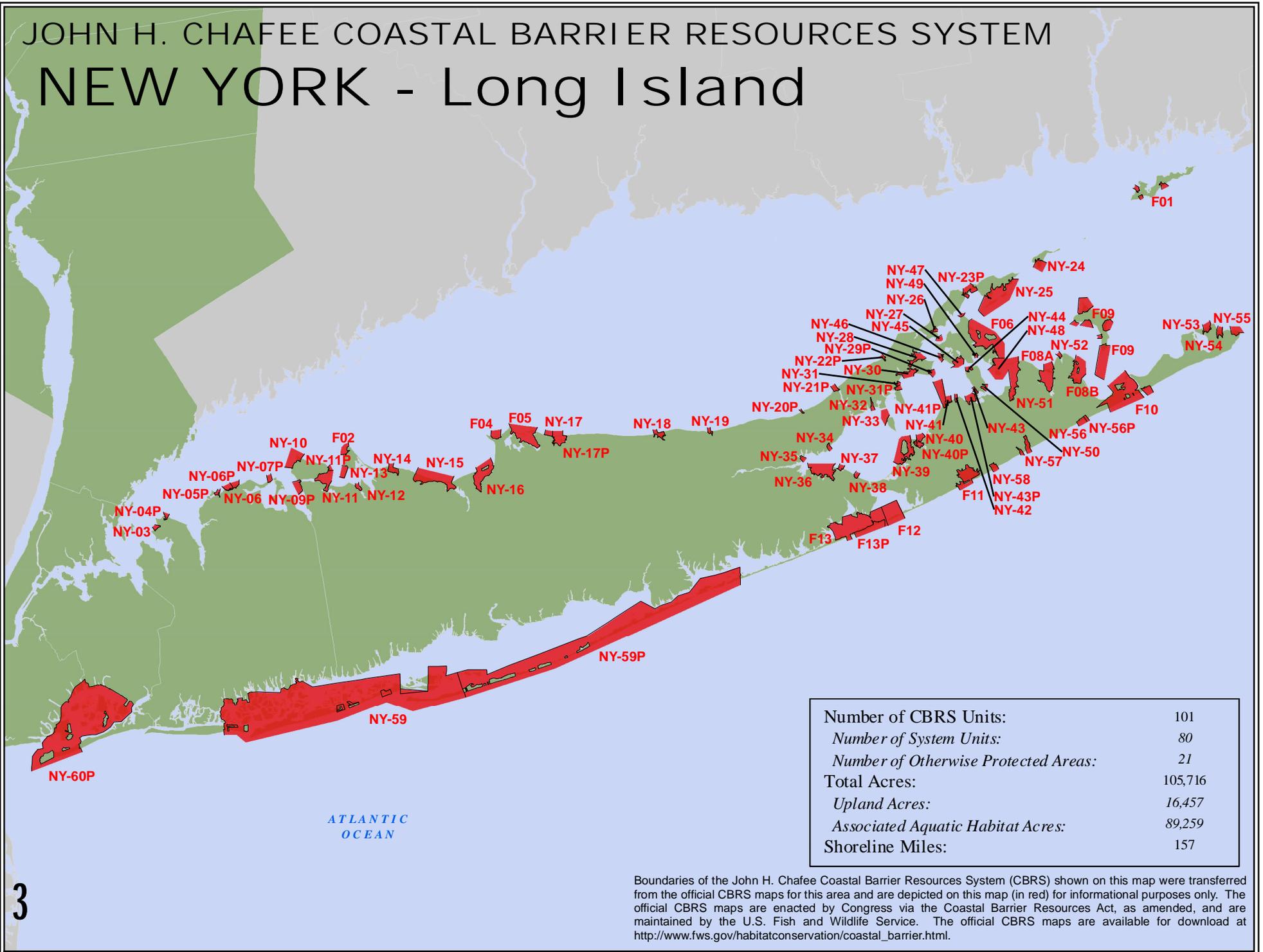
SCALE: 1:30,000

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Environmental Conservation
Office of Environmental Justice
625 Broadway, 14th Floor
Albany, New York 12233-1500
(518) 402-8556
ej@gw.dec.state.ny.us



Appendix F:
Coastal Barrier Resources Map

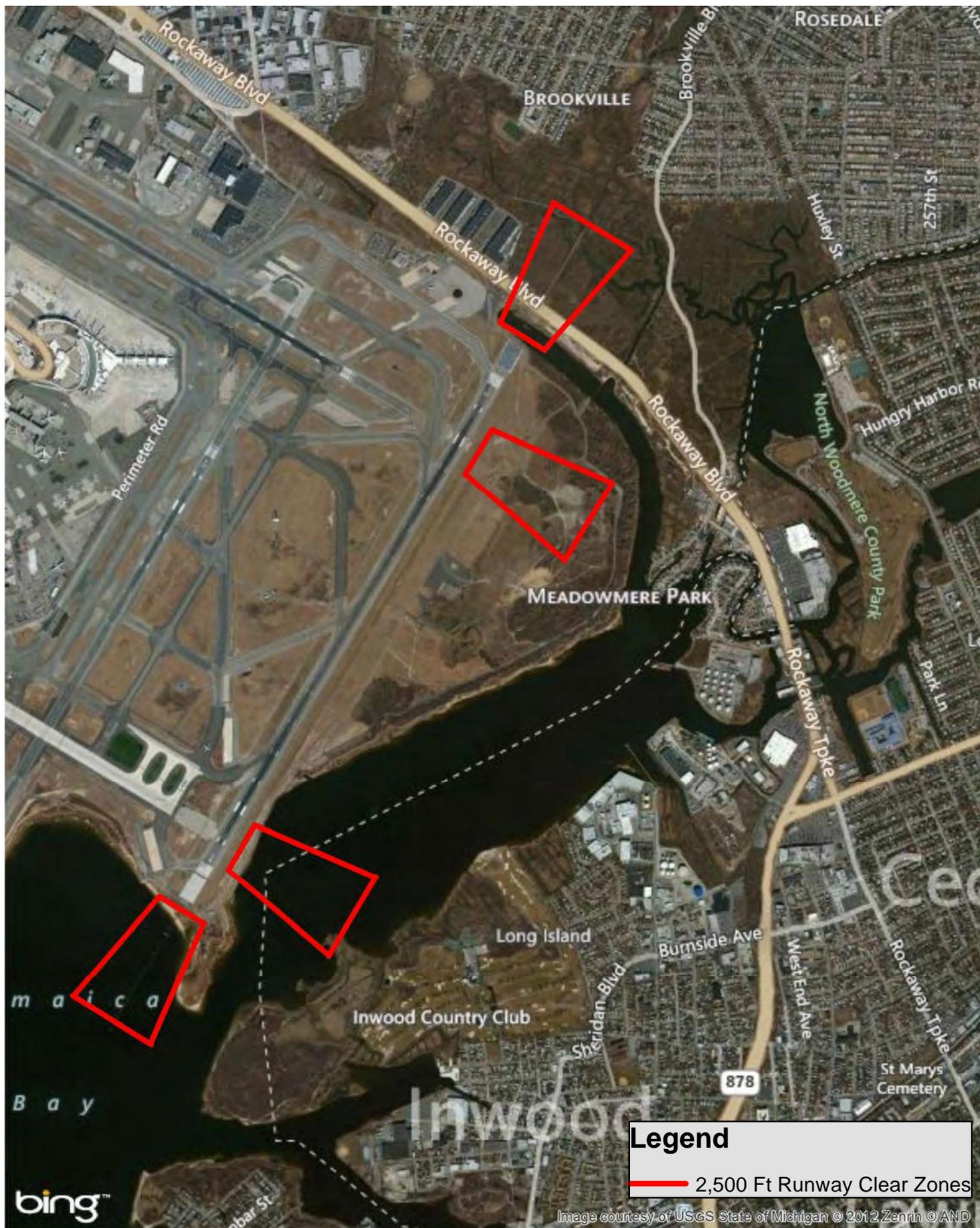
JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM NEW YORK - Long Island



Number of CBRS Units:	101
Number of System Units:	80
Number of Otherwise Protected Areas:	21
Total Acres:	105,716
Upland Acres:	16,457
Associated Aquatic Habitat Acres:	89,259
Shoreline Miles:	157

Boundaries of the John H. Chafee Coastal Barrier Resources System (CBRS) shown on this map were transferred from the official CBRS maps for this area and are depicted on this map (in red) for informational purposes only. The official CBRS maps are enacted by Congress via the Coastal Barrier Resources Act, as amended, and are maintained by the U.S. Fish and Wildlife Service. The official CBRS maps are available for download at http://www.fws.gov/habitatconservation/coastal_barrier.html.

Appendix G:
Nassau County Airport Clear Zones Map



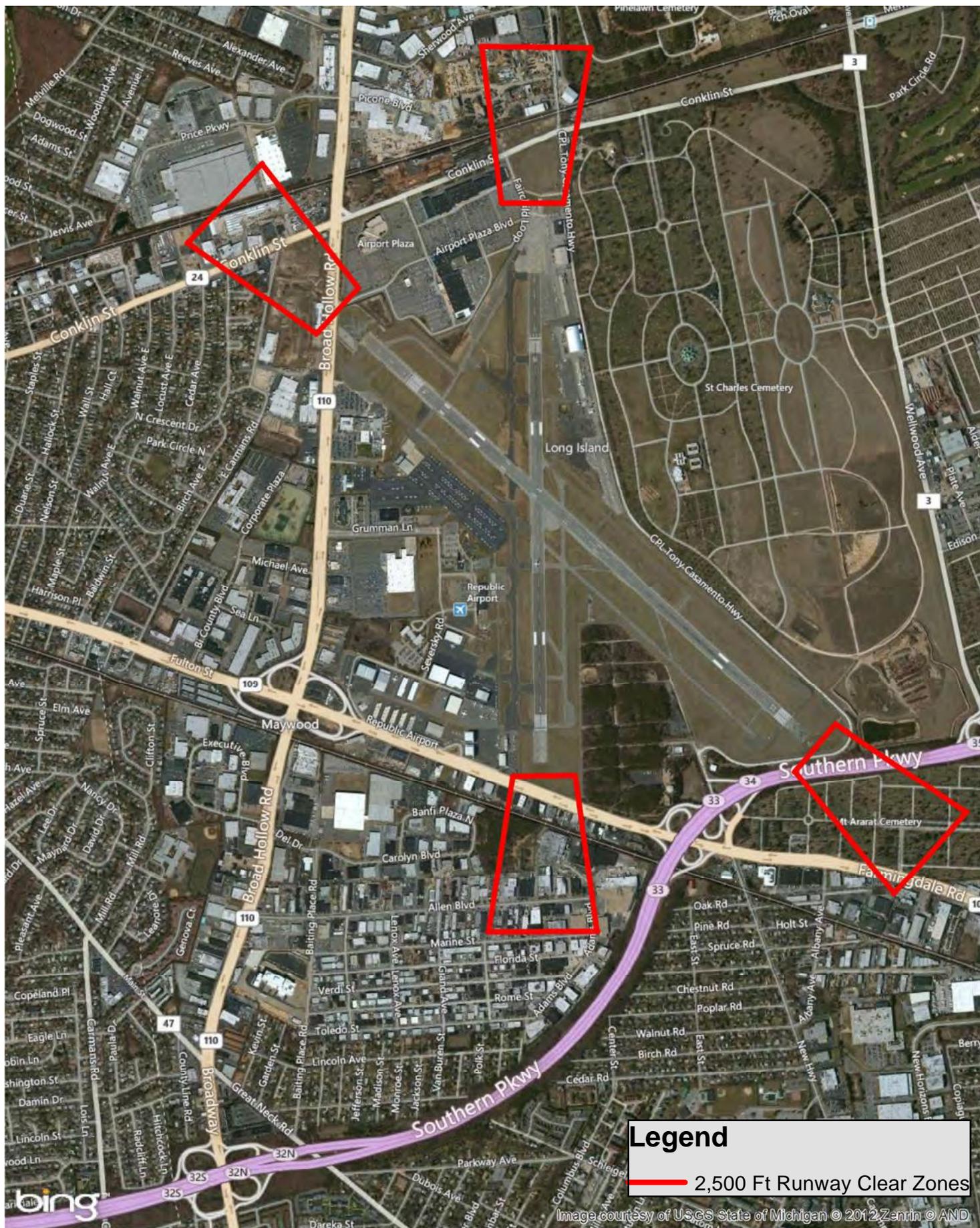
Legend

▭ 2,500 Ft Runway Clear Zones

Image courtesy of USGS State of Michigan © 2012 Zenrin © AND

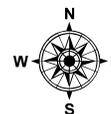
**JFK International Airport
Runway Clear Zones**





Republic Airport Runway Clear Zones

0 0.4 0.8 Miles



ProSource
TECHNOLOGIES

Appendix H:
Nassau County Wild, Scenic, or Recreational Rivers

Legend

Wild and Scenic Rivers

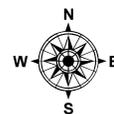


bing™

©Harris Corp., Earthstar Geographics LLC Earthstar Geographics, SIO © AND

Nassau County Wild and Scenic Rivers*

0 2.75 5.5 Miles



ProSource
TECHNOLOGIES

*There are no wild or scenic rivers in Nassau County, NY.



Wild, Scenic and Recreational Rivers

Wild Rivers

1. Cedar River: (a) Approximately seven miles from the southwest boundary of lot 82, Township 17, Totten and Crossfield's Purchase to the Hamilton County line; and
(b) Approximately seven and three-tenths miles from the outlet of Cedar Lakes to a point where a road crosses the river approximately one and one-half miles upstream of Cedar River flow.
2. Cold River: Approximately fourteen miles from the Duck Hole to the confluence with the Raquette River and the entire three-mile length of Ouluska Pass Brook.
3. Hudson River: Approximately ten and one-half miles from the confluence of the Cedar River to the confluence with the Boreas River.
4. Indian River: Approximately thirteen miles from Brook Trout lake to the confluence with the South Branch of the Moose River.
5. Kunjamuk River: Approximately eight miles from the outlet of South Pond to a fish barrier dam near the southwest boundary of Lot 9, Township 31, Gorton Tract.
6. Opalescent River: Approximately eleven miles from Flowed Lands to the confluence with the Hudson River.
7. Oswegatchie River, Main Branch: Approximately eighteen and one-half miles from the Partlow Mill Dam to the southernmost boundary between private and state land at Inlet.
8. Oswegatchie River, Middle Branch: Approximately fourteen and one-half miles from the north boundary of Lot 27, Watson's East Triangle to a point one mile downstream of the confluence with Wolf Creek.
9. Piseco Outlet: Approximately four and one fifth miles from a point one-half mile east of the Route 10 bridge crossing to the confluence with the West Branch of the Sacandaga River.
10. Sacandaga River, East Branch: Approximately eleven and one-half miles from Botheration Pond to a point one-half mile above the confluence with Cook Brook.
11. Sacandaga River, West Branch: (a) Approximately seven miles from the confluence of the Piseco Lake outlet to the confluence with Dugway Creek;
(b) Approximately nine miles from the source near Silver Lake Mountain to the Silver Lake wilderness boundary near Route 10; and
(c) Approximately two and seven-tenths miles from the confluence with Cow Creek to the confluence with Piseco outlet.
12. West Canada Creek: Approximately eight miles from Mud Lake to the Old Mitchell dam site.
13. West Canada Creek, South Branch: Approximately five and nine-tenths miles from the headwaters near T-Lake Falls to a footbridge crossing located approximately one mile upstream of the Floe.

Scenic Rivers

1. Ampersand Brook: Approximately eight miles from Ampersand Pond to the confluence with the Raquette River.
2. Ausable River: Approximately nine miles from Marcy swamp to St. Hubert's.

3. Black River: Approximately seven and eight-tenths miles from the point where Farr Road crosses the river to the point where the river intersects the Adirondack Park boundary.
4. Blue Mountain Stream: Approximately nine miles from the outlet of Clear Pond to the confluence with Pleasant Lake stream.
5. Bog River: Approximately seven and three-tenths miles from the dam below Hitchens Pond to Big Tupper Lake.
6. Boreas River: Approximately eleven and one-half miles from Cheney Pond to the confluence with the Hudson River.
7. Bouquet River: (a) Approximately six miles of the North Fork from the headwaters on Dial Mountain to the bridge on Route 73; and
(b) Approximately five and one-half miles of the South Fork from the headwaters to the bridge on Route 73.
8. Carmens River: (a) Approximately two and one-quarter miles from its headwaters at the north boundary of Cathedral Pines Park (formerly Camp Wilderness), Suffolk County, southerly to its intersection with the southern boundary of Camp Sobaco (Girl Scout Camp);
(b) Approximately two and one-half miles from Yaphank Avenue, Suffolk County, southerly to the Concrete Wing Dam in Southaven Park; and
(c) Approximately two and one-half miles from the south side of Sunrise Highway, Suffolk County, southerly to the mouth of the river (a line between Long Point and Sandy Point) at its confluence with Great South Bay.
9. Cedar River: (a) Approximately five miles from the Hamilton County line to the confluence with the Hudson River; and
(b) Approximately ten miles from a point where a road crosses the river one and one-half miles pstream of Cedar River flow to a point where a southerly extension of the northeast state land boundary of Lot 96, Township 33, Totten and Crossfield's Purchase, would intersect the river.
10. Deer River: Approximately six and two-tenths miles from the outlet of Deer River flow to a point where the river intersects the Adirondack Park boundary.
11. East Canada Creek: Approximately twenty and nine-tenths miles from Powley Place to a point at which the creek intersects the Adirondack Park boundary near Sprite Creek at the southwest corner of Lot 45, Town of Oppenheim, Lott and Low's Patent.
12. Genesee River: Within Letchworth State Park.
13. Grasse River, Middle Branch: Approximately fourteen and one-half miles from the confluence of Blue Mountain stream and Pleasant Lake stream to the confluence of the South Branch of the Grasse River.
14. Grasse River, North Branch: Approximately twentyfive and four-tenths miles from the outlet of Church Pond to a point where the North Branch intersects the Adirondack Park boundary.
15. Grasse River, South Branch: (a) Approximately thirtyfive and two-tenths miles from the outlet of Center Pond to the confluence with the outlet of Allen Pond; and
(b) Approximately three and seven-tenths miles from the most southerly point where the South Branch of the Grasse River intersects the Adirondack Park boundary, north to the confluence with the Middle Branch of the Grasse River.
16. Hudson River: (a) Approximately nine miles from the hamlet of Newcomb to the confluence with the Cedar River; and
(b) Approximately four miles from the confluence with the Boreas River to a point one mile north of the hamlet of North River.

17. Independence River: Approximately twenty-six miles from the outlet of Little Independence Pond to the point where the Sperryville Bridge crosses the river.
18. Jordan River: Approximately eighteen miles from the outlet of Marsh Pond to Carry Falls Reservoir.
19. Kuniemuk River: Approximately ten and four-tenths miles from a fish barrier dam near the southwest boundary of Lot 9, Township 31, Gorton Tract, to the confluence with the Sacandaga River.
20. Long Pond Outlet: Approximately sixteen miles from the outlet of Long Pond to the confluence with the West Branch of the St. Regis River.
21. Marion River: Approximately five miles from the outlet of Utowana lake to Raquette Lake.
22. Moose River, Main Branch: Approximately fifteen and four-fifths miles from the confluence of the South and Middle Branches of the Moose River to a point where the Main Branch intersects the Adirondack Park boundary.
23. Moose River, North Branch: Approximately six miles from the outlet of Big Moose Lake to the confluence with the outlet of Goose Pond.
24. Moose River, South Branch: (a) Approximately eighteen miles from the east boundary of the state land immediately west of Little Moose Lake to the west boundary of the state land near Rock Dam;
(b) Approximately six and one-half miles from the east boundary of the state land just north of Woodhull Mountain downstream to the state land boundary near the confluence with the middle branch of the Moose River; and
(c) Approximately fourteen and two-fifths miles from the west boundary of state land near Rock Dam to the east boundary of state land north of Woodhull Mountain.
25. Nissequoque River: Approximately one and four-tenths miles from the dam at the outlet of New Mill Pond to the pedestrian bridge south of Route 25/25A including its tributaries and ponds identified as P288 Phillips Millpond, P289 Willow Pond, P290 Upper Vail Pond, P291 Webster Pond, and P291a Lower Vail Pond (on a certain map titled "Official Classifications - Surface Waters of Western Suffolk County," published by the Water Resources Council and prepared by the New York Department of Health) in Suffolk County.
26. Oswegatchie River, Middle Branch: (a) Approximately nine miles from the outlet of Walker Lake to the north boundary of Lot 27, Watson's East Triangle; and
(b) Approximately fourteen and two-fifths miles from a point one mile downstream of the confluence with Wolf Creek to a point where the Middle Branch intersects the Adirondack Park boundary at the southeast boundary of Lot 993, Township of Diana, Macomb's Purchase, Great Tract 4.
27. Oswegatchie River, West Branch: Approximately seven miles from the outlet of Buck Pond to a point approximately one mile upstream of Round Pond at the point where a foot and snowmobile bridge crosses the West Branch.
28. Otter Brook: Approximately ten miles from the outlet of Lost Pond to the confluence with the South Branch of the Moose River.
29. Peconic River: (a) Approximately ten and one-half miles from the western boundary of the Red Maple swamp to the Long Island railroad bridge between Connecticut and Edwards Avenue; and
(b) Approximately three miles from Middle Country Road (State Route 25) to the confluence with the previously described segment of the Peconic including tributaries T112-5, T112-6 and T112-7.

30. Raquette River: (a) Approximately twenty miles from the outlet of Long Lake to the confluence with a small stream from the northeast, located approximately one mile downstream from Trombley Landing; and
(b) Approximately thirteen and eight-tenths miles from the confluence with Dead Creek to a point where the river intersects the north boundary of Lot 1, Township 5, Tannery Lot near Carry Falls Reservoir.
31. Red River: Approximately nine and seven-tenths miles from the headwaters of the river to the confluence with the South Branch of the Moose River.
32. Rock River: Approximately six and nine-tenths miles from the O'Neil flow road crossing to the confluence with the Cedar River.
33. Round Lake Outlet: Approximately two and seven-tenths miles from the outlet of Round Lake to the confluence with the Bog River.
34. St. Regis River, East Branch: Approximately fourteen and one-half miles from a point where Route 30 crosses the East Branch near Meacham Lake, to a point one-half mile upstream from Everton Falls.
35. St. Regis River, Main Branch: Approximately fifteen and five-tenths miles from a point where a private road to Bay Pond crosses the Main Branch in Lot 16, Township 17, Macomb's Purchase, Great Tract 1, to the confluence with Balsam Brook.
36. St. Regis River, West Branch: Approximately thirtyfive miles from the outlet of Little Fish Pond to a point one-half mile downstream from the confluence with Fenner Meadow Brook.
37. West Canada Creek: Approximately seventeen miles from a point where the creek intersects that state land boundary approximately two miles upstream of the Old Mitchell Dam site, to the Route 8 bridge crossing near Nobleboro.
38. West Stoney Creek: Approximately seven and seven-tenths miles from the Tannery Road crossing to the confluence with Hatch Brook.

Recreational Rivers

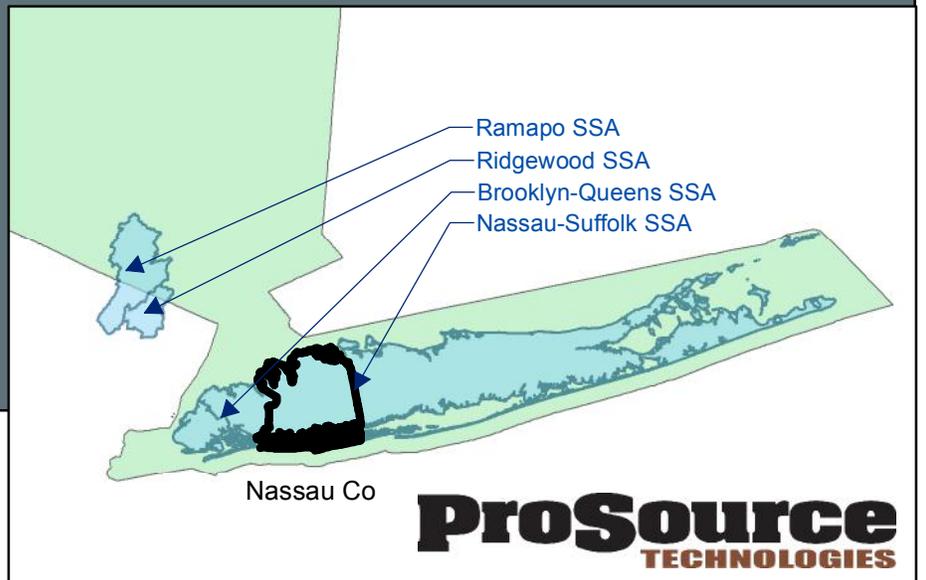
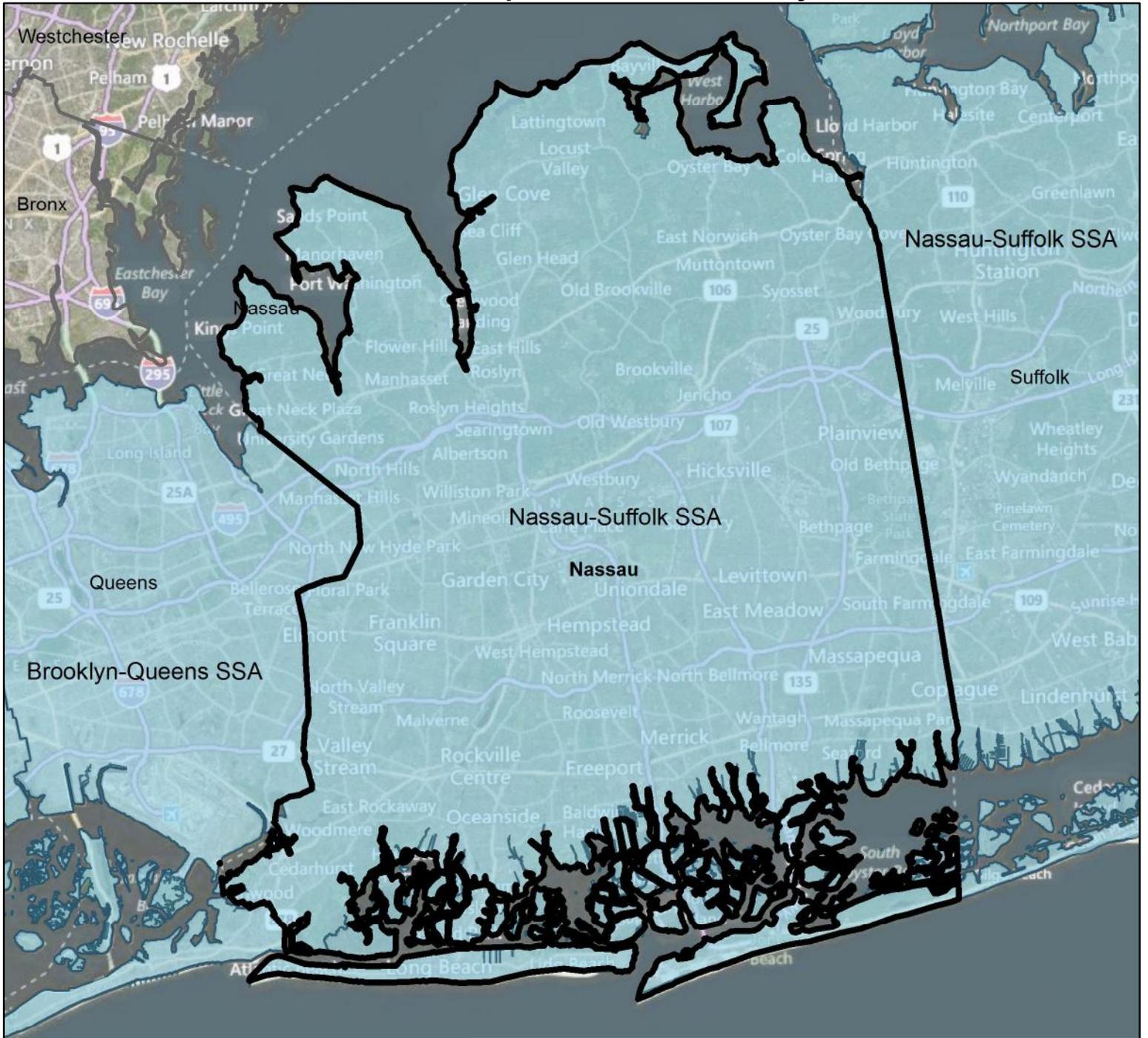
1. Ausable River, East Branch: Approximately twenty-eight and three-tenths miles from St. Huberts to the confluence with the West Branch.
2. Ausable River, Main Branch: Approximately twenty-two miles from the confluence of the East and West Branches of the Ausable River to Lake Champlain.
3. Ausable River, West Branch: (a) Approximately five miles from the state boundary along the River Road east of Big Cherry Patch Pond downstream to the state boundary immediately west of High Falls; and
(b) Approximately twenty-nine and one-half miles from the headwaters of the West Branch near Heart Lake to the confluence with the East Branch.
4. Black River: Approximately six and three-fifths miles from the outlet of North Lake to a point where Farr Road crosses the river.
5. Bouquet River: Approximately forty-seven and seven-tenths miles from the confluence with the North Fork of the Bouquet River to Lake Champlain.
6. Carmens River: (a) Approximately two miles from its intersection with the southern boundary of Camp Sobaco (Girl Scout Camp), southerly to Yaphank Avenue, Suffolk County; and
(b) Approximately one mile southerly from the Concrete Wing Dam in Southaven Park, Suffolk County, to Sunrise highway.

7. Cedar River: Approximately eleven miles from a point at which a southerly extension of the northeast state land boundary parallel to the southwest boundary of Lot 96, Township 33, Totten and Crossfield's Purchase would intersect the river to the southwest boundary of Lot 82, Township 17, Totten and Crossfield's Purchase.
8. Connetquot River: Approximately five and three-fourths miles from Johnson Avenue, Suffolk County, south to the Sunrise highway.
9. Fall Creek: Approximately 1.8 miles from the southern boundary of Cayuga Lake to the west face of the foot bridge running across Fall Creek, which foot bridge is located between Thurston Avenue on the west and Beebe Lake on the east (in the City of Ithaca, Tompkins County).
10. Grasse River, South Branch: Approximately five and one-fifth miles from the confluence with the outlet of Allen Pond to the most southerly point where the South Branch intersects the Adirondack Park boundary.
11. Hudson River: (a) Approximately twelve and seven-tenths miles from the confluence with the Opalescent River to a point where Route 28N crosses the Hudson River at Newcomb; (b) Approximately forty-five and nine-tenths miles from a point one mile north of North River to the confluence with the Sacandaga River.
12. Independence River: Approximately one-half mile from a point where the Sperryville bridge crosses the river to a point where the river intersects the Adirondack Park boundary.
13. Indian River: Approximately eight and three-tenths miles from the outlet of Indian Lake to the confluence with the Hudson River.
14. Moose River, Middle Branch: Approximately thirteen and four-tenths miles from the confluence with the North Branch of the Moose River to the confluence with the South Branch of the Moose River.
15. Moose River, North Branch: Approximately thirteen miles from the confluence with the outlet of Goose Pond to the confluence with the Middle Branch of the Moose River.
16. Nissequogue River: (a) Approximately one and four-tenths miles from State Route 347 to the dam at the outlet of New Mill Pond including its tributaries identified as P292-1 to Brooksite Drive and two unnamed tributaries P292-2 and P292-3; and (b) Approximately five miles from the pedestrian walkway and dam at the outlet of Phillips Millpond to its confluence with Long Island Sound including its tributaries and ponds connected therewith [specifically described as T-62 on a certain map entitled "Official Classifications - Surface Waters of Western Suffolk County," prepared by the New York State Department of Health and published by the Water Resources Council].
17. Oswegatchie River, Main Branch: Approximately two and three-tenths miles from the southernmost boundary between private and state land at Inlet to Wanakena.
18. Oswegatchie River, West Branch: Approximately six and one-tenth miles from a point approximately one mile upstream of Round Pond at the point where a foot and snowmobile bridge crosses the West Branch to a point where the river intersects the Adirondack Park boundary.
19. Peconic River: (a) Approximately five and one-half miles from the Long Island railroad bridge between Connecticut and Edwards Avenue to Grangabel Park dam in Riverhead; (b) Approximately two miles of the Little River (tributary T112-2) from and including Wildwood Lake to its confluence with the Peconic River.
20. Ramapo River: Approximately three and one-half miles from the Orange County line to the site of an abandoned power dam in the hamlet of Ramapo.

21. Raquette River: (a) Approximately twenty-two miles from the outlet of Raquette Lake to the outlet of Long Lake; and
(b) Approximately seventeen miles from the confluence of the Raquette River and a small stream from the northeast, at a point approximately one mile downstream from Trombley Landing to the confluence with Dead Creek.
22. Rock River: Approximately one and one-fifth miles from the outlet of Lake Durant to the O'Neil flow road crossing.
23. St. Regis River, East Branch: Approximately six and one-tenth miles from a point one-half mile upstream of Everton Falls to the confluence with the Main Branch of the St. Regis River.
24. St. Regis River, Main Branch: (a) Approximately seven miles from the St. Regis Church to a point where a private road to Bay Pond crosses the Main Branch in Lot 16, Township 17, Macomb's Purchase, Great Tract 1; and
(b) Approximately eighteen miles from the confluence with Balsam Brook to a point at which the river intersects the Adirondack Park boundary.
25. St. Regis River, West Branch: Approximately five and one-half miles from a point one-half mile downstream of the confluence with Fenner Meadow Brook to a point where the West Branch intersects the Adirondack Park boundary.
26. Sacandaga River, East Branch: Approximately fourteen miles from a point approximately one-half mile above Cook Brook to the confluence with the Main Branch of the Sacandaga River.
27. Sacandaga River, Main Branch: Approximately thirty-one miles from the outlet of Lake Pleasant to the inlet of Great Sacandaga Lake.
28. Sacandaga River, West Branch: (a) Approximately ten and three-fifths miles from the Silver Lake wilderness boundary near the most upstream Route 10 bridge crossing to the confluence with Cow Creek; and
(b) Approximately seven and two-tenths miles from the confluence of Dugway Creek to the confluence with the Main Branch of the Sacandaga River.
29. Salmon River: Approximately twelve and three-tenths miles from the outlet of Elbow Ponds to the point where the river intersects the Adirondack Park Boundary.
30. Saranac River, Main Branch: Approximately sixty and two-fifths miles from the outlet of Upper Saranac Lake to the point where the river intersects the Adirondack Park boundary.
31. Schroon River: Approximately sixty-six and seven-tenths miles from the outlet of the former Dead Water Pond to the confluence with the Hudson River.
32. Shawangunk Kill River: From the border of Ulster and Orange Counties to its confluence with the Wallkill River.
33. West Canada Creek: Approximately eleven miles from the Route 8 bridge crossing near Nobleboro to the Harvey Road bridge crossing.
34. West Canada Creek, South Branch: Approximately nine and seven-tenths miles from the footbridge crossing one mile upstream of the Floe to the confluence with the Main Branch of the West Canada Creek.
35. West Stony Creek: (a) Approximately six miles from the Persch Road crossing (to Tannery Road Crossing); and
(b) Approximately two and seven-tenths miles from the confluence with Hatch Brook to the confluence with the Main Branch of the Sacandaga River.

Appendix I:
Sole Source Aquifer Map and
Memorandum of Understanding

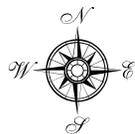
Sole Source Aquifers - Nassau County



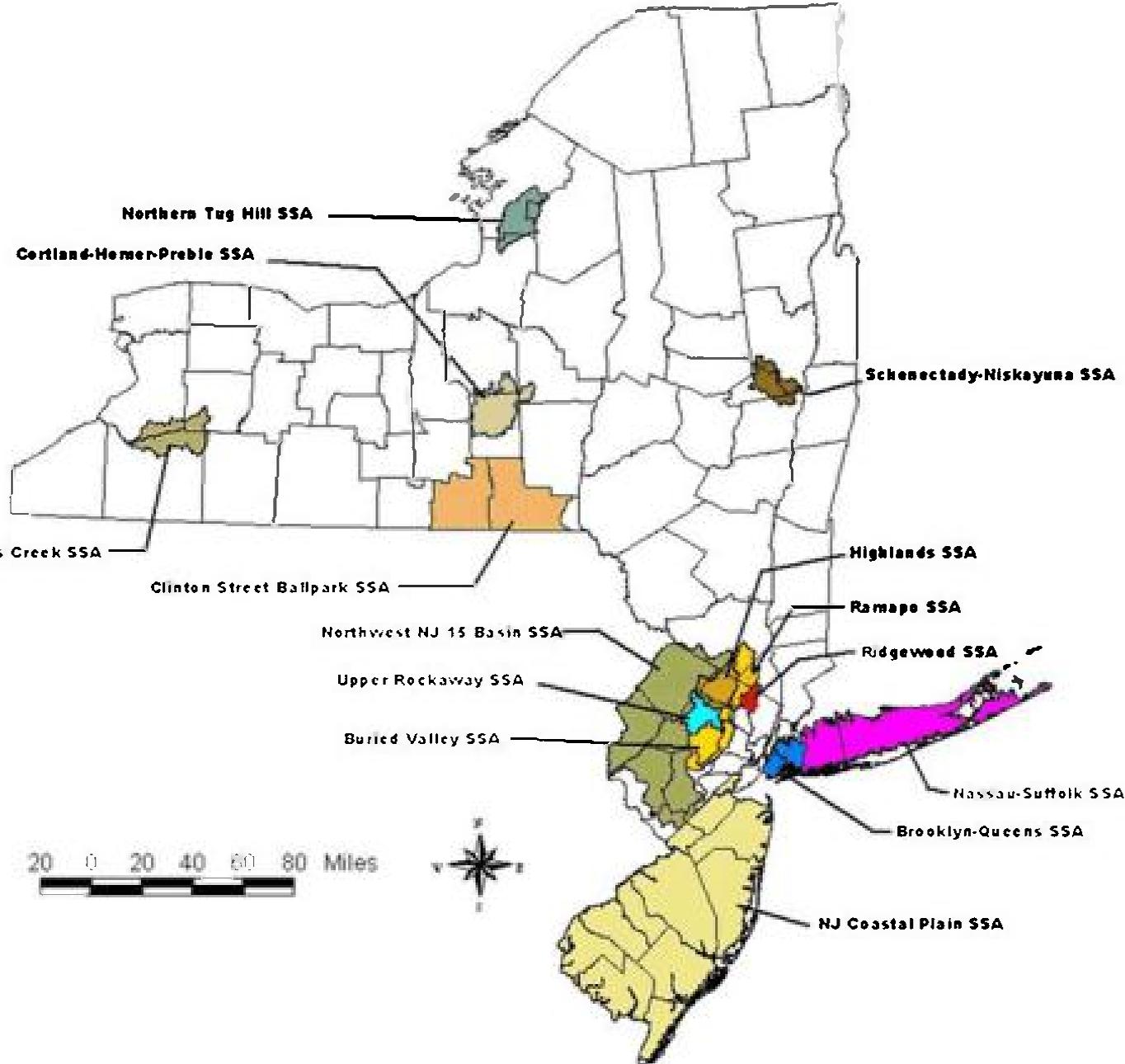
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Legend

-  Nassau County
-  Sole Source Aquifers



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OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages - 14

To: Jeff Holliman	From: Steve Gorb
Dept./Agency	Phone #
Fax #	Fax #

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REGION II, NEW YORK, NEW YORK

AND

THE ENVIRONMENTAL PROTECTION AGENCY
REGION II, NEW YORK, NEW YORK

PURPOSE and GOAL

This Memorandum of Understanding (MOU) is established to assist the Environmental Protection Agency (EPA), Region II, and the Department of Housing and Urban Development (HUD), Region II, in meeting the Sole Source Aquifer (SSA) project review requirements of Section 1424(e) of the 1974 Safe Drinking Water Act (SDWA) PL 93-523.

The MOU establishes a formal agreement of each agency's responsibilities and the procedures to be followed in evaluating the potential groundwater impact of projects/activities submitted for HUD Federal financial assistance which are located within the project review area of a designated SSA in Region II.

Under Section 1424(e), an aquifer may be designated by EPA as a SSA if it is determined that the aquifer is the sole or principal source of drinking water for an area and, if contaminated, would create a significant hazard to public health. Following designation, no commitment of Federal financial assistance may be entered into for any project/activity within the SSA project review area which the EPA Administrator determines may contaminate the aquifer so as to create a significant hazard to public health.

The overall goal is to ensure that each project/activity receiving Federal financial assistance in a SSA project review area is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health.

GEOGRAPHIC AREAS AFFECTED

This MOU applies to HUD Federal financially assisted projects/activities in the project review area of all current and future designated SSAs in Region II.

-2-

Attachment 1, Designated SSAs in Region II, lists the designated SSA areas within the states of New York and New Jersey in EPA, Region II; the date of designation; and the Federal Register Notice citation. Attachment 1 also provides a map of the SSA project review area boundary for each of the designated aquifers. When any other SSAs are designated in Region II, EPA will notify HUD in writing.

DEFINITIONS

Significant Hazard to Public Health:

A level of contaminant which causes or may cause the aquifer to:

- (a) Exceed any (1) maximum contaminant level set forth in any promulgated National Primary Drinking Water Standard; (2) state standard where more stringent than the Federal standard; (3) public health advisory level for currently unregulated contaminants; at any point where the water may be used for drinking purposes, or
- (b) May otherwise adversely affect the health of persons, or
- (c) May require a public water system to install additional treatment to prevent such adverse effect.

Federal Financial Assistance:

Financial benefits provided directly as aid to a project by a department, agency, or instrumentality of the federal government in any form including contracts, grants and loan guarantees. Actions or projects carried out by the federal government itself do not involve federal financial assistance.

Actions performed for the federal government by contractors should be distinguished from contracts entered into specifically for the purpose of providing financial assistance, and will not be considered programs or actions receiving Federal financial assistance.

Federal financial assistance is limited to benefits earmarked for a specific project or action and directly awarded to the project or action. Indirect assistance, e.g., in the form of a loan to a developer by a lending institution which in turn receives federal assistance not specifically related to the project in question is not federal financial assistance under Section 1424(e).

-3-

SSA Project Review Areas

The area within which federal financially assisted projects/activities will be reviewed, which includes the designated area and may include all or a portion of the streamflow source area(s). The designated area can include the area above the aquifer, the area which recharges the aquifer (possibly including all or a portion of the streamflow source area) and the area where the population served by the aquifer resides. Streamflow source zone is defined as the upstream headwaters area of losing streams (streams contributing to recharge to Ground Water) that drain into the recharge area. The extent of the SSA project review area is outlined in the Federal Register designation notice for that SSA. Attachment 1 lists the Federal Register Notice citation and provides a map of the SSA project review area.

MOU ATTACHMENTS

- Attachment 1: Designated SSAs in Region II
- Attachment 2: A. Non-Housing Initial Screen Criteria
B. Housing Initial Screen Criteria
- Attachment 3: SSA Preliminary Review Information Requirements
- Attachment 4: Hazardous Constituents

ENVIRONMENTAL REVIEW RESPONSIBILITY

Pursuant to Section 1424(e) of the SDWA, EPA is responsible for designating SSAs and reviewing federal financially assisted projects/activities within SSA project review areas.

Pursuant to the National Environmental Policy Act (NEPA) and other provisions of law, HUD is responsible for environmental review and decision making except in those cases delegated by law such as with Community Development Block Grant Program (CPD). Environmental responsibility includes compliance with Section 1424(e) of the SDWA.

EIS EARLY NOTIFICATION/SCOPING

If an Environmental Impact Statement (EIS) is prepared for a project/activity in a SSA project review area, HUD or its grant recipients that assume by law environmental responsibilities and EPA shall coordinate at the earliest possible time so that the draft EIS contains EPA's SSA review determination. This is to ensure that any possible groundwater contamination has been considered.

-4-

This early notification will serve to initiate consultations with the developer to determine the scope of study that may be necessary if any formal groundwater quality assessment is required.

REVIEW PROCESS:

COMMUNITY PLANNING AND DEVELOPMENT (CPD) and HOUSING PROGRAM

The general procedures to be followed by HUD; its delegated agencies and EPA in reviewing HUD federal financially assisted activities and determining their potential impact on the SSA are outlined below. The overall goal is to ensure that each project/activity receiving federal financial assistance is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health. Two levels of potential review are: (1) Initial Screen/Preliminary Review, and (2) Formal Section 1424(e) Review.

I. Excluded Projects/Activities

EPA and HUD mutually agree that the following list of project/activity categories would not create a significant hazard to public health:

- Construction of individual new residential structures containing from one to four units
- Funding of planning grants
- Rehabilitation of residential units
- Funding of all other grants for non-construction projects/activities
- Projects identified as exempt in 24 CFR 58.34

These categories of projects/activities are therefore excluded from the Initial Screen/Preliminary Review requirements as outlined in Sections II and III below. Potential CPD recipients; states; other delegated agencies and HUD are responsible for making this determination for their respective programs. EPA may request information on these projects/activities and conduct a review if EPA determines it to be necessary.

II. CPD Applications/Final Statements

A. Initial Screen/Preliminary Review

-5-

HUD shall notify all potential CPD recipients, including states that are administering HUD programs (Non-Entitlement Small Cities Program, etc.) and other delegated agencies with jurisdiction in SSA project review areas of the SSA review requirements under Section 1424(e) and of their responsibility as outlined in this MOU.

Potential CPD recipients shall conduct an initial screen of CPD projects/activities proposed for HUD federal financial assistance prior to submission of an application or final statement to HUD. Attachment 2.A, Non-Housing Initial Screen Criteria, shall be used for CPD projects/activities that do not involve housing; and Attachment 2.B, Housing Initial Screen Criteria, for CPD projects/activities involving housing only.

EPA shall be notified of any projects/activities which result in a positive response to one of the criteria questions in Attachment 2. Where a project/activity meets one of the criteria in Attachment 2, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with applicable project/final statement information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the potential CPD recipient and HUD. The potential CPD recipient shall be responsible for submitting to EPA any additional information requested in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance, or proceed to a Formal Section 1424(e) Review. The project/activity may be cleared as is, or with modifications.

B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the project's final statement, Attachment 2 and Attachment 3, EPA will notify the potential CPD recipient and HUD of one or more of the following:

- the project/activity has received SSA review clearance
- the project/activity requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project, is required
- the project/activity raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Review is required

-6-

If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

HUD shall not authorize a release of funds until all outstanding issues with regard to the subject project/activity have been resolved.

C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify the potential CPD recipient and HUD of this decision. If additional information is required, the potential CPD recipient shall be responsible for submitting the requested information to EPA in a timely manner. EPA may also schedule a public hearing to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project/activity, request more information, suggest modifications or disapprove the project/activity.

III. Housing Program Applications

A. Initial Screen/Preliminary Review

HUD shall notify all of its field offices of the SSA review requirements under Section 1424(e) and of their responsibilities as outlined in this MOU.

HUD shall conduct an initial screen of housing projects proposed for HUD Federal financial assistance. Attachment 2.B, Housing Initial Screen Criteria, shall be used for this review. EPA shall be notified of any projects which result in a positive response to one of the criteria questions in Attachment 2.B. Where a project meets one of the criteria in Attachment 2.B, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with the applicable project information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the HUD field office who shall then be responsible for submitting to EPA the requested information in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance or proceed to a Formal Section 1424(e) Review. The project may be cleared in its existing form, or with modifications.

-7-

B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the pertinent environmental information from the housing application, Attachment 2 and Attachment 3, EPA will notify HUD of one or more of the following:

- the project has received SSA review clearance
- the project requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project is required
- the project raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Detailed Review is required

The project environmental clearance needed for project approval shall not be considered complete (appropriate sign-offs) until outstanding SSA issues with regard to the subject project have been satisfactorily resolved.

If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify HUD of this decision. If additional information is required, HUD shall be responsible for submitting the requested information to EPA in a timely manner. A public hearing may be held to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project, request more information, suggest modifications or disapprove the project.

D. Local Area Certification For Housing Environmental Review

If the community is wholly or partially within a SSA project review area boundary, the local certified agency shall have the same responsibility as HUD in meeting the SSA review requirements as outlined in Section 1424(e) and this MOU.

GENERAL PROCEDURAL MATTERS

Materials submitted to IPA by HUD or the applicant will be addressed to the attention of:

Chief, Environmental Impacts Branch
U.S. EPA Region II
26 Federal Plaza, Room 500
New York, New York 10278

The following representatives will serve as liaisons for HUD and EPA respectively. The liaisons will maintain communication as needed regarding projects/activities affecting the SSAs and this MOU.

HUD: Regional Office Environmental Officer
(212) 264-0793

EPA: Chief, Environmental Impacts Branch
(212) 264-1840

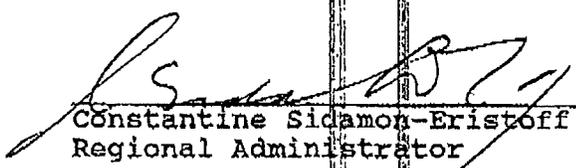
This MOU is subject to revision upon agreement by both parties.

U.S. Department of Housing and
Urban Development



A. M. Villane, Jr., DDS
Regional Administrator/
Regional Housing Commissioner

U.S. Environmental Protection
Agency



Constantine Sidamon-Eristoff
Regional Administrator

AUG 24 1990

Date: _____

Date: 8/10/90

ATTACHMENT 2.A

NON-HOUSING PROJECT/ACTIVITY INITIAL SCREEN CRITERIA
(For projects in a designated Sole Source Aquifer area)

The following list of criteria questions are to be used as an initial screen to determine which non-housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For housing projects/activities see Attachment 2.B) If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and any other pertinent information should then be forwarded to EPA at the address below.

Any project/activity not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch
USEPA Region II
26 Federal Plaza, Room 500
New York, New York 10278
(212) 261-1840

CRITERIA QUESTIONS

1. Is the project/activity located within a currently designated or proposed groundwater sensitive area such as a special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]

2. Is the project/activity located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]

YES NO N/A

- 3. Will the project/activity include or directly cause: (check appropriate items)
 - construction or expansion of solid waste disposal, recycling or conversion facilities
 - construction or expansion or closure of landfills
 - construction or expansion of water supply facilities (i.e., treatment plant, pump house, etc.)
 - construction or expansion of on-site wastewater treatment plants or sewage trunk lines, greater than 1/4 mile
 - construction or expansion of gas or petroleum trunk lines, greater than 1200 feet
 - construction or expansion of railroad spurs or similar extensions
 - construction or expansion of municipal sewage treatment plants

- 4. Will the project/activity include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents?

If these constituents are used during the construction phase of the project, than an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and that they will be promptly removed after construction is completed.

- 5. Will the project/activity include bulk storage of petroleum in underground or above ground tanks in excess of 1100 gallons?

- 6. Will the project/activity require a federal or state discharge elimination permit or modification of an existing permit?

This attachment was completed by:

Name: _____

Title: _____

Address: _____

Telephone number: _____

Date: _____

ATTACHMENT 2.B

HOUSING/PROJECT INITIAL SCREEN CRITERIA
(For projects in a designated Sole Source Aquifer area.)

The following list of criteria questions are to be used as an initial screen to determine which housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For non-housing projects see Attachment 2.A). If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and applicable project information than be forwarded to EPA at the address below.

Any project not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch
USEPA Region III
26 Federal Plaza, Room 500
New York, New York 10278
(212) 264-3840

CRITERIA QUESTIONS:

	YES	NO	N/A
1. Is the project located within a currently designated or proposed ground water sensitive area such as a Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]	_____	_____	_____
2. Is the project located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]	_____	_____	_____
3. Will the total impervious surfaces be greater than 75 percent?	_____	_____	_____
4. Is the proposed project site greater than 30 acres?	_____	_____	_____
5. Will the proposed density of the project be greater than 150 units per acre ?	_____	_____	_____

- 6. Will the project include or directly cause:
(check appropriate items)
 - construction or expansion of water supply facilities (i.e., treatment plant, pumphouse, etc.)
 - construction or expansion of on-site wastewater treatment plants
 - construction or expansion of sewage trunk lines greater than 1320 feet in length
 - construction or expansion of gas or petroleum trunk lines greater than 1320 feet

- 7. Will the project include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents? If these constituents are used during the construction phase of the project, an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and they will be promptly removed after construction is completed.

- 8. Will the project include bulk storage of petroleum in underground or above ground tanks in excess of 10,000 gallons or permit verification?

- 9. Will the project require a federal or state pollutant discharge elimination permit or modification of an existing permit?

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

This attachment was completed by:

Name: _____

Title: _____

Address: _____

Telephone number: _____

Date: _____

ATTACHMENT 3

SSA PRELIMINARY REVIEW INFORMATION REQUIREMENTS

Where currently available, the information in this Attachment should be provided to the Environmental Protection Agency (see address below) along with the application/final statement; Attachment 2.A, Non-Housing Initial Screen Criteria or Attachment 2.B, Housing Initial Screen Criteria; and any other information which may be pertinent to a Sole Source Aquifer review. Where applicable, indicate the source of your information.

Chief, Environmental Impacts Branch
 USEPA Region II
 26 Federal Plaza, Room 500
 New York, New York 10278
 (212) 264-1840

ENCLOSED
 YES NO

I. Project/Activity Location

1. Provide the geographic location and total acreage of the project/activity site. Include a site location map which identifies the site in relation to the surrounding area. [Examples of maps which can be used include: 1:24,000 or 1:25,000 U.S. Geological Survey quadrangle sheet, Hagstroms Street Map.]
2. If applicable, identify which groundwater sensitive areas (Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.) the project/activity is located within or adjacent to. [This information may be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]

II. Nature of Project/Activity

3. Provide a general narrative describing the project/activity including but not limited to: type of facility; type of activities to be conducted; number and type of units; number of residents etc. Provide the general layout of the project/activity site and a site-plan if available.

III. Public Water Supply

- 4. Provide a description of plans to provide water supply.
- 5. Provide the location of nearby existing or proposed public water supply wells or wellfields within a one half mile radius (2640 feet) of the project/activity. Provide the name of the supplier(s) of those wells or wellfields. This information should be available from the local health department, State health department or the State environmental agency. If private wells are to be used, then information necessary to obtain a well drilling permit should be provided.

V. Wastewater and Sewage Disposal

- 6. Provide a description of plans to handle wastewater and sewage disposal. If the project/activity is to be served by existing public sanitary sewers provide the name of the sewer district.
- 7. Provide a description of plans to handle storm water runoff.
- 8. Identify the location, design, size of any on-site recharge basins, dry wells, leaching fields, retention ponds etc.

VI. Use, Storage, Transport of Hazardous or Toxic Materials (Applies only to non-housing projects/activities)

- 9. Identify any products listed in Attachment 3, Hazardous Constituents, of the Housing and Urban Development-Environmental Protection Agency Memorandum of Understanding which may be used, stored, transported, or released as a result of the construction activity.
- 10. Identify the number and capacity of underground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.
- 11. Identify the number and capacity of above ground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.

Appendix J:
USFWS Natural Resources of Concern



U.S. Fish and Wildlife Service

Natural Resources of Concern

This resource list is to be used for planning purposes only — it is not an official species list.

Endangered Species Act species list information for your project is available online and listed below for the following FWS Field Offices:

Long Island Ecological Services Field Office
340 SMITH ROAD
SHIRLEY, NY 11967
(631) 286-0485

Project Name:

NY Rising Housing Recovery Program 5+ Unit Residential Properties in Nassau County, NY

Project Counties:

Nassau, NY

Project Type:

** Other **

Endangered Species Act Species List ([USFWS Endangered Species Program](#)).

There are a total of 6 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fishes may appear on the species list because a project could cause downstream effects on the species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section below for critical habitat that lies within your project area. Please contact the designated FWS office if you have questions.

Species that should be considered in an effects analysis for your project:

Birds	Status		Has Critical Habitat	Contact
-------	--------	--	----------------------	---------



Natural Resources of Concern

Piping Plover (<i>Charadrius melodus</i>) Population: except Great Lakes watershed	Threatened	species info	Final designated critical habitat Final designated critical habitat	Long Island Ecological Services Field Office
Red Knot (<i>Calidris canutus rufa</i>)	Proposed Threatened	species info		Long Island Ecological Services Field Office
Roseate tern (<i>Sterna dougallii dougallii</i>) Population: northeast U.S. nesting pop.	Endangered	species info		Long Island Ecological Services Field Office
Flowering Plants				
Sandplain gerardia (<i>Agalinis acuta</i>)	Endangered	species info		Long Island Ecological Services Field Office
Seabeach amaranth (<i>Amaranthus pumilus</i>)	Threatened	species info		Long Island Ecological Services Field Office
Mammals				
northern long-eared Bat (<i>Myotis septentrionalis</i>) Population:	Proposed Endangered	species info		Long Island Ecological Services Field Office

Critical habitats within your project area:

There are no critical habitats within your project area.

FWS National Wildlife Refuges ([***USFWS National Wildlife Refuges Program***](#)).

There are 3 refuges in your refuge list



Natural Resources of Concern

Oyster Bay National Wildlife Refuge (631) 286-0485 C/O LONG ISLAND NWR COMPLEX 340 SMITH ROAD SHIRLEY, NY11967	refuge profile
Lido Beach Wildlife Management Area (631) 286-0485 C/O LONG ISLAND NWR COMPLEX 340 SMITH ROAD SHIRLEY, NY11967	refuge profile
Target Rock National Wildlife Refuge (631) 286-0485 C/O LONG ISLAND NWR COMPLEX 340 SMITH ROAD SHIRLEY, NY11967	refuge profile

FWS Migratory Birds ([USFWS Migratory Bird Program](#)).

Most species of birds, including eagles and other raptors, are protected under the Migratory Bird Treaty Act (16 U.S.C. 703). Bald eagles and golden eagles receive additional protection under the [Bald and Golden Eagle Protection Act](#) (16 U.S.C. 668). The Service's [Birds of Conservation Concern \(2008\)](#) report identifies species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become listed under the Endangered Species Act as amended (16 U.S.C 1531 et seq.).

Migratory bird information is not available for your project location.

NWI Wetlands ([USFWS National Wetlands Inventory](#)).

The U.S. Fish and Wildlife Service is the principal Federal agency that provides information on the extent and status of wetlands in the U.S., via the National Wetlands Inventory Program (NWI). In addition to impacts to wetlands within your immediate project area, wetlands outside of your project area may need to be considered in any evaluation of project impacts, due to the hydrologic nature of wetlands (for example, project activities may affect local hydrology within, and outside of, your immediate project area). It may be helpful to refer to the USFWS National Wetland Inventory website. The designated FWS office can also assist you. Impacts to wetlands and other aquatic habitats from your project may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal Statutes. Project Proponents should discuss the relationship of these



U.S. Fish and Wildlife Service

Natural Resources of Concern

requirements to their project with the Regulatory Program of the appropriate [U.S. Army Corps of Engineers District](#).

IPaC is unable to display wetland information at this time.

Appendix K:
Farmland Protection Checklist

Farmland Protection

Checklist for HUD or Responsible Entity

General requirements	Legislation	Regulation
The Farmland Protection Policy Act discourages Federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658

1. Does your project include new construction, acquisition of undeveloped land or change in use of land or property?

Yes: PROCEED to #2

No: STOP here. The Farmland Protection Policy Act does not apply. Record your determination

2. Does your project meet one of the following exemptions?

- Construction limited to on-farm structures needed for farm operations.
- Construction limited to new minor secondary (accessory) structures such as a garage or storage shed
- Project on land used for water storage or already in or committed urban development (this includes land with a density of 30 structures per 40 acre area. It also includes lands identified as “urbanized area” (UA) on the Census Bureau Map, or as urban area mapped with a “tint overprint” on the USGS topographical maps, or as “urban built-up” on the USDA Important Farmland Maps. Please note that land “zoned” for development, i.e. non-agricultural use, does not exempt a project from compliance with the FPPA).

Yes: STOP here. The Farmland Protection Policy Act does not apply. Record your determination

No: PROCEED to #3

3. Does “important farmland” regulated under the Farmland Protection Policy Act occur on the project site? This includes prime farmland, unique farmland and/or land of statewide or local importance

You may use the links below to determine if important farmland occurs on the project site:

- Utilize USDA Natural Resources Conservation Service’s (NRCS) Web Soil Survey <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

- Check with your city or county’s planning department and ask them to document if the project is on land regulated by the FPPA (zoning important farmland as non-agricultural does not exempt it from FPPA requirements)
- Contact NRCS at the local USDA service center <http://offices.sc.egov.usda.gov/locator/app?agency=nrcs> or your NRCS state soil scientist http://soils.usda.gov/contact/state_offices/ for assistance

No: STOP here. The project does not convert farmland to nonagricultural purposes. Record your determination on the Statutory Worksheet and attach documentation used to make your determination

Yes: PROCEED to #4

4. Consider alternatives to completing the project on important farmland and means of avoiding impacts to important farmland.

Complete form AD-1006, “Farmland Conversion Impact

Rating” http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf and contact the state soil scientist before sending it to the local NRCS District Conservationist. Work with NRCS to minimize the impact of the project on the protected farmland.

Return a copy of Form 1006 to the USDA-NRCS State Soil Scientist or his/her designee informing them of your determination once you have finished the analysis.



DISCLAIMER: This document is intended as a tool to help Region X HUD grantees and HUD staff complete environmental requirements. This document is subject to change. This is not a policy statement, and the Farmland Protection Legislation and Regulations take precedence over any information found in this document.

Appendix L:
**NYSDEC Air Quality Consultation and
Conformity with State Implementation Plans**

Memo to the File:

Requests for programmatic consultation regarding air quality were sent to the NYS Department of Environmental Conservation (NYSDEC) on August 6, 2013 and August 29, 2013. No response has been received.



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

August 29, 2013

HOUSING
TRUST FUND
CORPORATION

STATE OF
NEW YORK MORTGAGE
AGENCY

NEW YORK STATE
HOUSING FINANCE
AGENCY

NEW YORK STATE
AFFORDABLE HOUSING
CORPORATION

STATE OF
NEW YORK MUNICIPAL
BOND BANK AGENCY

TOBACCO SETTLEMENT
FINANCING
CORPORATION

Jack Nasca
Director, Division of Environmental Permits
New York Department of Environmental Conservation
625 Broadway
Albany, New York 12233-1750

Re: Program Introduction for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR): Air Quality Standards Compliance

Dear Mr. Nasca:

New York State Homes and Community Renewal (NYSHCR) has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

The purpose of this letter is to provide the New York Department of Environmental Conservation (DEC) notice of the Program and to obtain written confirmation from DEC that the proposed activities will be in compliance with Federal and New York State air quality standards.

Program Overview

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Program descriptions are included in **Attachment A**, and a brief overview is included below. A list of affected counties included in the CDBG-DR program is included in **Attachment B**. Specific Federal Actions related to the program include:

1. Rehabilitation and repair of 1-4 unit homes, 5+ unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation
2. Reimbursement (incorporated as part of the Rehabilitation program). Qualifying participants may get reimbursed for expenses associated with disaster recovery, which were incurred before the CDBG-DR program funds were ready.
3. Buy-out of storm-damaged properties. The State will buy eligible properties and will result in demolition and return to green space for perpetuity.

38-40 State Street, Albany, NY 12207

nyshcr.org

4. Acquisition of damaged properties. The State will buy eligible properties and result in demolition and options for future land use.
5. Economic Development- Eligible entities may receive funding for general economic recovery and improvement of the local economy.

NYSHCR is anticipating it will be responsible for preparing approximately 133 Environmental Review Records (ERRs), covering the various actions within the various counties.

Compliance

Because of the large extent of the Program, it is appropriate to coordinate with DEC, so NYSHCR, as the Responsible Entity (RE), can accurately document compliance.

NYSHCR anticipates the actions of the Program will conform to the State Implementation Plan because they are not anticipated to:

1. Cause or contribute to a new violation of any existing standard in any area
2. Increase the frequency or severity of any existing violation of any standard in any area, or
3. Delay timely attainment of any standard or any required interim emission reduction or other milestones in any area.

Mitigation measures such as dust suppression, covering haul loads, street sweeping, vehicle idling reduction, and spill mitigation measures, among others, are examples of Best Management Practices that may be implemented during the Program actions. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions.

NYSHCR is requesting a program comprehensive response letter from DEC, covering all actions, that can be included in all Tier 1 ERRs to document that coordination with DEC is being completed, and that compliance with Federal and State air quality standards will be met.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org. Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

cc. Robin Keegan, NYSHCR
Chris Leo, NYSHCR

Attachment A - Program Descriptions
Attachment B- List of Affected Counties Included in the CDBG-DR Program

Attachment A- Program Descriptions

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Buyout/Acquisition

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

Voluntary Buyouts and Acquisitions of One- and Two-unit Homes

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

Enhanced Buyout Areas

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

Program Activities

Summarized in the sections below are the physical program activities:

Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

Rehabilitation 1-4 Units and 5+ Units

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

Economic Development Program Description

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

Small Business Grant Program

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

Small Business Loan Program

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

Coastal Fishing Industry Program

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

Seasonal Tourism Industry Program

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.

Attachment B- List of Affected Counties

County	Impacted by:			Potential Programs					Total	total	Overall
	Irene	Lee	Sandy	BO/Acq	Rehab 1 - 4	Rehab 5+	Economic	Reimburse	Documents	started	total
Albany	x				x	x	x	x	4	0	4
Bronx	x		x	x					1	0	1
Broome		x			x	x	x	x	4	0	4
Chemung		x			x	x	x	x	4	0	4
Chenango		x			x	x	x	x	4	0	4
Clinton	x				x	x	x	x	4	0	4
Columbia	x				x	x	x	x	4	0	4
Delaware	x	x			x	x	x	x	4	0	4
Dutchess	x				x	x	x	x	4	0	4
Essex	x				x	x	x	x	4	0	4
Greene	x				x	x	x	x	4	0	4
Fulton		x			x	x	x	x	4	0	4
Herkimer	x	x			x	x	x	x	4	0	4
Kings	x		x	x					1	0	1
Montgomery	x				x	x	x	x	4	0	4
Nassau	x		x	X	X	x	X	x	5	3	2
New York			x	x					1	0	1
Oneida		x			x	x	x	x	4	0	4
Orange	x	x	x	x	x	x	x	x	5	0	5
Otsego	x	x			x	x	x	x	4	0	4
Putnam	x		x	x	x	x	x	x	5	0	5
Queens	x		x	x					1	0	1
Rensselaer	x				x	x	x	x	4	0	4
Richmond	x		x	x					1	0	1
Rockland	x		x	x	X	x	X	x	5	3	2
Saratoga	x				x	x	x	x	4	0	4
Schenectady	x	x			x	x	x	x	4	0	4
Schoharie	x	x			x	x	x	x	4	0	4
Suffolk	x		x	X	X	x	X	x	5	3	2
Sullivan	x		x	x	x	x	x	x	5	0	5
Tioga		x			x	x	x	x	4	0	4
Ulster	x	x	x	x	x	x	x	x	5	0	5
Warren	x				x	x	x	x	4	0	4
Washington	x				x	x	x	x	4	0	4
Westchester	x		x	x	x	x	X	x	5	1	4
TOTALS									133	10	123

August 6, 2013

ProSource Technologies, LLC
9219 East River Road NW
Minneapolis, MN 55433
Phone 763-786-1445
Fax 763-786-1030

Mr. Steven Yarrington
New York Department of Environmental Conservation
Division of Air Resources
625 Broadway
Albany, New York 12233

RE: Re: Project Introduction and Request for Confirmation of Compliance with Air Quality Standards for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR) – Nassau County, Suffolk County, and Rockland County 1-4 Unit Residential Rehabilitation

Dear Mr. Yarrington:

New York State Homes and Community Renewal (NYSHCR) has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

The purpose of this letter is to provide the New York Department of Environmental Conservation (DEC) notice of the Program and to obtain written approval from DEC that the proposed activities will be in compliance with air quality standards.

Program Overview

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Specific Federal Actions related to the program include:

- 1.Rehabilitation and repair of 1-4 unit homes, 5-9 unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
- 2.Buy-out of storm-damaged properties (result in demolition and return to green space for perpetuity)
- 3.Acquisition of damaged properties (result in demolition and options for future land use).

The current priority and focus of this immediate review request, is 1-4 unit homes rehabilitation in Nassau, Suffolk, and Rockland Counties.

Minneapolis, MN
Cedar Rapids, IA
Grand Rapids, MN
Staten Island, NY

Nassau, Suffolk, and Rockland Counties

Presently, NYSHCR is preparing the NEPA Programmatic Environmental Assessments (PEA) for reconstruction and rehabilitation of 1-4 unit homes in Nassau, Suffolk, and Rockland Counties. The 1-4 unit action will cover participating homeowners at various locations within the boundaries of Nassau, Suffolk, and Rockland Counties. The Program activities will restore storm-damaged homes, including elevation and/or other mitigation activities within the original footprint of the structure (s). No new construction or housing developments will occur as a result of the rehabilitation of 1-4 unit homes.

These actions (1-4 unit rehabilitations) are anticipated to conform to the State Implementation Plan because they are not anticipated to:

1. Cause or contribute to a new violation of any existing standard in any are
2. Increase the frequency or severity of any existing violation of any standard in any area, or
3. Delay timely attainment of any standard or any required interim emission reduction or other milestones in any area.

Mitigation measures such as dust suppression, covering haul loads, street sweeping, vehicle idling reduction, and spill mitigation measures, among others, are examples of Best Management Practices that may be implemented during rehabilitation actions. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions.

Request for Review and Approval

As mentioned via the phone conversation today, we are in important need of written confirmation from the DEC office today, that the proposed 1-4 residential rehabilitation action, as described in the attached letter and the *NY Action Plan*, will be in compliance with air quality standards.

If you have question or require additional information regarding this request, please contact me at (763) 786-1445 or swilliams@prosourcectech.com.

Sincerely,

ProSource Technologies, LLC



Shawn Williams, Permitting Specialist

Air Quality—Conformity with State Implementation Plans

The conformity requirements of the Clean Air Act (CAA) and regulations promulgated thereunder (conformity requirements) limit the ability of federal agencies to assist, fund, permit, and approve projects in non-attainment areas that do not conform to the applicable State Implementation Plan (SIP). When subject to this regulation, the lead agency is responsible for demonstrating conformity for its proposed action. Conformity determinations for federal actions other than those related to transportation plans, programs, and projects that are developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must be made according to the requirements of 40 CFR 93, Subpart B (federal general conformity regulations).

The general conformity regulations apply to those federal actions in non-attainment or maintenance areas where the action’s direct and indirect emissions have the potential to emit one or more of the six criteria pollutants at rates equal to or exceeding the prescribed rates.

General conformity de minimis threshold levels for the non-attainment and maintenance areas relevant to the proposed action are presented in **Table 1**.

Table 1
General Conformity Threshold Levels

Non-Attainment Area and Pollutants	Threshold (tons/year)
Ozone (other non-attainment areas inside an ozone transport region):	
VOC	50
NO _x	100
CO (maintenance areas):	
Direct emissions	100
PM _{2.5} (maintenance areas):	
Direct emissions	100
SO ₂	100
Source: 40 CFR § 93.153(b)	
Notes: NO _x and VOCs also limited at 100 tpy in PM _{2.5} maintenance areas, but ozone requirements are stricter.	

The general conformity requirements do not apply to federal actions that:

- Do not satisfy either one of the above conditions (where the action’s direct and indirect emissions have the potential to emit one or more of the six criteria pollutants at rates equal to or exceeding the threshold levels above within a non-attainment or maintenance area);
- Occur in an attainment area;
- Are related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601); or
- Qualify for exemptions established at 40 CFR Part 93.153.

NY Rising Housing Recovery Program

The regulation assumes that a proposed federal action whose criteria pollutant emissions have already been included in the local SIP's attainment or maintenance demonstrations conforms to the SIP.

The proposed action's effect on emissions within the relevant nonattainment areas and applicability of the conformity regulations for operational emissions has been evaluated. As a conservative estimate, the calculation below assumes that the emissions intensity per expenditure (tons per dollar) for the proposed action would be similar to the average intensity of the construction sector in the county. This is a conservative assumption because the county-wide intensity includes emissions from infrastructure and larger construction projects. Such projects typically involve more extensive use of heavier equipment, intensive excavation/foundation work, and/or other high emitting activities such as large paving works. In contrast, the proposed action would involve only the repair, rehabilitation, replacement, storm mitigation, and reimbursement for completed repairs for residential properties with 5 or more units, which would be less intensive. Given the very low emissions as compared to the thresholds, this level of analysis is sufficient to demonstrate that emissions would be de minimis.

Nassau County-wide construction expenditure in 2007 was \$9.075 billion.¹ The total funding under the proposed action for construction is expected to be \$40 million, representing approximately 0.44% of the 2007 county-wide construction expenditure. Projected emission for the proposed action, assuming the proposed action represents a similar portion of the county-wide construction emissions, are presented in **Table 2**.

Table 2
Construction Emissions (tons per year)

Pollutant	County-Wide ¹	Proposed Action ²	de minimis
VOC	131.2	0.6	50
NOx	893.0	3.9	100
CO	956.5	4.2	100
PM _{2.5}	78.9	0.3	100
SO ₂	68.4	0.3	100

Sources:
1. NYSDEC. 2007 SIP. Files provided by NYSDEC to AKRF.
2. Estimated assuming 0.44% of county-wide emissions.

Note that this analysis does not determine that the projected emissions would actually increase emissions as compared to what was assumed in the SIP (since SIP emissions assume growth in the construction sector, but do not specify specific projects, and therefore the proposed action's emissions may not actually be considered incremental). Regardless of the incremental emissions question, the analysis demonstrates that the emissions would be less than the general conformity thresholds described above. Therefore, the proposed action's emissions would be de minimis and would not require a conformity analysis or determination. *

¹ U.S. Census. *Statistics for All U.S. Firms by Industry, Gender, Ethnicity, and Race for the U.S., States, Metro Areas, Counties, and Places: 2007*, SB0700CSA01, 2007 Survey of Business Owners.

Appendix M:
NYSDOS Coastal Consistency Consultation
and NYS Coastal Assessment Form



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

October 18, 2013

Ms. Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

**Re: U.S. Department of Housing and Urban Development
Community Development Block Grant - Disaster Recovery
(CDBG-DR) Housing Assistance Program, administered by
New York State Homes and Community Renewal (NYSHCR)**

General Concurrence with Program; No Objection to Funding

Dear Ms. Spitzberg:

The Department of State received your letter request (dated August 29, 2013) for our agency's review and comprehensive program response. This submission included the program overview, descriptions of program components and objectives, current updates, and reference to additional supporting materials.

The Department of State has determined that this program is generally consistent with the policies and purposes of the New York State Coastal Management Program (NYSCMP). We anticipate that any substantial modifications or additions to the CDBG-DR program will be further coordinated on an ongoing basis with the Department of State.

This General Concurrence is without prejudice to and does not obviate the need to obtain all other applicable licenses, permits, and other forms of authorization or approval that may be required pursuant to existing State statutes.

When communicating with us regarding this matter, please contact me at (518) 474-6000.

Sincerely,

Jeff Zappieri
Manager of Consistency Review
Office of Planning & Development

JZ/ts

*cc: Robin Keegan, NYSHCR
Chris Leo, NYSHCR*



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

August 29, 2013

HOUSING
TRUST FUND
CORPORATION

STATE OF
NEW YORK MORTGAGE
AGENCY

NEW YORK STATE
HOUSING FINANCE
AGENCY

NEW YORK STATE
AFFORDABLE HOUSING
CORPORATION

STATE OF
NEW YORK MUNICIPAL
BOND BANK AGENCY

TOBACCO SETTLEMENT
FINANCING
CORPORATION

Jeffrey Zappieri
Supervisor, Consistency Review Unit
Division of Coastal Resources
State of New York
Department of State
One Commerce Plaza
99 Washington Avenue
Albany, New York 12231-0001

Re: Program Update/Introduction of all Programs, and Request for General Consistency Concurrence for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR)

Dear Mr. Zappieri:

On June 26, 2013, New York State Homes and Community Renewal (NYSHCR) submitted a letter (via email) to the State of New York Department of State (DOS) requesting concurrence that the proposed activities for the 1-4 unit rehabilitation action are covered by the DOS general consistency concurrence criteria. On July 3, DOS provided a response letter (project # F-2013-0533 FA) stating that the proposed activities in the June 26 letter meet the general consistency concurrence criteria, and the DOS has no objection to funding.

As you may recall, NYSHCR has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Recently, NYSHCR has been directed to proceed with completing all Environmental Review Records (ERRs) for the entire Program. Therefore, the purpose of this letter is to provide DOS notice of the Program actions updates and to obtain written confirmation from DOS that the proposed activities will be in compliance with general consistency concurrence criteria. Actions in the Program that were not described in the June 26 letter include Rehabilitation, Buy out, Acquisition, and Economic Development, as described below.

Program Overview

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Program descriptions are included in **Attachment A**, and a brief overview is included below. A list of affected counties included in the CDBG-DR program is included in **Attachment B**. Specific Federal Actions related to the program include:

1. Rehabilitation and repair of 1-4 unit homes, 5+ unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Reimbursement (incorporated as part of the Rehabilitation program). Qualifying participants may get reimbursed for expenses associated with disaster recovery, which were incurred before the CDBG-DR program funds were ready.
3. Buy-out of storm-damaged properties. The State will buy eligible properties and will result in demolition and return to green space for perpetuity.
4. Acquisition of damaged properties. The State will buy eligible properties and result in demolition and options for future land use.
5. Economic Development- Eligible entities may receive funding for general economic recovery and improvement of the local economy.

Compliance

NYSHCR is anticipating it will be responsible for preparing approximately 133 Environmental Review Records (ERRs), covering the various actions within the various counties. Because of the large extent of the Program, it is appropriate to coordinate with DOS, so NYSHCR, as the Responsible Entity (RE), can accurately document compliance.

NYSHCR is requesting a program comprehensive response letter from DOS, covering all actions (in addition to the July 3 letter), that can be included in all Tier 1 ERRs to document that coordination with DOS is being completed, and general consistency concurrence criteria will be met. The prior correspondence between NYSHCR and DOS is included in **Attachment C** for reference.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org. Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

cc. Robin Keegan, NYSHCR
Chris Leo, NYSHCR

Attachment A - Program Descriptions
Attachment B- List of Affected Counties Included in the CDBG-DR Program
Attachment C- Prior Correspondence

Attachment A- Program Descriptions

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Buyout/Acquisition

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

Voluntary Buyouts and Acquisitions of One- and Two-unit Homes

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

Enhanced Buyout Areas

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

Program Activities

Summarized in the sections below are the physical program activities:

Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

Rehabilitation 1-4 Units and 5+ Units

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

Economic Development Program Description

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

Small Business Grant Program

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

Small Business Loan Program

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

Coastal Fishing Industry Program

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

Seasonal Tourism Industry Program

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.

Attachment B- List of Affected Counties

County	Impacted by:			Potential Programs					Total	total	Overall
	Irene	Lee	Sandy	BO/Acq	Rehab 1 - 4	Rehab 5+	Economic	Reimburse	Documents	started	total
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Chenango		x			x	x	x	x	4	0	4
Clinton	x				x	x	x	x	4	0	4
Columbia	x				x	x	x	x	4	0	4
Delaware	x	x			x	x	x	x	4	0	4
Dutchess	x				x	x	x	x	4	0	4
Essex	x				x	x	x	x	4	0	4
Greene	x				x	x	x	x	4	0	4
Fulton		x			x	x	x	x	4	0	4
Herkimer	x	x			x	x	x	x	4	0	4
Kings	x		x	x					1	0	1
Montgomery	x				x	x	x	x	4	0	4
Nassau	x		x	X	X	x	X	x	5	3	2
New York			x	x					1	0	1
Oneida		x			x	x	x	x	4	0	4
Orange	x	x	x	x	x	x	x	x	5	0	5
Otsego	x	x			x	x	x	x	4	0	4
Putnam	x		x	x	x	x	x	x	5	0	5
Queens	x		x	x					1	0	1
Rensselaer	x				x	x	x	x	4	0	4
Richmond	x		x	x					1	0	1
Rockland	x		x	x	X	x	X	x	5	3	2
Saratoga	x				x	x	x	x	4	0	4
Schenectady	x	x			x	x	x	x	4	0	4
Schoharie	x	x			x	x	x	x	4	0	4
Suffolk	x		x	X	X	x	X	x	5	3	2
Sullivan	x		x	x	x	x	x	x	5	0	5
Tioga		x			x	x	x	x	4	0	4
Ulster	x	x	x	x	x	x	x	x	5	0	5
Warren	x				x	x	x	x	4	0	4
Washington	x				x	x	x	x	4	0	4
Westchester	x		x	x	x	x	X	x	5	1	4
TOTALS									133	10	123

Heather Spitzberg

From: Heather Spitzberg
Sent: Friday, April 26, 2013 12:43 PM
To: jeffrey.zappieri@dos.ny.gov; denise.caldwell@dos.ny.gov
Subject: Consistency Determinations For Disaster Recovery Projects

Hi,

I'm an Environmental Analyst with NYS HCR. I believe that I've worked with both of you in the past.

HCR's Office of Community Renewal (OCR) is going to be administering millions of dollars to rehabilitate homes that have been damaged by Hurricanes Sandy, Lee & Irene. It is CDBG-DR (Disaster Recovery) funding from HUD and will be directly administered by OCR through local non-profits and municipalities. The potential project descriptions are below. We anticipate that most of the properties will be in a Coastal Zone.

Specific sites have not yet been chosen. We are currently drafting our NEPA review, which will be a Programmatic Review, with preparation of individual site specific checklists as sites are chosen.

As this will be entirely rehabilitation of existing structures in their existing footprints, do we need to undertake a Federal Consistency Review for each project, or can we do this on the Programmatic level? If we can do a Programmatic response from DOS, what do you need from OCR? If we need to submit individual consistency reviews, can we discuss how to expedite that process with your office?

If you think we need to discuss further by phone, please let me know.

Thanks so much for your help.

Heather

Program Description:

Scattered Sites

The Following NY Counties: Albany, Broome, Chemung, Clinton, Columbia, Delaware, Dutchess, Essex, Fulton, Greene, Herkimer, Montgomery, Nassau, Oneida, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster, Warren, Washington and Westchester

The New York State Homes & Community Renewal (HCR) Office of Community Renewal (OCR) intends to enter into subrecipient agreements with non-profit and municipal entities to fund activities eligible under the **Housing Assistance Program** section of the State of New York Action Plan for Community Development Block Grant Program - Disaster Recovery (CDBG-DR). The CDBG-DR was approved under the Department of Housing and Urban Development Appropriations Act of 2013 (Public Law 113-2).

A site specific environmental checklist will be completed for each individual site that is chosen to receive an award and be kept on file at the offices of each subrecipient.

The program activities include replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes (including flood-proofing and mitigation). The program activities may also include necessary utility connection replacements and repair or replacement of minor accessory/appurtenant residential structures. The following five programs will be undertaken:

1. Recreate NY Smart Home Repair and Reconstruction

- Available to owners of one- and two-unit homes located outside of New York City whether owner occupied or income generating, including Condominiums, Co-Ops and Garden Apartments.
- Will cover costs for the repair/replacement of damage to real property (including mold remediation); replacement of disaster-impacted non-luxury residential appliances; and environmental health hazard mitigation costs related to the repair or rehabilitation of disaster-impacted property.

2. Recreate NY Smart Home Resilience

- Available to owners of one- and two-unit homes located outside of New York City whether owner occupied or income generating, including: Condominiums, Co-Ops and Garden Apartments.
- Property is located within a 100-year floodplain and damaged, or property was substantially damaged (i.e., lost more than 50% of pre-storm FMV), and still needs additional rehabilitation.
- Will cover costs to mitigate future damage.

3. Small Multi-Family Repair and Reconstruction

- Available to owners of multi-unit (3-7 units) residential buildings located outside of New York City including: Rental properties, including owner-occupied rental properties, non-owner-occupied properties that may be attached, semi-attached, detached/scattered site, which in the aggregate does not exceed a total of seven (7) units.
- Will cover costs for the repair/replacement of damage to real property (including mold remediation); replacement of disaster-impacted non-luxury residential appliances; and environmental health hazard mitigation costs related to the repair or rehabilitation of disaster-impacted property.

4. Small Multi-Family Mitigation

- Available to owners of multi-unit (3-7) residential buildings located outside of New York City, including owner-occupied rental properties, as well as non-owner-occupied properties that may be attached, semi-attached, detached/scattered site, which in the aggregate do not exceed a total of seven (7) units. New York City will administer its own CDBG-DR programs directly.
- Will cover costs to mitigate future damage.

5. Large Multi-Family Mitigation

- Available to owners of multi-unit properties with eight or more units located outside of New York City including owner-occupied rental properties, as well as non-owner-occupied properties that may be attached, semi-attached, or detached/scattered site. New York City will administer its own CDBG-DR programs directly.
- Property is located within a 100-year floodplain and sustained damage as a result of the disaster.
- Will cover costs to mitigate future damage.

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NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. State agencies shall complete this CAF for proposed actions which are subject to Part 600 of Title 19 of the NYCRR. This assessment is intended to supplement other information used by a state agency in making a determination of significance pursuant to the State Environmental Quality Review Act (see 6 NYCRR, Part 617). If it is determined that a proposed action will not have a significant effect on the environment, this assessment is intended to assist a state agency in complying with the certification requirements of 19 NYCRR Section 600.4.
2. If any question in Section C on this form is answered "yes," then the proposed action may affect the achievement of the coastal policies contained in Article 42 of the Executive Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (a) making a certification of consistency pursuant to 19 NYCRR Part 600 or, (b) making the findings required under SEQR, 6 NYCRR, Section 617.11, if the action is one for which an environmental impact statement is being prepared. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.
3. Before answering the questions in Section C, the preparer of this form should review the coastal policies contained in 19 NYCRR Section 600.5. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

B. DESCRIPTION OF PROPOSED ACTION

1. Type of state agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction)
- (b) Financial assistance (e.g. grant, loan, subsidy)
- (c) Permit, license, certification

2. Describe nature and extent of action:

The NY Rising Housing Recovery Program for 5+ Unit Residential Properties is designed to provide assistance for repair, reconstruction, and implementation of resiliency and mitigation measures for residential properties with 5 or more dwelling units that were damaged or destroyed during Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee.

3. Location of action:

**Albany, Bronx, Broome, Chemung,
Chenango, Clinton, Columbia, Delaware,
Dutchess, Essex, Franklin, Fulton, Greene,
Hamilton, Herkimer, Kings, Montgomery,
Nassau, New York, Oneida, Orange, Otsego,
Putnam, Queens, Rensselaer, Richmond,
Rockland, Saratoga, Schenectady, Schoharie,
Suffolk, Sullivan, Tioga, Tompkins, Ulster,
Warren, Washington, and Westchester**

County

NA

City, Town or Village

NA

Street or Site Description

4. If an application for the proposed action has been filed with the state agency, the following information shall be provided:

- (a) Name of applicant: NA
- (b) Mailing address: NA
- (c) Telephone Number: Area Code NA
- (d) State agency application number: NA

5. Will the action be directly undertaken, require funding, or approval by a federal agency?

Yes X No _____ If yes, which federal agency? Housing and Urban Development (HUD)

C. COASTAL ASSESSMENT (Check either "YES" or "NO" for each of the following questions)

	<u>YES</u>	<u>NO</u>
1. Will the proposed activity be <u>located</u> in, or contiguous to, or have a <u>significant effect</u> upon any of the resource areas identified on the coastal area map:		
(a) Significant fish or wildlife habitats?	<u>X</u>	_____
(b) Scenic resources of statewide significance?	<u>X</u>	_____
(c) Important agricultural lands?	<u>X</u>	_____
2. Will the proposed activity have a <u>significant effect</u> upon:		
(a) Commercial or recreational use of fish and wildlife resources?	_____	<u>X</u>
(b) Scenic quality of the coastal environment?	_____	<u>X</u>
(c) Development of future, or existing water dependent uses?	_____	<u>X</u>
(d) Operation of the State's major ports?	_____	<u>X</u>
(e) Land and water uses within the State's small harbors?	_____	<u>X</u>
(f) Existing or potential public recreation opportunities?	_____	<u>X</u>
(g) Structures, sites or districts of historic, archeological or cultural significance to the State or nation?	_____	<u>X</u>
3. Will the proposed activity <u>involve</u> or <u>result in</u> any of the following:		
(a) Physical alteration of two (2) acres or more of land along the shoreline, land under water or coastal waters?	<u>X</u>	_____
(b) Physical alteration of five (5) acres or more of land located elsewhere in the coastal area?	<u>X</u>	_____
(c) Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area?	_____	<u>X</u>
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?	_____	<u>X</u>
(e) Mining, excavation, filling or dredging in coastal waters?	_____	<u>X</u>
(f) Reduction of existing or potential public access to or along the shore?	_____	<u>X</u>
(g) Sale or change in use of state-owned lands located on the shoreline or under water?	_____	<u>X</u>
(h) Development within a designated flood or erosion hazard area?	<u>X</u>	_____
(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	_____	_____
4. Will the proposed action be <u>located</u> in or have a <u>significant effect</u> upon an area included in an approved Local Waterfront Revitalization Program?	<u>X</u>	_____

D. SUBMISSION REQUIREMENTS

If any question in Section C is answered "Yes", AND either of the following two conditions is met:

Section B.1(a) or B.1(b) is checked; or
 Section B.1(c) is checked AND B.5 is answered "Yes",

THEN one copy of the Completed Coastal Assessment Form shall be submitted to:

New York State Department of State
 Office of Coastal, Local Government and Community Sustainability
 One Commerce Plaza
 99 Washington Avenue, Suite 1010
 Albany, New York 12231-0001

If assistance of further information is needed to complete this form, please call the Department of State at (518) 474-6000.

E. REMARKS OR ADDITIONAL INFORMATION

This Coastal Assessment Form is being prepared as part of a Tier 1 Programmatic Environmental Review (PEA) to evaluate the potential environmental impacts of the NY Rising Housing Recovery Program for 5+ Unit Residential Properties. This program was established by NYS Homes and Community Renewal (HCR), through its Office of Community Renewal (OCR) and the Housing Trust Fund Corporation (HTFC), for the distribution of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant—Disaster Recovery (CDBG-DR) funding. This program is designed to provide assistance for repair, reconstruction, and implementation of resiliency and mitigation measures for residential properties with 5 or more dwelling units that were damaged or destroyed during Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee.

The geographic scope for the NY Rising Housing Recovery Program for 5+ Unit Residential Properties is the jurisdictional area of Albany, Bronx, Broome, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Kings, Montgomery, Nassau, New York, Oneida, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, and Westchester Counties. Some municipalities within these counties have Local Waterfront Revitalization Plans (LWRPs). An individual project’s compliance with a municipality’s LWRP will be evaluated during the Tier 2 review process.

Construction activities related to the repair or reconstruction of 5+ Unit Residential Properties damaged by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee would be scattered throughout the above counties. The actual property addresses will not be verified until applications for assistance are reviewed and determined eligible for the program.

Without the NY Rising Housing Recovery Program for 5+ Unit Residential Properties, residents of storm-damaged communities would be unable to rehabilitate their homes to comply with housing construction standards within an acceptable period of time. If housing damages are not addressed until other funding sources become available, the damaged housing stock would remain vulnerable to structural deterioration and weathering. Owners of partially damaged residential buildings and units, as well as tenants, would make repairs as they are able, which would not necessarily be code-compliant or resilient to future weather extremes. Residents displaced from their damaged housing units would continue to seek shelter from family and friends, through various public agencies or non-profit organizations, and potentially relocate away from New York. Not only would structural conditions of damaged residential buildings continue to deteriorate, but property values may drop and blight conditions increase, all posing a continuing burden on the State and local tax base and services.

Preparer's Name: **Thomas J. King**



(Print)

(Sign)

Title: **Certifying Officer**

Agency: **NYS Homes and Community Renewal,
Governor’s Office of Storm Recovery**

Telephone Number: **(518) 486-7512**

Date: **June 11, 2014**

Attachment A

New York State Coastal Policy Consistency Analysis

New York State Coastal Policies	NY Rising Housing Recovery Program for 5+ Unit Residential Properties Consistency
DEVELOPMENT POLICIES	
Policy 1	
<p>Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged structures. No new residential development or any commercial development is proposed. To the extent that this program is expected to rehabilitate existing development in waterfront properties, thereby revitalizing waterfront areas, the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would be consistent with this policy.</p>
Policy 2	
<p>Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed adjacent to coastal waters. As such, the policy is not applicable.</p>
Policy 3	
<p>Further develop the state's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of state public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed in the specified locations. As such, the policy is not applicable.</p>
Policy 4	
<p>Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties and would positively affect the economic base of smaller harbor areas by enhancing property values through such activities. Therefore the Proposed Action would be consistent with this policy.</p>
Policy 5	
<p>Encourage the location of development in areas where public services and facilities essential to such development are adequate.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. To the extent that the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would retain existing development where public services and facilities are adequate, this program would be consistent with this policy.</p>

<p>Policy 6</p> <p>Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. To the extent that the NY Rising Housing Recovery Program for 5+ Unit Residential Properties would facilitate the acquisition of the appropriate permits for rehabilitation and reconstruction of residential properties, the program would be consistent with this policy.</p>
<p>FISH AND WILDLIFE POLICIES</p>	
<p>Policy 7</p> <p>Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. As such, the proposed action is not likely to alter any of the biological, physical or chemical parameters beyond the tolerance range of the organisms occupying the fish and wildlife habitats, or otherwise significantly impair or destroy the viability of the habitat. Therefore, the program is consistent with Policy 7.</p>
<p>Policy 8</p> <p>Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The proposed action would not generate any hazardous materials; however there is the possibility that existing hazardous materials could be encountered. New York State Homes and Community Renewal (“HCR”) is charged with the overall inspection for hazardous materials (with the exception of commonly found household hazardous materials such as automotive batteries or used motor oil) for the Proposed Action. HCR in conjunction with designated agencies or consultants under HCR’s direction would provide qualified environmental professionals (QEP) to perform on-site visits as necessary; QEP are experienced persons with the skills to look for and recognize hazardous materials and their conditions generally as well as the most common types of residential contamination found within this geographic area. The reports generated by the QEPs with environmental assessment experience would be reviewed by HCR or consultant under HCR direction to confirm that all items on the checklist are appropriately addressed. Depending on the site-specific environmental assessment of the degree and extent of any hazards identified, the applicant may be responsible for the removal of such items before the rehabilitation, reconstruction and mitigation work can proceed. Therefore, the proposed action is consistent with Policy 8 in that it would protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.</p>

Policy 9	
Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
Policy 10	
Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
FLOODING AND EROSION HAZARDS POLICIES	
Policy 11	
Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. All renovations and elevations will take place generally within the existing footprint of the structure, and no additional structures will be built upon each approved program parcel. The expansion of a structure will not exceed 20% of the original pre-storm footprint. In addition, flood-proofing housing structures during rehabilitation and reconstruction activities must meet the requirements of each community's floodplain ordinance. Consistent with Policy 11, the repair or reconstruction of these residential properties would minimize damage to property and risk to human lives caused by flooding and erosion.
Policy 12	
Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. All renovations and elevations will take place generally within the existing footprint of the structure, and no additional structures will be built upon each approved program parcel. The expansion of a structure will not exceed 20% of the original pre-storm footprint. No new residential development or any commercial development is proposed and therefore no natural protective features would be disturbed.
Policy 13	
The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. This program will not construct or reconstruct any erosion protection structures and therefore the policy is not applicable.

<p>Policy 14</p> <p>Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. All renovations and elevations will take place generally within the existing footprint of the structure, and no additional structures will be built upon each approved program parcel. Elevation of housing structures would be done to the required ABFE plus freeboard as required by each community's municipality. Any expansion of a structure will not exceed 20% of the original pre-storm footprint. In addition, flood-proofing housing structures during rehabilitation and reconstruction activities must meet the requirements of each community's floodplain ordinance. As such, consistent with this policy, the proposed action would not measurably increase erosion or flooding at the site of such activities or development, or at other locations.</p>
<p>Policy 15</p> <p>Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. These activities will not include any mining, excavation or dredging in coastal waters and are not anticipated to significantly interfere with the natural coastal processes. As such, the policy is not applicable.</p>
<p>Policy 16</p> <p>Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. All renovations and elevations will take place generally within the existing footprint of the structure, and no additional structures will be built upon each approved program parcel. The expansion of a structure will not exceed 20% of the original pre-storm footprint. In addition, flood-proofing housing structures during rehabilitation and reconstruction activities must meet the requirements of each community's floodplain ordinance. Any erosion protective structures would be used only where necessary to protect human life and existing development from increased erosion during the rehabilitation, reconstruction and mitigation of storm-damaged residential properties, consistent with Policy 16.</p>
<p>Policy 17</p> <p>Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. Due to the nature of the program, all measures used to minimize damage to the affected properties, such as elevating the structure, are expected to be structural. Therefore, this policy is not applicable to the NY Rising Housing Recovery Program for 5+ Unit Residential Properties.</p>

GENERAL POLICY	
Policy 18	
To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The proposed action would not significantly impair valuable coastal waters or resources, or otherwise frustrate the achievement of the purposes of the safeguards the State has established to protect those waters and resources. By protecting existing residential structures, the proposed action would protect the character of established residential neighborhoods. As such, the proposed action is consistent with Policy 18.
PUBLIC ACCESS POLICIES	
Policy 19	
Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, Policy 19 is not applicable.
Policy 20	
Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
RECREATION POLICIES	
Policy 21	
Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related used along the coast.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
Policy 22	
Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.

HISTORIC AND SCENIC RESOURCES POLICIES	
Policy 23	
Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities, or the nation.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. It is possible that some of the residential structures may be of significance in the history, architecture, archaeology or culture of the state, its communities, or the nation. As such, the NY Rising Housing Recovery Program for 5+ Unit Residential Properties requires that all activities comply with Section 106 of the National Historic Preservation Act (NHPA) per the implementing regulations at 36 Code of Federal Regulations (CFR) Part 800. Compliance with Section 106 is achieved through the procedures in the Programmatic Agreement among FEMA, the NYS Historic Preservation Officer, the NYS Office of Emergency Management, the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the NYC Landmarks Preservation Commission, and the Advisory Council On Historic Preservation. In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains are uncovered on a specific site, the work on that site must be halted, and the applicant would take reasonable measures to avoid or minimize harm to the finds. All archeological findings would be secured and access to the sensitive area restricted. HCR would consult with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and Tribes, and work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the initiative is in compliance with the NHPA. Therefore, the proposed action is consistent with Policy 23.
Policy 24	
Prevent impairment of scenic resources of statewide significance.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
Policy 25	
Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. Residential Properties are man-made structures which are not identified as being of statewide significant, but can contribute to the overall scenic quality of the coastal area. Therefore, the proposed action is consistent with Policy 25.

AGRICULTURAL LANDS POLICY	
Policy 26	
Conserve and protect agricultural lands in the state's coastal area.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No new residential development or any commercial development is proposed on agricultural lands. As such, the policy is not applicable.
ENERGY AND ICE MANAGEMENT POLICIES	
Policy 27	
Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. No energy facilities are proposed. As such, the policy is not applicable.
Policy 28	
Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The program does not involve any change to ice management practices. As such, the policy is not applicable.
Policy 29	
Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve any energy resources on the outer continental shelf, in Lake Erie and in other water bodies. As such, the policy is not applicable.
WATER AND AIR RESOURCES POLICIES	
Policy 30	
Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve any municipal, industrial, and commercial discharge of pollutants. As such, the policy is not applicable.
Policy 31	
State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve any changes to coastal water classifications or water quality standards. As such, the policy is not applicable.
Policy 32	
Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. This program does not involve any changes to sanitary waste systems. As such, the policy is not applicable.

<p>Policy 33</p> <p>Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. Under this program, all sites would be evaluated for the need to comply with stormwater permitting requirements, including NYSDEC general permits or local Municipal Separate Storm Sewer Systems (MS4) permits. If multiple adjacent sites are involved, the sites would be aggregated for construction stormwater compliance. As such, the proposed action is consistent with Policy 33.</p>
<p>Policy 34</p> <p>Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve any discharge of waste materials into coastal waters from vessels. As such, the policy is not applicable.</p>
<p>Policy 35</p> <p>Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve dredging and filling in coastal waters, nor the disposal of dredged material. As such, the policy is not applicable.</p>
<p>Policy 36</p> <p>Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve activities related to the shipment and storage of petroleum and other hazardous materials. As such, the policy is not applicable.</p>
<p>Policy 37</p> <p>Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not include activities that will lead to non-point discharge of excess nutrients, organics, and eroded soils into coastal waters. As such, the policy is not applicable.</p>
<p>Policy 38</p> <p>The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.</p>	<p>The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. Under this Program, all sites would be evaluated for the need to comply with stormwater permitting requirements, including NYSDEC general permits or local Municipal Separate Storm Sewer Systems (MS4) permits. If multiple adjacent sites are involved, the sites would be aggregated for construction stormwater compliance. As such, the proposed action is consistent with Policy 38.</p>

Policy 39	
The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve the transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas. As such, the policy is not applicable.
Policy 40	
Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve effluent discharged from major steam electric generating and industrial facilities into coastal waters. As such, the policy is not applicable.
Policy 41	
Land use or development in the coastal area will not cause national or state air quality standards to be violated.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program will not cause national or state air quality standards to be violated. As such, the proposed action is consistent with this policy.
Policy 42	
Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal clean air act.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program does not involve the reclassification of land area. As such, the policy is not applicable.
Policy 43	
Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program will not cause the generation of significant amounts of acid rain precursors. As such, the policy is not applicable.
WETLANDS POLICY	
Policy 44	
Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.	The NY Rising Housing Recovery Program for 5+ Unit Residential Properties would provide funds for rehabilitation, reconstruction, and mitigation of storm-damaged residential properties. The Program would not alter tidal or freshwater wetlands. As such, the proposed action is consistent with this policy.
Sources: State Coastal Policies, New York State Department of State Coastal Management Program. http://www.dos.ny.gov/opd/programs/pdfs/CoastalPolicies.pdf	

Appendix N:
NY Natural Heritage Program Consultation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov



Joe Martens
Commissioner

September 4, 2013

Heather M. Spitzberg, Esq.
Director, Environmental Analysis Unit
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

Dear Ms. Spitzberg:

We have received your request of August 27, 2013, regarding the reconstruction and rehabilitation of storm-damaged 1-4 unit homes and 5+ unit homes, the economic development programs, and the buyout/acquisition of storm-damaged homes, in counties throughout New York State, as part of the U.S. Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery Housing Assistance Program, administered by New York State Homes and Community Renewal.

The New York Natural Heritage database has no records of state or federal endangered, threatened, or rare species which are found in existing residential buildings in New York State. Regarding the rehabilitation and reconstruction of existing residential buildings, given that no new construction of buildings will occur under this program, we therefore do not identify any potential impacts to endangered, threatened, and/or rare species or their habitats by the proposed rehabilitation activities in the counties listed in the Attachment B you provided.

If, at any such time, an activity under this project proposes to include any new construction of buildings; any construction or widening of roads or driveways; or any clearing or disturbance of land more than 75 feet from the footprint of a building being rehabilitated or reconstructed; then a specific project site screening should be conducted.

Regarding buyout/acquisition, the buyout or acquisition of a property in itself will not impact endangered, threatened, and/or rare species or their habitats. For any acquired properties where new construction is being considered or proposed, a specific project site screening should be conducted to identify any potential impacts on endangered, threatened, and/or rare species.

Maintaining a property in an undeveloped state may benefit some species by making additional habitat available. If it is desirable to determine whether there are any currently documented endangered, threatened, and/or rare species in the vicinity of a property that may benefit from additional available habitat, a specific project site screening should be conducted. Such a screening is encouraged when the buyout/acquired property includes a relatively large amount of undeveloped acreage beyond the footprint of any existing or recently existing structures.

The impact, if any, of economic development programs on endangered, threatened, and/or rare species will depend on the particular nature and details of the work proposed for each specific project. Projects that involve new construction or ground disturbance at previously undeveloped sites should have a specific project site screening conducted.

Sincerely,

A handwritten signature in black ink that reads "Nick Conrad". The signature is written in a cursive, slightly slanted style.

Nicholas B. Conrad
Information Resources Coordinator
NY Natural Heritage Program

[Type text]



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

August 27, 2013

HOUSING
TRUST FUND
CORPORATION

STATE OF
NEW YORK MORTGAGE
AGENCY

NEW YORK STATE
HOUSING FINANCE
AGENCY

NEW YORK STATE
AFFORDABLE HOUSING
CORPORATION

STATE OF
NEW YORK MUNICIPAL
BOND BANK AGENCY

TOBACCO SETTLEMENT
FINANCING
CORPORATION

Nicholas Conrad
New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program- Information Services
625 Broadway, 5th Floor
Albany, New York 12233-4757

Re: Natural Heritage Compliance Process Request for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR): Program Update and Introduction of Economic Development, Rehabilitation of 5+ Unit Homes, Rehabilitation of 1-4 Unit Homes, Reimbursement, and Buy-Out/Acquisition for all Affected Counties.

Dear Mr. Conrad:

NYSHCR is providing this letter to the New York Department of Environmental Conservation (DEC) Natural Heritage Program (NYNHP) to introduce the aforementioned actions of the overall CDBG-DR Program. Since submittal of the previous coordination letters to NYNHP (dated July 18, 2013 and August 5, 2013), these actions have been identified as a priority for the Program, and NYSHCR is proceeding with preparation of the Environmental Review Records (ERR) for all of these actions. Program descriptions are included in **Attachment A**.

As outlined in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), the vast majority of the storm-damaged properties are located in Nassau, Suffolk, Kings, and Queens Counties. A list of affected counties included in the CDBG-DR program is included in **Attachment B**.

We would like to work with the NYNHP to develop an agreed-upon compliance process so NYSHCR, as the Responsible Entity (RE), can accurately determine compliance at the NEPA Tier 2 and SEQR reviews. NYSHCR is taking a holistic approach to classify actions similar in nature, across all affected counties. NYSHCR is requesting whether a standardized species habitat matrix table (sorted by county) maps, and/or GIS data, may be adopted as the compliance tool for

Mr. Nicholas Conrad
August 27, 2013
Page 2 of 2

environmental review. Each parcel incorporated into the CDBG-DR Program will be subject to a site specific Natural Heritage Resource review during the Tier 2 review. In previous discussions between ProSource and NYNHP, a resources matrix table and/or GIS data layer, sorted by county, was considered but was not adopted for the CDBG-DR Program.

NYSHCR is requesting a program comprehensive response letter from the NYNHP, covering all actions, that can be included in all Tier 1 ERRs to document that coordination with NYNHP is being completed, and that program compliance will be completed during Tier 2 site specific review. As soon as reasonably possible, we would like to work with NYNHP to develop a suitable tool for Tier 2 compliance.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Heather Spitzberg". The signature is written in a cursive style with a light blue shadow effect behind the text.

Heather M. Spitzberg, Esq.
Director, Environmental Analysis Unit
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

cc. Robin Keegan, NYSHCR
Chris Leo, NYSHCR

Attachment A - Program Descriptions
Attachment B- List of Affected Counties Included in the CDBG-DR Program

Attachment A- Program Descriptions

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Buyout/Acquisition

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

Voluntary Buyouts and Acquisitions of One- and Two-unit Homes

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

Enhanced Buyout Areas

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

Program Activities

Summarized in the sections below are the physical program activities:

Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

Rehabilitation 1-4 Units and 5+ Units

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

Economic Development Program Description

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

Small Business Grant Program

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

Small Business Loan Program

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

Coastal Fishing Industry Program

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

Seasonal Tourism Industry Program

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.

Appendix O:
NY Historic Preservation Programmatic Agreement

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICE,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

WHEREAS, the mission of the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards; and

WHEREAS, as a result of Hurricane Sandy (DR-4085-NY) (Disaster Declaration), FEMA proposes to administer Federal disaster assistance programs set forth in Appendix A (Programs), pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*) (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the Flood Disaster Protection Act of 1973, Pub. L. No. 93-234 (1973) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); and implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR).

WHEREAS, FEMA has determined that implementation of its Programs may result in Undertakings (as defined by 16 U.S.C. § 470w and 36 CFR § 800.16(y)) that may affect properties listed in or eligible for listing in the National Register of Historic Places (National Register) pursuant to 36 CFR Part 60 (historic properties), and FEMA has consulted with the New York State Historic Preservation Officer (SHPO), the New York State Office of Emergency Management (OEM), the New York City Landmarks Preservation Commission (LPC), the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans (Participating Tribe[s]) and the Advisory Council on Historic Preservation (ACHP) pursuant to Section 106 of the National Historic Preservation Act (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 16 U.S.C. § 470f) and Section 110 of NHPA (codified as amended at 16 U.S.C. §470h-2), and the Section 106 implementing regulations at 36 CFR Part 800; and

WHEREAS, FEMA, ACHP, and SHPO have determined that FEMA's Section 106 requirements can be more effectively and efficiently implemented and delays to the delivery of FEMA

assistance minimized if a programmatic approach is used to stipulate roles and responsibilities, exempt certain Undertakings from Section 106 review, establish protocols for consultation, facilitate identification and evaluation of historic properties, and streamline the assessment and resolution of adverse effects; and

WHEREAS, in order to implement its Programs, FEMA will provide assistance to the State of New York that may provide monies and other assistance to eligible subgrantees, and as such, the New York Office of Emergency Management (OEM) that is typically responsible for administering funds provided under these Programs, has participated in this consultation, and has been invited to enter into this Agreement as an invited signatory party; and

WHEREAS, LPC is the agency responsible for identifying and designating New York City's landmarks and historic districts, regulates changes to designated buildings, and by law, issues permits under the LPC law (Charter of the City of New York §§ 3020 et seq. and the Administrative Code of the City of New York §§25-301 et seq.) for LPC designated properties in the City of New York, and therefore any FEMA Undertaking affecting such a property shall require an LPC permit prior to commencement of work or demolitions, LPC has participated in this consultation and has been invited to enter into this Agreement as a concurring party; and

WHEREAS, FEMA has determined that its Programs may result in Undertakings with the potential to affect historic properties having religious and cultural significance to Indian Tribes, including sites that may contain human remains and/or associated cultural items; and

WHEREAS, FEMA recognizes that the Participating Tribe(s) may have sites of religious and cultural significance on or off Tribal lands, and in meeting its Federal trust responsibility, FEMA has engaged in government-to-government consultation with the Participating Tribe(s), and pursuant to 36 CFR § 800.2 (c)(2)(ii)(E) has invited the Participating Tribe(s) to enter into an agreement that specifies how FEMA and the Participating Tribe(s) will carry out Section 106 responsibilities, including the confidentiality of information. The agreement may grant the Participating Tribe(s) additional rights to participate or concur in FEMA decisions in the Section 106 review process beyond the ones outlined in 36 CFR Part 800; and

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited the Participating Tribe(s) to enter into this Agreement each as an invited signatory party to fulfill the requirements of Section 106; and

WHEREAS, FEMA may invite additional Tribes that may have sites of religious and cultural significance to enter into the terms of this Agreement; and

WHEREAS, FEMA may perform direct Undertakings in order to implement its Programs; and

WHEREAS, in anticipation or in the immediate aftermath of the Disaster Declaration, impacted communities in the State of New York and/or affected Tribe(s) may conduct critical preparedness and response and recovery activities to safeguard public health and safety and to restore vital community services and functions. Some of these activities may become Undertakings requiring

Section 106 review subject to the terms of this Agreement, and FEMA shall coordinate the appropriate review as warranted; and

NOW, THEREFORE, FEMA, ACHP, SHPO, (as the signatories) OEM, Participating Tribe(s) (invited signatories), and LPC(concurring party) agree that the Programs in the State of New York shall be administered in accordance with the following Stipulations to satisfy FEMA's Section 106 responsibilities for all resulting Undertakings and effectively integrate historic preservation compliance considerations into the delivery of FEMA assistance. FEMA will not authorize implementation of an individual Undertaking until Section 106 review of the project is completed pursuant to this Agreement.

STIPULATIONS

To the extent of its legal authority, and in coordination with the other signatories, FEMA will require that the following measures be implemented:

I. GENERAL

A. Applicability

1. This Agreement applies immediately for this Disaster Declaration after execution by all signatory parties and will remain in effect for the duration of the period that the Disaster Declaration remains open for FEMA funding.
2. For FEMA undertakings that also are within the jurisdiction of the Federal Communications Commission's (FCC) and within the scope of its Section 106 Programmatic Agreements for communication facilities, FEMA defers Section 106 review in accordance with the ACHP Program Comment of October 23, 2009. The approval of funding for the FEMA Undertaking will be conditioned on the compliance of the subgrantee with FCC's applicable Section 106 review, including any required consultation with affected Tribe(s). FEMA will notify the SHPO when it applies the ACHP Program Comment to an Undertaking.
3. Other Federal agencies providing financial assistance for the type of Program activities covered under the terms of this Agreement may, with the concurrence of ACHP, FEMA, SHPO satisfy their Section 106 responsibilities by accepting and complying with the terms of this Agreement. "Other Federal Agencies" may include municipalities providing funds and acting as the Responsible Entity pursuant to 24 CFR Part 58. In such situations, the Federal Agency shall notify FEMA, SHPO and ACHP and other consulting parties to the PA, including participating tribes in writing of their intent to use this Agreement to achieve compliance with Section 106 requirements, and consult with those agencies regarding its section 106 compliance. Resumes of staff that meet the Secretary's Professional Qualifications and will review Tier II projects will be included with the notification. The Federal agency may utilize this Agreement to satisfying its Section 106 responsibilities by executing the

Addendum included in Appendix D. The Agreement will be effective for the Federal agency on the date the Addendum is executed by SHPO, FEMA and ACHP.

4. This Agreement may apply to Undertakings involving multiple Federal agencies and where some or all of the Federal agencies involved in the Undertaking may designate FEMA as the lead Federal agency pursuant to 36 CFR § 800.2(a)(2) with appropriate notification to the ACHP. FEMA will act on the collective behalf of the agencies to fulfill all Section 106 responsibilities. Federal agencies that do not designate FEMA as the lead Federal agency will be responsible for doing a separate consultation pursuant to Section 106 and 36 CFR Part 800.
5. As a result of the Disaster Declaration, State, Tribal and local governments may lack the capability to perform or to contract for emergency work, and instead request that the work be accomplished by a Federal agency. Through a mission assignment (MA), FEMA may direct appropriate Federal agencies to perform the work. This Agreement will apply to such Federal assistance undertaken by or funded by FEMA pursuant to Titles IV and V of the Stafford Act and 44 CFR Part 206.
6. If SHPO has reviewed and approved an Undertaking submitted by a subgrantee that was the result of damage from Hurricane Sandy before FEMA has established an Undertaking for that same project, and FEMA confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of the Undertaking as reviewed by the SHPO has not changed, and SHPO/Tribal concurrence is documented, FEMA shall document these findings to the project files in order to confirm that the requirements of Section 106 have been satisfied.
7. If another Federal program or Federal agency has reviewed and approved an Undertaking under Section 106 of the NHPA within the past five years, FEMA has no further requirement for Section 106 review provided that it confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of the Undertaking as reviewed by the previous agency has not changed, and SHPO/Tribal concurrence is documented. FEMA shall document these findings to the project files in order to confirm that the requirements of Section 106 have been satisfied.
8. Should FEMA, in consultation with SHPO and Participating Tribe(s), determine that the previous Section 106 review was insufficient or involved interagency disagreements on eligibility, effect, or mitigation, FEMA shall conduct additional Section 106 review in accordance with the terms of this Agreement.
9. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106. For ground disturbing activities, and construction related to 44 CFR §§ 206.117(b)(1)(ii) (temporary housing), 206.117(b)(3) (replacement

housing), 206.117(b)(4) (permanent housing construction), and 206.117(c)(1)(vi) (privately owned access routes), FEMA will conduct Section 106 review.

10. FEMA has determined that the following types of activities have limited or no potential to affect historic properties and FEMA has no further Section 106 responsibilities, pursuant to 36 CFR § 800.3(a)(1):

- b. Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day and emergency operational activities, and the temporary storage of goods provided storage occurs within existing facilities or on previously disturbed soils.
- c. Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents.
- c. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.
- d. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard activities.
- e. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.
- f. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.
- g. Assistance provided for training, management and administration, exercises, and mobile/portable equipment purchases; with the exception of potential ground-disturbing activities and modification of existing structures.
- h. Community Disaster Loans for funding to perform governmental functions for any eligible jurisdiction in a designated disaster area that has suffered a substantial loss of tax and other revenue.
- i. Acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.
- j. Funding the administrative action of acquiring properties in buyout projects e.g., surveys, legal fees, non-destructive abatement activities), excluding the real estate transaction and demolition. Per Item III.D, OEM shall advise its subgrantees that they may jeopardize Federal funding if work is performed without all required local, State and Federal licenses, permits or approvals, including the completion of the Section 106 process.

- k. Reimbursement of a subgrantee's insurance deductible, when the deductible is the total FEMA eligible cost for the project.
- l. Labor, equipment and materials used to provide security in the Disaster Declaration area, including lease, rental, purchase or repair of equipment or vehicles and payment for staff and contract labor.
- m. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.
- n. Unemployment assistance.
- o. Distribution of food coupons.
- p. Legal services.
- q. Crisis counseling.

11. The terms of this Agreement will not apply to Undertakings on Tribal (reservation lands) unless the affected Tribe(s) have concurred in writing.

12. Any FEMA Programs authorized by the United States Congress in the future may be included in this Agreement in accordance with Stipulation IV.A, Amendments. Any change in the FEMA name, Programs, or organizational structure will not affect this Agreement.

B. Roles and Responsibilities of FEMA, SHPO, OEM, and LPC

1. FEMA:

- a. FEMA will use Federal, Tribal, State, subgrantee, or contractor staff whose qualifications meet the Secretary of the Interior's (Secretary's) Professional Qualifications Standards (Professional Qualifications) set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified), in completing identification and evaluation of historic properties and in making determinations of effects. FEMA will review any National Register eligibility determination and make its own findings of effect resulting from the performance of these activities prior to submitting such determinations to the SHPO and Participating Tribe(s).
- i. FEMA acknowledges that Tribe(s) possess special expertise in assessing the National Register eligibility of properties with religious and/or cultural significance to them. Tribal leaders and, as appropriate, their representatives shall decide who meets qualifications/standards as defined by their Tribe(s) for review of undertakings affecting properties with religious and/or cultural significance to Tribe(s).

- b. FEMA will coordinate with the LPC to help LPC ensure that subgrantees apply for permits.
 - i. If an Undertaking as defined by 36 CFR § 800.5 has the potential to adversely affect an LPC designated property or one calendared for designation, then FEMA will provide LPC with the same documentation that is provided to SHPO and Participating Tribe(s).
 - ii. When LPC notifies FEMA that an Undertaking is subject to further LPC review and permitting, FEMA EHP may approve the project and will notify the Grantee that the subgrantee is responsible for obtaining a permit from LPC.
 - iii. FEMA will request LPC to be a consulting party on any Memorandum of Agreement (MOA) that is written to resolve adverse effects to buildings that are LPC designated or proposed landmarks.
- c. FEMA alone shall conduct all project consultation with participating Tribes. In accordance with 36 CFR § 800.2(c)(4), FEMA may authorize the Grantee, or a subgrantee through the Grantee, to initiate the Section 106 process with the SHPO and other consulting parties, assist in identifying other consulting parties with a demonstrated interest in the Undertaking, and prepare any necessary analyses and documentation, but FEMA will remain legally responsible for determinations of National Register eligibility and findings of effect recommended by the authorized party. FEMA shall follow the process set forth in Stipulation I.B.1.a, FEMA Roles and Responsibilities, above and notify the SHPO in writing when a Grantee or subgrantee has been authorized to initiate consultation on FEMA's behalf.
- d. Prior to authorizing the release of funds for individual undertakings requiring grant conditions pursuant to this Agreement, FEMA will inform OEM of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to subgrantees. FEMA will work in partnership with OEM to provide subgrantees with guidance on in-kind repair pursuant to The Secretary of the Interior's Standards for the Treatment of Historic Properties 1995 (Standards), 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.
- e. FEMA shall provide the signatories and invited signatories with bi-annual reports for the previous six months by July 1st and December 31st of each year that this Agreement is in effect. This annual report will summarize the actions taken to implement the terms of this Agreement, statistics on Undertakings reviewed, and recommend any actions or revisions to be considered, including updates to the appendices.
- f. FEMA will confer bi-annually and as necessary with signatories and invited signatories to this Agreement within 30 days after issuance of the annual report, to review the report and/or discuss issues and concerns in greater detail.

- g. FEMA shall convene the an initial scoping meeting with the signatories and invited signatories as soon as practicable following the Disaster Declaration and provide specific points of contact and other pertinent information about the Disaster Declaration.
- h. FEMA shall ensure that all documentation resulting from Undertakings reviewed pursuant to this Agreement shall be consistent with applicable SHPO and Tribal guidelines and the confidentiality provisions of 36 CFR § 800.11(c).

2. SHPO:

- a. SHPO shall review FEMA's determination of the Areas of Potential Effect (APE), National Register eligibility determinations, and FEMA's effect findings and provide comments within timeframes required by this Agreement.
- b. Upon request, the SHPO will provide FEMA/and or its designee(s) with available information about historic properties (such as access to online systems or site files, GIS data, survey information, geographic areas of concern). Such data sharing may be memorialized in an agreement. Only Qualified FEMA staff and/or its designee(s) shall be afforded access to protected cultural resources information.
- c. The SHPO will identify staff or consultants to assist FEMA staff with its Section 106 responsibilities, and identify, in coordination with FEMA, specific activities that SHPO may perform for specific undertakings as agreed in writing with FEMA.
- d. As requested, SHPO staff will be available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation with SHPO has occurred, a written notice (via e-mail or regular mail) will be sent to SHPO to confirm any decisions that were reached.
- e. FEMA and the SHPO may agree to delegate some or all of the SHPO's responsibilities under this Agreement to supplementary SHPO staff assigned to FEMA-DR-4085-NY that are physically located in FEMA's Joint Field Office or SHPO offices in order to help expedite project review or other responsibilities under this Agreement. FEMA, SHPO and OEM will consult about the selection of the supplementary SHPO staff, the scope of responsibilities delegated, and the implementing procedures related to the actions and decisions delegated. FEMA and SHPO shall formally document their agreement regarding the supplementary SHPO staff.
- f. The SHPO shall participate in an initial scoping meeting for the Disaster Declaration.

- g. The SHPO may assist local jurisdictions or OEM with advance planning efforts to consider historic properties related to their preparedness, homeland security, response, recovery, and mitigation programs, for which FEMA funding may be requested.
- h. The SHPO will coordinate with FEMA, to identify consulting parties, including any communities, organizations, or individuals that may have an interest in a specific Undertaking and its effects on historic properties.

3. LPC

- a. LPC will review FEMA Undertakings that have the potential to adversely affect an LPC designated property or one calendared for designation using FEMA consultation documents that are provided to SHPO and Participating Tribe(s) so that LPC may notify FEMA whether or not an LPC property may be affected by the Undertaking and will require a LPC permit.
- b. LPC understands that if it does not respond to FEMA's submittal of Undertakings to them within the timeframes outlined in Stipulation I.E, i.e. within 4 days under emergency conditions, 15 days for IA and PA Undertakings and 30 days for HMGP Undertakings, FEMA will assume that none of the Undertakings are subject to LPC review and permitting and will proceed with the Undertaking.

4. OEM:

- a. OEM shall ensure that its subgrantees understand and acknowledge conditions and potential requirements that may be placed upon Undertakings as a result of Section 106 consultation and the provisions of this Agreement.
- b. Subgrantee government and private non-profit agencies are advised in OEM applicant briefings and program materials that FEMA funding may be jeopardized unless all local, State and Federal permits, licenses and approvals are received. NYC LPC reviews and permits were discussed in briefings held for NYC agencies and private non-profits. The official notice to a subgrantee that an Undertaking is subject to further LPC review will be the project approval document specifying the project scope and limits, and containing all conditions and caveats, including an approved Project Worksheet (PW) for a Public Assistance project, and an approved Application for an HMGP project.
- c. OEM will participate in an initial scoping meeting for the Disaster Declaration.
- d. OEM shall ensure that subgrantees understand that failure to comply with the terms of this Agreement and any project-specific conditions could jeopardize FEMA funding.

- e. OEM will notify FEMA as soon as possible of any proposed change to the approved scope of work and direct the subgrantee not to implement the changes to the proposed scope of work until any additional review required by this Agreement is complete.
- f. OEM shall ensure that its subgrantees are made aware that in the event of an unexpected discovery involving an Undertaking that has affected a previously unidentified historic property, human remains, or affected a known historic property in an unanticipated manner, the subgrantee will comply with Stipulation III.B, Unexpected Discoveries.
- g. When issued as a FEMA condition, OEM shall ensure that in its subgrant agreements, any scope of work involving ground disturbance, and resultant contracts to execute said work, provide for the protection of and notification protocols for unexpected discoveries of cultural material and human remains.
- h. If the Tribe assumes the role of Grantee for projects on Tribal lands, it will assume the same responsibilities as outlined in Stipulation I.B.3 of this Agreement, Roles and Responsibilities of the Signatories.

C. Tribal Consultation

1. For Tribes that have assumed the responsibilities of the SHPO through appointment of a Tribal Historic Preservation Officer (THPO) per Section 101 of the NHPA, FEMA shall consult with the THPO in lieu of the SHPO for undertakings occurring on or affecting tribal lands.
2. Where no Tribal-specific consultation agreements or protocols are in place, FEMA shall consult with affected Tribe(s) in accordance with 36 CFR Part 800. In determining who the affected Tribe(s) may be, FEMA will first establish that an Undertaking has the potential to affect historic properties with religious or cultural importance. FEMA may consult with the SHPO, affected Tribe(s), any State Tribal Agency, and access the National Park Service (NPS) Native American Consultation Database to identify Tribal geographic interests.
3. FEMA shall ensure that its consultations with other consulting parties shall not include the dissemination of information, when advised of data sensitivity by the affected Tribe(s), that might risk harm to an American Indian site or property of religious or cultural significance or that might impede the use of such a site by the affected Tribe(s) in accordance with Section 304 of the NHPA and other applicable laws. Information provided is exempt from public knowledge and disclosure under the Freedom of Information Act (FOIA) by both Section 304 of the NHPA and Section 9 of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. §470aa – 470mm).

D. Public Participation

1. FEMA recognizes that the views of the public are essential to informed decision making throughout the Section 106 review process. FEMA will notify the public of proposed Undertakings in a manner that reflects the nature, complexity, and effect(s) of the Undertaking, the likely public interest given FEMA's specific involvement, and any confidentiality concerns of affected Tribe(s), and private individuals and businesses.
2. FEMA will consult with OEM, the subgrantee, SHPO, and Participating Tribe(s), to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be made aware of an Undertaking. If such parties are identified or identify themselves to FEMA, FEMA will provide them with information regarding the Undertaking and its effect on historic properties, consistent with the confidentiality provisions of 36 CFR § 800.11(c).
3. In accordance with the outreach strategy developed for an Undertaking in consultation with the SHPO and Participating Tribe(s), for involving the public, FEMA will identify the appropriate stages for seeking public input during the Section 106 process.
4. FEMA will consider all views provided by the public regarding an Undertaking and will consider all written requests of individuals and organizations to participate as consulting parties, and in consultation with the SHPO and Participating Tribe(s), determine which should be consulting parties. FEMA will invite any individual or organization that will assume a specific role or responsibility outlined in a Section 106 agreement document to participate as an invited signatory party in that agreement document.
5. FEMA also may provide public notices and the opportunity for public comment or participation in an Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 44 CFR Part 10, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands as set out in 44 CFR Part 9, and Executive Order 12898, Environmental Justice, provided such notices specifically reference Section 106 as a basis for public involvement.

E. Timeframes

All time designations will be in calendar days unless otherwise stipulated. If any signatory or invited signatory does not object to FEMA's determination related to a proposed action within an agreed upon timeframe, FEMA may proceed to the next step in the review process as described in Stipulation II, Project Review. Due to the varied nature of Undertakings, the individual response times to FEMA's requests for comment/concurrence will vary.

1. Under emergency conditions, the SHPO and Participating Tribe(s) will respond to any FEMA request for comments within three (3) days after receipt, unless FEMA determines the nature of the emergency action warrants a shorter time period.
2. For Undertakings associated with the Individual Assistance (IA) and Public Assistance (PA) programs, the review time shall be a maximum of fifteen (15) days for delineation of the Area of Potential Effect (APE), determinations of National Register eligibility and findings of effect.
3. For the Hazard Mitigation Grant Program (HMGP), the response time for each request for concurrence shall be a maximum of thirty (30) days.

II. PROJECT REVIEW

A. Programmatic Allowances

1. If FEMA determines an Undertaking conforms to one or more of the allowances in Appendix B of this Agreement, FEMA will complete the Section 106 review process by documenting this determination in the project file, without SHPO and Tribal review or notification.
2. If the Undertaking involves a National Historic Landmark (NHL), FEMA shall notify the SHPO and Participating Tribe(s) and the NHL Program Manager in the NPS Northeast Regional Office that the Undertaking conforms to one or more allowances. FEMA will provide information about the proposed scope of work for the Undertaking and the allowance(s) enabling FEMA's determination.
3. If an Undertaking is not composed entirely of an allowance listed in Appendix B, FEMA will conduct Section 106 review for the entire Undertaking.
4. For an Undertaking that FEMA determines does not meet the allowance criteria, FEMA shall complete the Section 106 review process in accordance with Stipulation II.C, Standard Project Review, as applicable.
5. Allowances may be revised and new allowances may be added to this Agreement in accordance with Stipulation IV.A.3, Amendments.

B. Expedited Review for Emergency Undertakings

1. As part of the Disaster Declaration process, FEMA will define the time interval during which the disaster causing incident occurs (the incident period, as defined in 44 CFR § 206.32(f)). FEMA may approve Federal assistance and/or funding for emergency work (as defined in 44 CFR § 206.201(b)) that occurs during the incident period, including work already completed, in response to an immediate threat to human health and safety or improved property. FEMA will conduct expedited review of emergency Undertakings from October 27, 2012, the beginning of the incident period, until January 27, 2013.
2. Should FEMA determine that it is necessary to extend the expedited review period beyond January 27, 2012, FEMA will request in writing, prior to the expiration of the expedited review period, an extension of the period of applicability in 30-day increments in accordance with 36 CFR § 800.12(d).
3. For all emergency Undertakings, FEMA will determine the following:
 - a. If the Undertaking is an immediate rescue and salvage operations conducted in response to an event to preserve life and property, FEMA has no Section 106 review responsibilities in accordance with 36 CFR § 800.12(d); or
 - b. If the Undertaking meets one or more of the Allowances in Appendix B of this Agreement, FEMA will complete the Section 106 review process pursuant to Stipulation II.A.1, Programmatic Allowances.
 - c. If FEMA determines that the emergency Undertaking will adversely affect a historic property during this expedited review period, to the extent practicable FEMA may propose treatment measures that would address adverse effects during implementation, and request the comments of the SHPO and/or the affected Tribe(s) within 3 days of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period. FEMA may elect to consult with the SHPO and/or the affected Tribe(s) regarding the emergency Undertaking at any point before or during the implementation of an emergency Undertaking if FEMA determines circumstances are appropriate for expedited consultation.
 - d. FEMA may provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA will clarify that an "expedited Undertaking review" is being requested.
 - e. FEMA will take into account any timely comments provided by SHPO and/or the affected Tribe(s) and notify the parties of how their comments were taken into consideration by FEMA, OEM, and subgrantee.

- f. Should the SHPO and/or Participating Tribes not comment within 7 days, FEMA may fund the emergency Undertaking based on the available information. This will complete the Section 106 review for the Undertaking.

C. Emergency Demolition and Debris Removal of Privately-Owned Properties

FEMA may need to carry out debris removal activities involving the demolition and removal of buildings and structures that are damaged beyond repair or that are completely collapsed and/or disassembled by the actions of the declared event and therefore must be removed for health and safety reasons. Damage to historic properties by the effects of natural disasters to such a degree that demolition is required for health and safety reasons is not an adverse effect as defined under Section 106 of NHPA. However, FEMA is required by the NHPA to determine if its specific actions in response to disasters will cause adverse effects to any historic properties. After FEMA Public Assistance Program (PA) determines a property initially eligible for demolition, FEMA EHP will review these projects using the following expedited emergency process outlined below.

1. FEMA EHP will evaluate all properties proposed for demolition to determine if they are listed in the National Register or have previously been determined to be eligible for the National Register. If a property has not been previously evaluated for National Register eligibility, FEMA will make a determination whether or not the property is eligible for the National Register. Historic properties include both those above the ground (buildings and structures) and below the ground (archaeological sites and artifacts).
2. FEMA's evaluation will include a data base/GIS review of SHPO information to identify previously-identified historic properties, field review and photography, and additional research of properties that are more than 45 years of age, including archaeological analysis if necessary.
3. FEMA EHP will evaluate all properties proposed for demolition to determine if they are LPC designated or calendared for designation. This will include a database review at [http://geo.nycnet/doit/nycgovmap/](http://geo.nycnet.doit/nycgovmap/) for designated properties and <http://a810-bisweb.nyc.gov/bisweb/bsqpm01.jsp> (New York City Buildings Department) for calendared properties.
4. FEMA will conduct an analysis of effects for any historic property identified for demolition or for any demolition that will affect other historic properties within an Area of Potential Effects (APE) and will determine if the project will result in adverse effects. The APE shall include properties within the view shed of the Undertaking that are LPC designated or calendared. The APE for historic properties that are not located within a designated National Register or LPC historic district, or within a geographic area that is eligible as a National Register district, will be the building footprint. For all others, FEMA will determine a project-specific APE. FEMA will also provide information to the SHPO for these properties that describes the specific nature of the damage to each property

5. FEMA will document its findings concerning each property that is proposed for demolition and will submit a report to the SHPO and other consulting parties, as appropriate that includes two (2) photographs of each property (more if associated resources are present) and text that briefly but adequately explains FEMA's determination of National Register eligibility and effects. These reports will be submitted via the SHPO's dedicated electronic mail account at femarecovery@parks.ny.gov.
6. SHPO will review the reports, provide its concurrence or ask for more information via electronic mail within three (3) business days. If SHPO does not concur with FEMA's finding for any property, both agencies will conduct further consultation as soon as possible to clarify FEMA's determinations or to resolve any disagreements.
7. To the extent practicable, demolition of every structure will be carried out following low impact protocols – limiting disturbance to the footprint of the existing structure, limiting the use of heavy equipment on the property, pushing all foundation materials into the building basement and emphasizing that the contractors make reasonable efforts to avoid or minimize harm to any archaeological deposits. In addition, FEMA's PA Program does not fund the removal of slabs, further ensuring that these undertakings will likely have minimal impact on archaeological resources. In most instances FEMA will make the determination that no historic properties will be affected by the demolition.
8. In cases where a demolition site is considered to be archaeologically sensitive monitoring will be required by an archaeologist who meets the Secretary's Professional Qualifications Standards. This determination will be made on a case-by case-basis by FEMA in consultation with the SHPO and other consulting parties. Eligibility determinations, assessment of effects and resolution of adverse effects will be made subsequent to identification of an archeological property. Uprooted trees and exposed stumps will be removed in accordance with the Stump Removal Policy in Appendix E.
9. Demolition of eligible historic buildings/structures may be adverse and may require development of a Memorandum of Agreement (MOA) to mitigate any adverse effects. If FEMA determines that any property demolition is an Undertaking that will result in adverse effects, it will enter into consultation with the SHPO and other appropriate consulting parties to develop an MOA to mitigate the adverse effects as required under Section 106. FEMA may choose to identify, in consultation with the SHPO, standard treatment measures to mitigate adverse effects to multiple properties.

10. This agreement only pertains to the residential structure itself and does not include the demolition or removal of any other infrastructure on these properties, including sidewalks, driveways, pools, retaining walls or similar structures that would not be eligible for FEMA Public Assistance funding.

D. Standard Project Review

For Undertakings not exempt from further Section 106 review, FEMA will ensure that the following standard project review steps are implemented. In the interest of streamlining, FEMA may combine some of these steps during consultation.

1. Consulting Parties: FEMA will consult as appropriate with the SHPO and affected Tribe(s) to identify any other parties that meet the criteria to be consulting parties and invite them to participate in the Section 106 review process. FEMA may invite others to participate as consulting parties as the Section 106 review proceeds.
2. Area of Potential Effects: For standing structures, qualified staff shall define the APE as the individual structure when the proposed Undertaking is limited to the repair or rehabilitation (as defined in 36 CFR § 68.3(b)(6) and 36 CFR § 68.2(b)) of a structure located outside of a National Register listed or eligible historic district. For all other undertakings, qualified staff will determine the APE in consultation with the SHPO and Participating Tribes. FEMA may also consider information provided by other parties, such as local governments, LPC, local preservation advocacy organizations, and the public, when establishing the APE.
3. Identification and Evaluation: Qualified staff shall determine, in consultation with the SHPO and Participating Tribes if the APE contains historic properties, including archaeological sites or properties of religious or cultural significance, that are listed in or potentially eligible for the National Register, or LPC designated and calendared properties. This may include the review of preliminary documentation collected by OEM or the subgrantee in coordination with the SHPO.
 - a. Archaeological Properties, FEMA may consult with the SHPO to determine the level of effort and methodology necessary to identify and define the limits of archaeological properties. For historic properties of religious and cultural significance to Participating Tribe(s), FEMA shall consult with the Tribe(s) to identify geographic areas where properties may be affected by an Undertaking in order so that FEMA may determine the necessary level of effort required to avoid or protect any such properties. FEMA may also consult with LPC regarding identification and treatment of archaeological properties.
 - b. National Historic Landmarks: When FEMA determines an Undertaking has the potential to affect an NHL, FEMA shall notify the Secretary through the NHL Program Manager in the NPS Northeast Regional Office in addition to the SHPO and Participating Tribe(s).

- c. Determinations of Eligibility: FEMA shall review or determine National Register eligibility based on identification and evaluation efforts, and consult with SHPO and Participating Tribe(s) regarding these determinations. Should the SHPO or Participating Tribe(s) disagree with the determination of eligibility, FEMA may elect to either continue consultation, treat the property as eligible for the National Register, or to obtain a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4(c)(2).
- d. Findings of No Historic Properties Affected: FEMA shall make a finding of “no historic properties affected” if no historic properties are present in the APE; the Undertaking is designed to avoid historic properties, including archaeological sites or properties of religious or cultural significance to Participating Tribe(s); or the Undertaking does not affect the character defining features of a historic property.
 - i. FEMA shall notify the SHPO, Participating Tribes(s), and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d) and applicable documentation standards. Unless the SHPO or Participating Tribe(s) objects to the finding pursuant to the appropriate timeframe outlined in Stipulation I.E.2 or I.E.3, Timeframes, FEMA shall complete the Section 106 review.
 - ii. If the SHPO or Participating Tribe(s) objects to a finding of “no historic properties affected”, FEMA may elect to consult with the objecting party to resolve the disagreement. If the objection is resolved, FEMA may proceed with the action in accordance with the resolution. FEMA also may elect to reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation II.D.4, Application of the Criteria of Adverse Effect. If FEMA is unable to resolve the disagreement, it will forward the finding and supporting documentation to the ACHP and request that the ACHP review FEMA’s finding in accordance with 36 CFR § 800.4(d)(1)(iv)(A) through 36 CFR § 800.4(d)(1)(iv)(C). FEMA will consider the ACHP’s recommendation in making its final determination.
- 4. Application of the Criteria of Adverse Effect: If FEMA finds an Undertaking may affect identified historic properties in the APE, including properties of religious or cultural significance to Participating Tribe(s), or if a consulting party objects to the finding of “no historic properties affected,” FEMA will apply the criteria of adverse effect to historic properties within the APE(s), taking into account the views of the consulting parties and public concerning effects in accordance with 36 CFR § 800.5(a).
 - a. If FEMA determines that an Undertaking does not meet the adverse effect criteria or, for a standing structure, that the Undertaking meets the *Standards*, FEMA shall propose a finding of “no adverse effect” in accordance with 36 CFR § 800.5(b).

- b. FEMA shall notify the SHPO, Participating Tribe(s), and all other consulting parties of its finding and provide supporting documentation pursuant to 36 CFR §800.11(e) and applicable documentation standards. Unless a consulting party objects within the appropriate timeframe, FEMA will proceed with its “no adverse effect” determination and complete the Section 106 review.
 - c. If FEMA finds the Undertaking may have an adverse effect, FEMA shall request through OEM that the subgrantee revise the scope of work to substantially conform to the Standards for standing structures, or avoid or minimize adverse effects for archaeological properties, in consultation with the SHPO, Participating Tribe(s), and any other consulting parties. If the subgrantee modifies the scope of work to address the adverse effect, FEMA shall notify the consulting parties, and provide supporting documentation. Unless a consulting party makes a timely objection, FEMA shall proceed with its “no adverse effect” determination and complete the Section 106 review.
 - d. If a consulting party objects to a finding of “no adverse effect,” FEMA will elect to consult with the objecting party to resolve the disagreement. If the objection is resolved, FEMA will proceed with the undertaking in accordance with the resolution, or;
 - e. If the objection cannot be resolved, FEMA will forward its findings and supporting documentation to the ACHP and request that the ACHP review the findings in accordance with 36 CFR. § 800.5(c)(3)(i-ii). FEMA will consider the ACHP’s comments in making its final determination, or;
 - f. If an Undertaking cannot be modified to avoid adverse effects FEMA will initiate consultation to resolve the adverse effect(s) in accordance with Stipulation II.D.5, Resolution of Adverse Effects.
5. Resolution of Adverse Effects: If FEMA determines that an Undertaking will adversely affect a historic property, it shall resolve the effects of the Undertaking in consultation with the SHPO, OEM, participating Tribes, subgrantee, ACHP, if participating, and any other consulting parties, by one of the following methods depending upon the nature and scale of the adverse effect as well as the determination of the historic property’s significance on a local, state or national level:
- a. Abbreviated Consultation Process: After taking into consideration the nature of the historic properties affected and the severity of the adverse effect(s), FEMA may propose to resolve the adverse effect(s) of the Undertaking through the application of Treatment Measures outlined in Appendix C as negotiated with the SHPO, OEM, and Participating Tribe(s). FEMA will not propose use the Abbreviated Consultation Process if the Undertaking may affect an NHL. The application of these Treatment Measures will not require the execution of a Memorandum of Agreement (MOA) or Programmatic Agreement.

1. FEMA will notify the consulting parties in writing of its proposed use of a specific Treatment Measure, or combination of Treatment Measures with the intent of expediting the resolution of adverse effects and provide documentation as required by 36 CFR §800.11(e) and subject to the confidentiality provisions of 36 CFR §800.11(c), as well as provide the ACHP with an adverse effect notice in accordance with 36 CFR §800.6(a)(1) and notify them of FEMA's intent to apply the Treatment Measure(s). Unless a consulting party or the ACHP objects within fifteen (15) days of receipt of FEMA's proposal, FEMA will proceed with the use of Treatment Measure(s) and will complete Section 106 review.
 2. If any of the consulting parties or the ACHP objects within the 15 day review and comment period to the resolution of adverse effects through the application of the Abbreviated Consultation Process, FEMA shall consult further with the consulting parties to explore options for resolution of the adverse effect(s). If consultation is not successful after an additional 15 day period, FEMA shall request that the ACHP arbitrate the consultation and help identify a final resolution of the adverse effect(s). If no consensus is reached, FEMA shall resolve the adverse effect(s) using procedures outlined below in Stipulation II.E.5.b, Memorandum of Agreement.
 3. Because funding and implementation details of Treatment Measure(s) for specific Undertakings may vary by program, FEMA will provide written notice to the consulting parties within sixty (60) days of the completion of the Treatment Measure(s). This written notice will serve as confirmation that the Treatment Measure(s) for a specific Undertaking have been implemented. FEMA will also include information pertaining to the completion of Treatment Measures in the annual report pursuant to Stipulation I.B.1,d, FEMA Roles and Responsibilities.
- b. Memorandum of Agreement (MOA): If the Abbreviated Consultation Process is determined infeasible or is objected to by any of the consulting parties, FEMA, in consultation with the other consulting parties, will develop an MOA in accordance with 36 CFR § 800.6(c) to stipulate treatment measures to avoid, minimize, and/or mitigate adverse effects on historic properties. If the ACHP was not previously notified of the adverse effect, FEMA will provide the documentation outlined in 36 CFR §800.11(e), and the ACHP will have 15 days to review the undertaking and determine if its participation is necessary to complete the consultation process. The MOA may also include feasible treatment measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of more traditional treatment measures. Should the execution of an MOA not be appropriate given the nature and significance of historic properties, scale of adverse effects, or include one or more complex Undertakings, FEMA shall resolve the adverse effects using the procedures outlined below in Stipulation II.E.5.c, Programmatic Agreement.

- c. **Programmatic Agreement:** FEMA, the SHPO, OEM, Participating Tribe(s), the ACHP, as appropriate, and any other consulting party may consult to develop a Programmatic Agreement in accordance with 36 CFR § 800.14(b) to identify programmatic conditions or treatment measures to govern the resolution of potential or anticipated adverse effects from certain complex project situations for an Undertaking or for multiple but similar Undertakings by a single subgrantee.
- d. **Objections:** Should any signatory, invited signatory, consulting party, or member of the public object within the timeframes established by this Agreement to any plans, specifications, or actions pursuant to resolving an adverse effect, FEMA shall consult further with the objecting party to seek resolution. If FEMA determines the objection cannot be resolved, FEMA shall address in accordance with Stipulation IV.B, Dispute Resolution.
- e. **National Historic Landmarks:** When FEMA determines an Undertaking will adversely affect an NHL, FEMA also will notify and invite the Secretary and ACHP to participate in consultation, pursuant to 36 CFR § 800.10. When the ACHP participates in consultation related to an NHL, the ACHP will report the outcome of the consultation to the Secretary and the FEMA Administrator.

III. OTHER CONSIDERATIONS

- A. **Changes to an Approved Scope of Work:** OEM is required to notify FEMA and will require its subgrantees to notify it immediately when there are proposed changes to an approved scope of work for an Undertaking. When notified by OEM of any proposed substantive change to the approved scope of work for an Undertaking, FEMA may authorize the OEM or subgrantee to proceed with the change once the required review is completed.
- B. **Unexpected Discoveries:** Upon notification by a subgrantee of an unexpected discovery in accordance with Stipulation I.B.3.d, OEM Roles and Responsibilities, OEM will immediately notify FEMA and require the subgrantee to:
 - 1. Stop construction activities in the vicinity of the discovery; and,
 - 2. Notify the local law enforcement office and coroner/medical examiner if human remains are discovered, in accordance with applicable New York State statute(s);
 - 3. Take all reasonable measures to avoid or minimize harm to the property until FEMA has completed consultation with the SHPO, Participating Tribe(s), and any other consulting parties. Upon notification by OEM of a discovery, FEMA will immediately notify the SHPO, Participating Tribe(s), and any other consulting parties that may have an interest in the discovery, and consult to evaluate the discovery for National Register eligibility.
 - 4. FEMA will consult with the consulting parties in accordance with the review process outlined in Stipulation II, Project Review, to develop a mutually agreeable action plan

with timeframes to identify the discovery, take into account the effects of the Undertaking, resolve adverse effects if necessary, and ensure compliance with applicable Federal and State statutes.

5. In cases where discovered human remains are determined to be American Indian, FEMA shall consult with the appropriate Tribal representatives and SHPO. In addition, FEMA shall follow the guidelines outlined in the ACHP's *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (2007).
6. FEMA will coordinate with OEM and the subgrantee regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the Undertaking.

C. Curation

1. FEMA and OEM shall ensure that all records and materials (collections) produced during the course of an archaeological survey, testing, and any data recovery operations for the implementation of its Undertakings are curated at a facility, preferably in-state, that meets the standards of, and in accordance with the applicable provisions of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections," and applicable State law and guidelines.
2. In cases where the survey, testing, or data recovery are conducted on private land, any recovered collections remain the property of the land owner and FEMA will return the collections to them with the assistance of the SHPO. In such instances, FEMA and OEM, in coordination with the SHPO or Participating Tribe(s), shall encourage land owners to donate the collection(s) to an appropriate public or Tribal entity. In cases where the property owner declines to accept responsibility for the collection(s) and wishes to transfer ownership of the collection(s) to a public or Tribal entity, FEMA and OEM will ensure curation of the collection(s) in accordance with Stipulation III.C.1 above.

D. Anticipatory Actions and After the Fact Review

1. OEM shall advise its subgrantees that they may jeopardize Federal funding if work is performed without all required local, State and Federal licenses, permits or approvals, including the completion of the Section 106 process. FEMA also shall document this requirement in its Record of Environmental Consideration, as applicable, as well as all project approval documents specifying the project scope and limits, and containing all conditions and caveats, including an approved Project Worksheet (PW) for a Public Assistance project, and an approved Application for an HMGP project.
2. In accordance with Section 110(k) of the NHPA, FEMA shall not grant assistance to a subgrantee who, with intent to avoid the requirements of this Agreement or Section 106 of the NHPA, has intentionally significantly and adversely affected a historic

property to which the assistance would relate, or having legal power to prevent it, allowed an adverse effect to occur. However, if after consultation with the SHPO, Participating Tribes(s), and ACHP, FEMA determines that extraordinary circumstances justify granting assistance despite the adverse effect created or permitted by the subgrantee, FEMA shall complete consultation for the Undertaking pursuant to the terms of this Agreement.

3. In circumstances where FEMA determines a subgrantee has initiated an Undertaking without willful intent to avoid the requirements of this Agreement or Section 106 of NHPA, FEMA will determine if the Undertaking would have required Section 106 review in accordance with Stipulation II.D, Standard Project Review.
4. If FEMA determines no Section 106 review or consultation with SHPO and Participating Tribe(s) would have been required pursuant to Stipulation II.D, Standard Project Review, FEMA will document this determination to the project files and consider the project Section 106 compliant.
5. If FEMA determines the Undertaking would have required Section 106 review, FEMA will coordinate with SHPO and Participating Tribe(s) to determine if consultation is feasible.
 - a. If after coordination with the SHPO and affected Tribes, FEMA determines that consultation is feasible, FEMA will review the Undertaking in accordance with Stipulation II.D, Standard Project Review.
 - b. If after coordination with the SHPO and Participating Tribe(s), FEMA determines that review is infeasible, FEMA will document that the project is noncompliant with Section 106, and the FEMA program then will make a funding eligibility decision.
6. FEMA will ensure that all Undertakings considered for after the fact review in accordance with this stipulation are included in the bi-annual reports.

IV. IMPLEMENTATION OF AGREEMENT

A. Amendments

1. If any signatory or invited signatory to the terms of the Agreement determines that the Agreement cannot be fulfilled, or that an amendment to the terms of this agreement must be made, the signatories and the invited signatories will consult for no more than 30 days to seek amendment of the Agreement.
2. This Agreement may be amended only upon the written consensus of the signatories. This Stipulation does not apply to amendments made to Appendices A, B, and C pursuant to Stipulation IV.A.3, Amendments, below.

3. Appendix A (FEMA Programs), Appendix B (Programmatic Allowances) and Appendix C (Treatment Measures) may be amended at the request of FEMA, a signatory party, or an invited signatory party in the following manner:
 - a. FEMA, on its own behalf or on behalf of another signatory or invited signatory, shall notify all signatory and invited signatory parties to this Agreement of the intent to add to or modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all signatory and invited signatory parties.
 - b. If no signatory or invited signatory object in writing within 15 days of receipt of FEMA's proposed addition or modification, FEMA will date and sign the amended Appendix and provide a copy of the amended Appendix to all signatory and invited signatory parties.

B. Dispute Resolution

1. Should any signatory or invited signatory to this Agreement object in writing within 30 days to the terms of this Agreement, FEMA will consult with the objecting party for not more than 30 days to resolve the objection.
2. If the objection is resolved within 30 days, FEMA shall proceed in accordance with the resolution.
3. If FEMA determines within 30 days that the objection cannot be resolved, FEMA will forward to ACHP all documentation relevant to the objection, including FEMA's proposed resolution. Within 30 days of receipt, ACHP will:
 - a. Concur in FEMA's proposed resolution; or
 - b. Provide FEMA with recommendations, which FEMA will take into account in reaching a final decision regarding the objection; or
 - c. Notify FEMA that the objection will be referred for comment in accordance with 36 CFR § 800.7(a)(4), and proceed to do so. FEMA will take the resulting comment into account.
4. FEMA will take into account any ACHP recommendations or comments, and any comments from the other signatories and invited signatories, in reaching a final decision regarding the objection in accordance with 36 CFR § 800.7(c)(4). The signatories will continue to implement all other terms of this Agreement that are not subject to objection.
5. Should ACHP not respond within 30 days, FEMA may assume ACHP has no comment and proceed with its proposed resolution to the objection.

6. FEMA will provide the signatories and invited signatories with its final written decision regarding any objection brought forth pursuant to this Stipulation.
7. FEMA may authorize any disputed action to proceed, after making its final decision.
8. At any time while this Agreement is in effect, should a member of the public object in writing to implementation of its terms, FEMA will notify the other signatories and invited signatories in writing and take the objection into consideration. FEMA will consult with the objecting party and, if that party so requests, the other signatories and invited signatories, for not more than 21 days. In reaching its decision regarding the objection, FEMA will take into consideration all comments from these parties. Within 15 days after closure of this consultation period, FEMA will provide the other parties with its final decision in writing. FEMA's decision will be final.
9. Any dispute regarding National Register eligibility that is not resolved pursuant to this Stipulation will be resolved in accordance with Stipulation II.D.3.c, Determinations of Eligibility.

C. Severability and Termination

1. In the event any provision of this Agreement shall be deemed contrary to, or in violation of, any applicable existing law or regulation of the United States of America and/or the State New York, only the conflicting provision(s) shall be deemed null and void, and the remaining provisions of the Agreement shall remain in effect.
2. FEMA, the SHPO, OEM, or Participating Tribe(s) may terminate this Agreement by providing 30 days' written notice to the other signatory and invited signatory parties, provided that the parties consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, FEMA will comply with 36 CFR Part 800. Upon such determination, FEMA will provide all other signatories and invited signatories with written notice of the termination of this Agreement.
3. A Participating Tribe may notify the other signatories and invited signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, FEMA will review undertakings that may affect historic properties of religious and cultural significance to the Tribe in accordance with 36 CFR §§ 800.3 through 800.7 or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Participating Tribe does not terminate the Agreement. A Tribe that has withdrawn from the Agreement may at any time that this Agreement remains in effect notify FEMA, OEM, and SHPO in writing that it has rescinded its notice withdrawing from participation in the Agreement.
4. This Agreement may be terminated by the implementation of a subsequent Agreement that explicitly terminates or supersedes this Agreement, or by FEMA's implementation of Alternate Procedures, pursuant to 36 CFR § 800.14(a).

D. Duration and Extension

1. Unless terminated in accordance with Stipulation IV.C.2 or IV.C.4, Severability and Termination, this Agreement shall remain in effect until FEMA, in consultation with all other signatories, determines that all undertakings related to 4085-DR-NY have been completed.
2. If another federally-declared disaster occurs within the State of New York while this PA is effective, the signatories and invited signatories will consult to determine whether it would be appropriate to extend the PA. If the parties agree that the extension of this PA is an acceptable mechanism for reviewing undertakings as a result of the new disaster, its duration shall be extended pursuant to Stipulation IV.A.

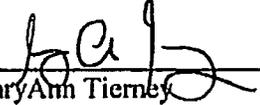
E. Execution and Implementation

1. This Agreement may be implemented in counterparts, with a separate page for each signatory, invited signatory and concurring party and will become effective on the date of the final signature, and will become effective on the date of signature by FEMA, SHPO, and ACHP. FEMA will ensure that each signatory, invited signatory and concurring party is provided with a complete copy.
2. Execution and implementation of this Agreement evidence that FEMA has afforded ACHP a reasonable opportunity to comment on FEMA's administration of all referenced Programs, and that FEMA has satisfied its Section 106 responsibilities for all individual Undertakings of the Programs.

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Signatory:

FEDERAL EMERGENCY MANAGEMENT AGENCY

By:  _____ Date: 5/6/13
By: MaryAnn Tierney
Acting Regional Administrator, Region II

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Signatory:

NEW YORK STATE HISTORIC PRESERVATION OFFICER

By: Ruth Pierpont Date: 5/3/13

By: Ruth Pierpont

New York Deputy Commissioner/New York Deputy State Historic Preservation Officer

PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY

Signatory:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____

John M. Fowler
Executive Director

Date: _____

5/10/13

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
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THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:

NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT

By: *Jerome M. Hauer*
Commissioner

Date: 9/1/13

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:

THE DELAWARE NATION

By: _____ Date: _____

C. J. Watkins
Vice President

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:
THE DELAWARE NATION

By: _____ Date: _____
Paula Pechonick
Chief

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:
THE SHINNECOCK NATION

By: [name]
[title]

Date: _____

By: [name]
[title]

Date: _____

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
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THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:

THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS

Date: _____

By: Robert Chicks
President of Tribal Council

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

Concurring Party:

NEW YORK CITY LANDMARKS PRESERVATION COMMISSION

Date: _____

By: Robert B. Tierney

Chair, The New York City Landmarks Preservation Commission

Appendix A

FEMA Program Summaries

This Appendix may be amended in accordance with Stipulation IV.A, Amendments.

Disaster Response and Recovery Programs

The following programs are authorized under Titles IV and V of the Stafford Act.

Public Assistance Program (PA)

This program assists States, Tribal and local governments, and certain types of private nonprofit organizations quickly respond to and recover from major disasters or emergencies declared by the President. Grants are provided for debris removal (Public Assistance Category A), emergency protective measures (Public Assistance Category B), and the repair, replacement, or restoration of disaster-damaged, publicly owned and certain private non-profit facilities (Public Assistance Categories C-G).

Individual Assistance Programs (IA)

These programs help ensure that individuals and families that have been affected by disasters have access to the full range of FEMA assistance including: crisis counseling (Section 416), disaster legal services (Section 415), essential assistance (Section 403), emergency sheltering assistance (Section 403), transportation (Section 419), funeral services, minor home repairs (Section 408), and temporary housing assistance (Section 408). It should be noted that other Federal agencies provide disaster assistance to individuals as well, such as the US Small Business Administration, Department of Agriculture, and Department of Labor and that this assistance is not subject to the terms of this agreement.

Fire Management Assistance Grant Program (FMAG)

The FMAG is available to State, Tribal, and local governments for the mitigation, management, and control of fires on publicly or privately owned lands. Eligible costs may include expenses for field camps, equipment use, repair and replacement, materials and supplies, and mobilization and demobilization activities.

Hazard Mitigation Grant Program (HMGP)

The HMGP provides grants to States, Territories, Tribes, and local governments to implement long-term hazard mitigation measures after a Disaster Declaration. Activities may include buyouts, retrofits, relocations, elevations, and minor flood control projects.

Appendix B

Programmatic Allowances

This list of Allowances enumerates FEMA funded activities that based on FEMA experience have no effect or limited effect on historic properties if implemented as specified in this Appendix and will not require review by the SHPO and Participating Tribe(s) pursuant to Stipulation II.A.1, Programmatic Allowances.

The allowances consist of two tiers – Tier I and Tier II. Staff may apply Tier I allowances without meeting any professional historic preservation qualification standards, while only staff meeting the applicable Secretary's Professional Qualifications Standards in accordance with Stipulation I.B.1.a of this Agreement may apply Tier II allowances.

When referenced in the allowances, "in-kind" shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including form, color, and workmanship. The in-kind repair provided for in both Tiers I and Tier II allowances in Appendix B should be limited to pre-existing architectural features and physical components of buildings and structures and in general should not be utilized when a building or structure has been substantially altered.

When referenced in the allowances, "previously disturbed soils" will refer to soils that are not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing archaeological artifacts, features, and phenomena within their original depositional contexts.

Tier I Allowances

- I. GROUND DISTURBING ACTIVITIES AND SITE WORK**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils and the area proposed to be disturbed does not exceed the previous disturbance in depth or footprint, including the area where the activity is staged.

A. Debris and Snow Removal

1. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way, public area and the transport and disposal of such waste to existing licensed waste facilities or landfills. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix E. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
2. Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal and in-ground elements, such as driveways, walkways or swimming pools are left in place.
3. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
4. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site.
5. Dewatering flooded developed areas by pumping.

B. Temporary Structures and Housing

1. Installation of temporary structures for uses such as school classrooms, offices, or shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and victims, at the following types of locations:
 - a. Single units on private residential sites when all utilities are installed above ground or tie into pre-existing utility lines.
 - b. Existing multi-family units.
 - c. Existing RV/Mobile Home Parks and campgrounds with pre-existing utility hookups.
 - d. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, business parks, military bases when all utilities are installed above ground or tie into pre-existing utility lines.
 - e. Sites that have been previously cleared and prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, military bases, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.

- f. Areas previously filled to depths of at least six feet so that subsurface utilities can be installed.

C. Recreation and Landscaping

1. Installation of temporary removable barriers.
2. In-kind repairs or replacement, and minor upgrades/mitigation of bollards and associated protective barriers when in previously disturbed areas.

II. BUILDINGS

- A. Repair or retrofit of buildings less than 45 years old.
- B. Removal of water by physical or mechanical means.
- C. Installation of grab bars and other such minor interior modifications required for compliance with the Americans with Disabilities Act (ADA).
- D. Installation of security bars over windows on rear elevations.
- E. Sheltering and Temporary Essential Power (STEP) Pilot Program: The STEP program provides essential power to affected residents and thereby reduces the demand for other shelter options by allowing individuals to return to or remain in their home while awaiting major repairs. STEP accomplishes this by 3 measures:
 1. Residential Meter Repairs: Repairs to exterior weather head, service cable, and meter box.
 2. Temporary Essential Electric Measures: Repairs to restore temporary power to residences where the utility will not turn the power back on due to damages in order to restore a minimal amount of power to allow heat and/or hot water and some power to targeted appliances, including installation of a temporary power supply, outlet panels, and other equipment that will be removed when permanent repairs are made.
 3. Rapid Temporary Exterior Repairs: Securing broken windows, covering damaged exterior walls and patching or otherwise securing damaged exterior doors. These repairs utilize raw, unfinished materials for temporary emergency repairs, such as plywood secured with a padlock.

III. TRANSPORTATION FACILITIES, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including any staging areas.

A. Roads and Roadways

1. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders medians, clearances, curbs, and side slopes. This allowance does not include improvement to existing roadways and appurtenances.
2. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.
3. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.
4. Re-establishment, armoring and/or upgrading of existing roadway ditches.
5. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
6. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
7. In-kind repair or replacement of roadway safety elements such as barriers, guardrails, and impact-attenuation devices. In the case of guardrails, the addition of safety end treatments is allowed.

B. Airports

1. In-kind repair or replacement of existing runway surfaces and features (e.g. asphalt, concrete, gravel, and dirt) and associated air transportation safety components and systems (e.g. lighting bars, beacons, signage and weather sensors).

C. Rail Systems

1. In-kind repair or replacement of safety components.
2. In-kind repair or replacement of existing track system and passenger loading areas.

Tier II Allowances

I. GROUND DISTURBING ACTIVITIES AND SITE WORK, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.

A. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems

1. In-kind repair, replacement, and reinforcement of footings, foundations, retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib walls, soldier pile and lag walls) if related ground disturbing activities are within the boundary of previously disturbed soils.

2. Installation of perimeter drainage (e.g. French drains) when performed in previously disturbed soils.

B. Recreation and Landscaping

1. In-kind repairs or replacement, and minor upgrades to recreational facilities and features (e.g. playgrounds, campgrounds, fire pits, dump stations and utility hook-ups, swimming pools, athletic fields and signage, batting cages, basketball courts, swing sets, pathways, simple wooden/wire stream crossings).
2. In-kind repair, replacements, and minor upgrades to landscaping elements (e.g., fencing, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps).

C. Piers, Docks, Boardwalks, Boat Ramps, and Dune Crossovers

1. In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps and dune crossovers in areas of previously disturbed soils.

D. Cemeteries

1. Removal of woody debris such as branches, limbs, and uprooted trees from cemeteries, provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix E. If this condition does not adequately protect human remains, then monitoring will be required by an archaeologist who meets the Secretary's Professional Qualifications Standards to oversee stump removal.

II. BUILDINGS

1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim

1. In-kind repair and replacement of floors, walls, stairs, ceilings, and/or trim. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster.
2. Interior cleaning of surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The allowance applies to interior finishes, including plaster and wallboard, provided the cleaning is restricted to damaged areas and does not affect adjacent materials.
3. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.

B. Utilities and Mechanical, Electrical, and Security Systems

1. In-kind repair or replacement, or limited upgrading of interior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems. This allowance does not provide for the installation of new exposed ductwork.
2. Elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment as long as it is placed or located where it is not highly visible from the street.
3. Replacement or installation of interior fire detection, fire suppression, or security alarm systems. The allowance does not apply to surface mounted wiring, conduits, piping, etc., unless previously existing, provided that installation of the system hardware does not damage or cause the removal of character-defining architectural features and can be easily removed in the future.
4. Installation of building communication and surveillance security systems, such as cameras, closed-circuit television, alarm systems, and public address systems, provided that installation of the system hardware does not damage or cause the removal of character defining architectural features and can be easily removed in the future.
5. Installation of building access security devices, such as card readers, enhanced locks, and security scanners (e.g., metal detectors), provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features.

C. Windows and Doors

1. In-kind repair of damaged or severely deteriorated windows and window frames,, shutters, storm shutters, doors and door frames, and associated hardware, where profiles, elevations, details and materials match those of the originals.
2. In-kind replacement of window panes. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This allowance does not apply to the replacement of existing intact archaic or decorative glass.
3. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with metal blast resistant doors and frames.

D. Exterior Walls, Cornices, Porches, and Foundations

1. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
2. In-kind repair of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail and material. Any ground disturbance will be limited to previously disturbed soils.
3. In-kind repair or replacement of signs or awnings.
4. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.
5. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.
6. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that matches the color, strength, content, rake, and joint width.
7. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.
8. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
9. Repairs to and in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.

E. Roofing

1. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
2. In-kind repair or replacement of roofing, of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.
3. Repairs to a flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.

F. Weatherproofing and Insulation

1. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
2. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.

G. Structural Retrofits

1. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.
2. Replacement, repair or installation of lightning rods.

III. TRANSPORTATION FACILITIES, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. Roads and Roadways

1. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches.
2. In kind repair to historic paving materials for roads and walkways.
3. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.
4. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.
5. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, and sidewalks.

B. Bridges

1. Installation of a temporary (Bailey-type) bridge over an existing structure or at a previously disturbed location, such as a former bridge location, to allow passage of emergency vehicles.
2. In-kind repair or replacement of bridges and bridge components (e.g. abutments, wing walls, piers, decks, and fenders in previously disturbed soils).

IV. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. General

1. In-kind repair or replacement, or minor upgrading, small scale realignment, and elevation of utilities and associated features and structures within previously disturbed soils of rights-of-way or utility corridors.
2. Installation of new utilities and associated features within existing rights-of-way.
3. Directional boring of new/replacement service line and related appurtenances involving boring or silt trenches within previously disturbed soils of rights-of-way or utility corridors.
4. In-kind repair or replacement, or minor upgrade of water towers provided activities take place within previously disturbed soils. Ground-level facilities may be added or expanded in previously disturbed areas. This allowance does not apply to masonry water towers.

B. Generators and Utilities

1. In-kind repair or replacement, or minor upgrades elevation, and/or installation of generators, HVAC systems, and similar equipment provided activities occur within previously disturbed soils and any roof mounted equipment is not visible from the ground level.

C. Communication Equipment/Systems and Towers

1. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
2. The collocation of communication and security equipment on existing towers and buildings/structures less than 45 year in age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.

3. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
4. Installation of new temporary (not to exceed 12 months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures older than 45 years and occurs within previously disturbed soils.
5. Installation of new communication towers, less than 200 feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures older than 45 years, occurs within previously disturbed soils and is not within 500 feet of the boundaries of a historic property.

V. WATER RESOURCE MANAGEMENT AND CONTROLS, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. Canal Systems

1. In-kind repairs or replacement to canal systems and associated elements.

B. Breakwaters, Seawalls, Revetments, and Berms

1. In-kind repair or replacement of breakwaters, seawalls, and revetments, provided the work occurs in previously disturbed soils.

C. Dams, Levees, and Floodwalls

1. In-kind repair of dams, levees, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.

D. Fish Hatcheries

1. In-kind repair or replacement of fish hatcheries and fish ladders.

E. Waste-Water Treatment Lagoon Systems

1. In-kind repair or replacement, or minor upgrades of waste-water treatment lagoon systems.

VI. OTHER PROGRAM ACTIVITIES

A. Elevation, Demolition, and Reconstruction

1. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than 45 years of age so long as the proposed activities substantially

conform to the original footprint and/or are performed in previously disturbed soils including any staging area, and the buildings or structures are not located within or adjacent to a National Register or LPC historic district.

B. Safe Rooms

1. Installation of individual safe rooms within the property limits of a residence where the installation will occur within an existing structure or building that is less than 45 years of age and has been determined by FEMA not to be significant under Criterion G, or within previously disturbed soils.

Appendix C

Treatment Measures

[to be negotiated on a state-by-state basis]

The following Treatment Measures are suggested for the resolution of Adverse Effects:

If Undertakings result or will result in adverse effects, FEMA, the SHPO, OEM, and Participating Tribes(s), may develop a treatment measure plan that includes one or more of the following Treatment Measures, depending on the nature of historic properties affected and the severity of adverse effects. If an Undertaking will adversely affect a LPC designated or calendared properties, LPC may participate in development of a treatment measure plan. This Appendix may be amended in accordance with Stipulation IV.A.3 of this Agreement, Amendments.

A. Recordation Package

1. **Digital Photography Package:** Prior to project implementation, the designated responsible party shall oversee the successful delivery of a Digital Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate. The Digital Photography Package will meet the standards cited in the National Park Service's *National Register of Historic Places Photographic Policy March 2010* or subsequent revisions (<http://www.nps.gov/nr/publications/bulletins/photopolicy/index.htm>).
 - a. The Digital Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The Digital Photography Package shall include printed color copies of the digital photographs (on appropriate paper, per *NPS Photographic Policy*), a CD/DVD of the digital photographs, a completed state architectural inventory form, and a written site history of the historic property.
 - c. The designated responsible party shall submit the Digital Photography Package to the SHPO and Participating Tribe(s) for review and approval. Once approved by the SHPO and Participating Tribe(s), the designated responsible party shall submit full copies of the approved Digital Photography Package to _____ for permanent retention.

2. **35 mm Black and White Film Photography Package:** Prior to project implementation, the designated responsible party shall oversee the successful delivery of a 35 mm Black and White Film Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
 - a. The 35 mm Black and White Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The 35 mm Black and White Film Photography Package shall include one (1) full set of 35mm film black and white photographs printed on acid free paper, the corresponding 35mm film negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
 - c. The designated responsible party shall submit the 35 mm Black and White Film Photography Package to the SHPO and Participating Tribe(s) for review and approval. Once approved by the SHPO and Participating Tribe(s), the designated responsible party shall submit full copies of the approved 35 mm Black and White Film Photography Package to _____ for permanent retention.
3. **Large Format Film Photography Package:** Prior to project implementation, the designated responsible party shall oversee the successful delivery of a Large Format Film Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
 - a. The Large Format Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

- b. The Large Format Film Photography Package shall include one (1) full set of 4 x 5 or 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x 7-inch negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
- c. The designated responsible party shall submit the Large Format Film Photography Package to the SHPO and Participating Tribe(s) for review and approval. Once approved by the SHPO and affected Tribe(s), the designated responsible party shall submit full copies of the approved Large Format Film Photography Package to _____ for permanent retention.

B. Design Review by SHPO and Participating Tribe(s)

Prior to project implementation, FEMA, the Grantee, and subgrantee shall work with the SHPO and Participating Tribe(s) to develop a historically compatible design. Plans and specifications will, to the greatest extent feasible, preserve the basic character of a building. Primary emphasis shall be given to the major street elevations that are visible. Significant contributing features (e.g. trim, windows, doors, porches) will be repaired or replaced with either in-kind materials or materials that come as close as possible to the original materials in basic appearance. Aesthetic camouflaging treatments such as use of veneers, paints, texture compounds and other surface treatments and/or use of sympathetic infill panels and landscaping features will be employed to the greatest extent feasible. Final construction drawings used in the bidding process will be submitted to the SHPO and Participating Tribe(s) for review and comment prior to the award of a construction contract and the initiation of construction activities.

C. Tribal Treatment Plan

FEMA shall work with the Participating Tribe(s) to develop a plan for the protection and treatment of, including but not limited to, Native American remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, for known sites and in the event that any are discovered in conjunction with the Undertaking, including archaeological studies, excavation, geotechnical investigations, grading, and all ground-disturbing activity. The plan will also formalize procedures for Tribal monitoring during archaeological studies, grading, and ground disturbing activities for the Undertaking. No photography of Native Americans human remains or funerary objects will be allowed. No photography of Native Americans human remains or funerary objects will be allowed.

D. Public Interpretation

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to design an educational interpretive plan. The plan may include signs, displays, educational pamphlets, websites, workshops and other similar mechanisms to educate the public on historic properties within the local community, state, or region. Once an interpretive plan has been agreed to by the parties, SHPO, Participating

Tribe(s), and the designated responsible party will continue to consult throughout implementation of the plan until all agreed upon actions have been completed by the designated responsible party.

E. Historical Context Statements and Narratives

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to determine the topic and framework of a historic context statement or narrative the designated responsible party shall be responsible for completing. The statement or narrative may focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the statewide preservation plan. Once the topic of the historic context statement or narrative has been agreed to, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the drafting of the document and delivery of a final product. The SHPO and Participating Tribe(s) shall have final approval over the end product. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

F. Oral History Documentation

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to identify oral history documentation needs and agree upon a topic and list of interview candidates. Once the parameters of the oral history project have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the data collection, drafting of the document, and delivery of a final product. The SHPO and Participating Tribe(s) shall have final approval over the end product. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

G. Historic Property Inventory

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to establish the appropriate level of effort to accomplish a historic property inventory. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. Once the boundaries of the survey area have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the data collection process. The designated responsible party will use SHPO and Participating Tribe(s) standards for the survey of historic properties and SHPO and Participating Tribe(s) forms as appropriate. The designated responsible party will prepare a draft inventory report, according to SHPO and Participating Tribe(s) templates and guidelines, and work with the SHPO and Participating Tribe(s) until a final property inventory is approved. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

H. National Register and National Historic Landmark Nominations

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO, and Participating Tribe(s) to identify the individual properties that would benefit from a completed National Register or National Historic Landmark nomination form. Once the parties have agreed to a property, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the drafting of the nomination form. The SHPO and Participating Tribe(s) will provide adequate guidance to the designated responsible party during the preparation of the nomination form and shall formally submit the final nomination to the Keeper for inclusion in the National Register. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

I. Geo-References of Historic Maps and Aerial Photographs

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to identify the historic maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to them for review. The SHPO and Participating Tribe(s) shall have final approval on the quality of the documentation provided by the designated responsible party. The final deliverable shall include a paper copy of each scanned image, a geo-referenced copy of each scanned image, and the metadata relating to both the original creation of the paper maps and the digitization process.

APPENDIX D

**TO THE PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY**

WHEREAS, as a result of Hurricane Sandy (DR-4085-NY) (Disaster Declaration), the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*) (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the Flood Disaster Protection Act of 1973, Pub. L. No. 93-234 (1973) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); and implementing regulations contained in Title 44 of the Code of Federal Regulations (C.F.R.), proposes to provide assistance through the New York State Office of Emergency Management (OEM); and

WHEREAS, FEMA consulted with OEM, the New York State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP) and the New York City Landmarks Preservation Commission (LPC) to develop and execute a Programmatic Agreement (Agreement) for its disaster recovery activities, executed on May 9, 2013; and

WHEREAS, under the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, January 29, 2013), the U.S. Department of Housing and Urban Development (HUD) has allocated funds for disaster recovery activities to New York State and New York City, each of which is executing a separate Appendix D Addendum to the Agreement; and

WHEREAS, New York State Homes and Community Renewal (NYS HCR) as the Responsible Entity for New York state activities outside New York City has assumed HUD's environmental responsibilities and is responsible for environmental review, decision-making and action, pursuant to Section 104(g) of the Housing and Community Development Act of 1974 and 24 CFR Part 58, and proposes to administer Community Development Block Grant – Disaster Recovery (CDBG-DR) funds pursuant to the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, January 29, 2013); and

WHEREAS, the CDBG-DR funds will support activities that fall within the scope of programs authorized under the terms of this Agreement and Appendix A (Program activities); and

WHEREAS, to efficiently and expeditiously deliver disaster recovery assistance to those affected by Hurricane Sandy, there is an opportunity to coordinate and align Section 106 reviews of disaster recovery projects that may have multiple funding sources; and

WHEREAS, Stipulation I.A.3. of this Agreement allows other Federal agencies to fulfill their Section 106 responsibilities for those types of undertakings addressed in this Agreement by fully accepting all the terms of the Agreement and executing this Addendum; and

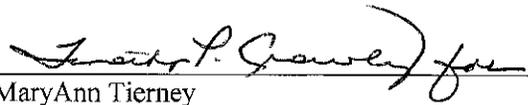
WHEREAS, NYS HCR will ensure that staff who meet the Secretary's Professional Qualification Standard will review Tier II projects and will provide resumes of such staff to the signatories to this Addendum;

NOW, THEREFORE, NYS HCR agrees to assume the federal agency role and accept the terms and conditions of the Agreement, as appropriate under HUD's authorizing legislation and regulations, and thereby take into account the effect of its undertakings and satisfy its Section 106 responsibilities for the CDBG-DR program for activities in New York state outside New York City.

EXECUTION AND IMPLEMENTATION of this Addendum to the Agreement evidences that New York State Homes and Community Renewal (NYS HCR) has taken into account the effects of its undertakings on historic properties, and that through the execution of this Addendum and implementation of the Agreement, NYS HCR will satisfy its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations for the referenced CDBG-DR program for activities in New York state outside New York City.

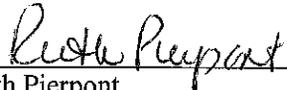
SIGNATORY PARTIES:

FEDERAL EMERGENCY MANAGEMENT AGENCY

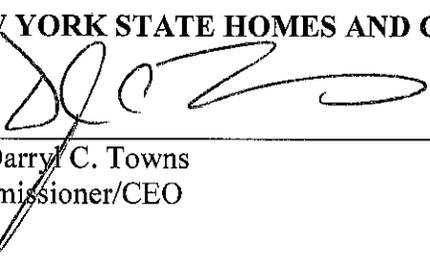
By: 
By MaryAnn Tierney
Acting Regional Administrator, Region II

Date: 7/25/13

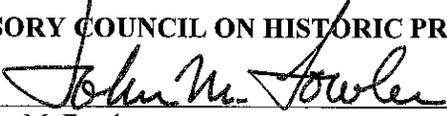
NEW YORK STATE HISTORIC PRESERVATION OFFICER

By:  Date: 8/1/13
By: Ruth Pierpont
New York Deputy Commissioner/New York Deputy State Historic Preservation Officer

NEW YORK STATE HOMES AND COMMUNITY RENEWAL

By:  Date: _____
By: Darryl C. Towns
Commissioner/CEO

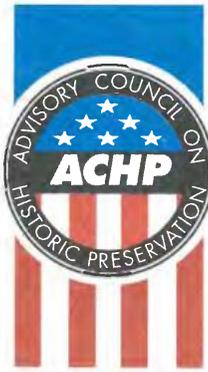
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 8/6/13
By: John M. Fowler
Executive Director

Appendix E

Stump Removal Guidance

Removal of stumps will be accomplished by attaching a chain to the stump and a piece of heavy equipment which will then pull the unexposed portion of the stump from the ground. If this method is not practicable, then the bucket of the machine will be used to grab and pull the stump out. Additional excavation in the surrounding soil will be avoided whenever possible and minimized when it is necessary. Void spaces will be backfilled with fill soil and any original loose native soil from the rootball when possible. Locations for proposed stump removal that are proposed to occur in areas with known archeological sites will undergo further evaluation and consultation. An archeologist will be present during the removal of rootballs within or adjacent to previously recorded archeological sites or when there are unexpected discoveries. If any potential archeological resources are discovered, work will immediately cease, and the Subgrantee or contractor will notify the Grantee and FEMA.



Preserving America's Heritage

August 6, 2013

Mr. Matthew Nelson
President
New York State Office of Community Renewal
38-40 State Street
Albany, NY 12207

Ref: *Addendum to the Programmatic Agreement for Disaster Response Activities as a Result of Hurricane Sandy in the City of New York*

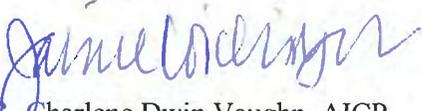
Dear Mr. Nelson:

Enclosed is a copy of the executed Appendix D for the referenced programmatic agreement. By carrying out the terms of the agreement, you will fulfill your responsibilities under Section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties" (36 CFR Part 800). The original agreement will remain on file in our office.

We commend the New York State Office of Community Renewal for working closely with the New York State Historic Preservation Officer, the U.S. Department of Housing and Urban Development and the Federal Emergency Management Agency to develop and execute this addendum which will administer Hurricane Sandy response activities using Community Development Block Grant-Disaster Recovery funds.

We are available to provide any assistance you may need while implementing the agreement. If you have any questions, please contact Ms. Jaime Loichinger at (202) 606-8529, or via e-mail at jloichinger@achp.gov.

Sincerely,

for 

Charlene Dwin Vaughn, AICP
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

Appendix P:
HUD Noise Abatement and Explosive Operations Email

From: Schopp, Danielle L [<mailto:Danielle.L.Schopp@hud.gov>]
Sent: Monday, March 18, 2013 12:32 PM
To: Sullivan, Neil
Cc: Potter, James M; Rivera, Nelson A; Furda, Michael R; Fretwell, Therese J; Sanders, Jerimiah J
Subject: RE: Noise and above ground storage tanks - New Jersey

Neil,

As discussed, noise is not applicable for a disaster recovery program including reconstruction and rehabilitation that meets the requirement at 24 CFR 51.101(a)(3). In addition, ASD requirements do not apply because the definition for HUD assisted projects at 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations; therefore, the environmental review for grants to elevate, rehabilitate, or reconstruct housing that existed prior to the disaster where the number of dwelling units is not increased is not required to apply 24 CFR Part 51 Subpart C. Mike Furda, as the FEO for New Jersey, is available for questions, follow up or additional guidance.

Thanks,

Danielle

Danielle Schopp, JD, MPA
Director, Office of Environment and Energy
Department of Housing and Urban Development
451 7th Street SW, Room 7250
Washington, DC 20410
phone (202) 402-4442
fax (202) 708-3363
<http://portal.hud.gov/portal/page/portal/HUD/topics/environment>



Please consider the environment before printing this e-mail

From: Sullivan, Neil [<mailto:Neil.Sullivan@icfi.com>]
Sent: Monday, March 18, 2013 10:26 AM
To: Schopp, Danielle L
Subject: Noise and above ground storage tanks - New Jersey
Danielle,

Just to follow up on our call on Thursday, NJ DEP requested that I e-mail you and confirm that there is no need to conduct a noise analysis for rehab and reconstruction projects (as defined by HUD) for 1-4 unit homes (the subject of NJ's first Tier 1 EA). Your comment that the analysis is unnecessary is based on the citation below at 24 CFR Part 51.101(a)(3). Can you please confirm that NJ can just cite the highlighted text below and avoid doing noise and AST analysis for both rehab and reconstruction projects?

Thanks

Neil

24 CFR Part 51.101(a)(3)

HUD support for new construction. HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land

development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

NEIL SULLIVAN | Senior Manager | 703.218.2533 (o) | Neil.Sullivan@icfi.com | icfi.com
ICF INTERNATIONAL | 9300 Lee Highway, Fairfax, VA 22031 | 703.975.8853 (m)

Appendix Q:
NMFS Consultation Letters

From: [Mark Murray-Brown - NOAA Federal](#)
To: [Rebecca Steffen](#)
Cc: [Julie Crocker](#); [Mary Colligan - NOAA Federal](#)
Subject: Re: Guidance documentation from NOAA
Date: Friday, March 07, 2014 11:17:35 AM

Rebecca - We plan on providing our technical guidance to assist with the screening of projects for the permitting process during the week of March 10.

In a July 31, 2013 letter, NMFS Protected Resources Division provided our determination that the Housing Assistance Program would have no effect to NMFS listed species and that no ESA Section 7 consultation was necessary. The purpose of this email is to confirm that those determinations are valid for all residential structures, including 9-plus unit buildings. Our determination is primarily based on the fact that the program does not involve any in-water work.

Please let me know if this information and timing of our technical guidance is sufficient for your needs.

Thank you. Mark.

On Tue, Mar 4, 2014 at 11:11 AM, Rebecca Steffen <rsteffen@prosourcectech.com> wrote:

Mark,

Good morning! I am wondering what sort of a timeframe you have for finishing the guidance document for the NY Rising Bulkhead Repair Program. NYS is wondering how soon it might be completed. I have been informed that this guidance will need to be included in the Tier 1 PEA, so I suppose the sooner it could be completed, the better (as NYS would very much like to submit the Tier 1 PEA to HUD as soon as possible for their review).

Please give me a call at your earliest convenience.

Thanks,

-becca

Rebecca Steffen, J.D. | Environmental Specialist

ProSource Technologies, LLC | rsteffen@prosourcectech.com

[763.786.1445](tel:763.786.1445) | fax [763.786.1030](tel:763.786.1030)

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Mark Murray-Brown
Section 7 Coordinator
Protected Resources Division
NOAA National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
(formerly, Northeast Regional Office)
55 Great Republic Drive
Gloucester MA 01930
(978) 281-9306



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

JUL 31 2013

Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

Re: Early Coordination for Section 7 Review for HUD CDBG-DR Housing Assistance Program, administered by NYSHCR

Dear Ms. Spitzberg,

We received your letter dated July 19, 2013, regarding the authorization received by the New York State Homes and Community Renewal (NYSHCR) to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster recovery (CDBG-DR) Housing Assistance Program in accordance with the State of New York Action Plan for Community Development Block Grant Program Disaster Recovery. In addition, as noted in your letter, I had the opportunity to discuss the program with Shawn Williams of ProSource. We appreciate the opportunity for early coordination on this Program in order to develop an efficient method for addressing Endangered Species Act (ESA) Section 7 consultation requirements.

You included an attachment to your letter from HUD identifying the NYSHCR office as the Responsible Entity in accordance with 24 CFR part 58 for the CDBG-DR actions. HUD stated that the assumption of authority is applicable for conducting the compliance process under the National Environmental Policy Act (NEPA) and related laws and authorities. Additionally, HUD stated that NYSHCR was to act as a federal deputy in the completion of any consultation requirements under the ESA.

After reviewing the materials provided and discussing the program with Mr. Williams, we agreed that it is more efficient to consider ESA Section 7 consultation needs as it applies to the entire Program rather than having you submit the projected tens to hundreds of NEPA EA reviews to us individually for consultation. You have identified the following specific activities where HUD-funds will be administered through the Program:

1. Rehabilitation and repair of 1-4 unit homes, 5-9 unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Buy-out of storm-damaged properties (result in destruction and return to green space for perpetuity).
3. Acquisition of damaged properties (result in destruction and options for future land use).



As we understand these activities, they are upland activities that will occur above the high water mark and do not involve work in waterways. We also understand that appropriate best management practices will be required by other permits and employed to avoid any discharge into waterways and wetlands during any work. While there are ESA listed species under NMFS jurisdiction in New York, all of these species are aquatic and limited to oceans and rivers. Activities not affecting waterways or wetlands do not appear to have the potential to impact NMFS listed species and their habitats. ESA Section 7 consultation is required when a proposed Federal action may affect a listed species. Because no NMFS listed species will be exposed to any effects of the proposed activities, no section 7 consultation is necessary. Although we do not anticipate it, if there is a project considered for funding that introduces impacts to waterways (e.g. through pile driving, dredging, disposal), then we recommend you provide information on that activity to us so we can determine if a consultation is necessary.

We appreciate the opportunity to learn about this program early in its development and for early consideration of potential impacts to NMFS ESA-listed species. If you have any questions or require further coordination, please contact me at 978-281-9116, or Mary.A.Colligan@noaa.gov.

Sincerely,


Mary Colligan
Assistant Regional Administrator
for Protected Resources



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

July 19, 2013

HOUSING
TRUST FUND
CORPORATION

STATE OF
NEW YORK MORTGAGE
AGENCY

NEW YORK STATE
HOUSING FINANCE
AGENCY

NEW YORK STATE
AFFORDABLE HOUSING
CORPORATION

STATE OF
NEW YORK MUNICIPAL
BOND BANK AGENCY

TOBACCO SETTLEMENT
FINANCING
CORPORATION

Ms. Mary Colligan
Assistant Regional Administrator
National Marine Fisheries Service-Northeast Region
55 Great Republic Drive
Gloucester, Massachusetts 01930-2276

Re: Program Introduction and Early Coordination for Section 7 (Endangered Species) Review for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR)

Dear Ms. Colligan:

New York State Homes and Community Renewal (NYSHCR) has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

The purpose of this letter is to provide the National Marine Fisheries Service- Northeast Region (NMFS) notice of the Program and begin early coordination, under the U.S. National Environmental Policy Act (NEPA), for preparation of an approach to completing the Section 7 and other regulatory compliance applicable to NMFS jurisdiction.

Program Overview

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Specific Federal Actions related to the program include:

1. Rehabilitation and repair of 1-4 unit homes, 5-9 unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Buy-out of storm-damaged properties (result in demolition and return to green space for perpetuity)
3. Acquisition of damaged properties (result in demolition and options for future land use).

We anticipate tens to possibly hundreds of NEPA EA reviews throughout the entire duration of the Program, as there are so many actions at various locations throughout the State of New York.

We do not expect the actions mentioned above to adversely affect NMFS-species because the actions will occur in primarily upland locations (though some within floodplains, as well) and impacts to surface water quality would be prevented and mitigated in accordance with permitting requirements and best management practices.

The current priority, as outlined in the Action Plan, is 1-4 unit homes and buyouts in the counties most impacted by the disasters (Nassau, Suffolk, Westchester, and Rockland).

Nassau and Suffolk Counties

Presently, NYSHCR is preparing the NEPA Programmatic Environmental Assessments (PEA) for reconstruction and rehabilitation of 1-4 unit homes in Nassau and Suffolk Counties. The 1-4 unit action will cover participating homeowners at various locations within the boundaries of Nassau and Suffolk Counties. The Program activities will restore storm-damaged homes, including elevation and/or other mitigation activities within the original footprint of the structure (s). No new construction or housing developments will occur as a result of the rehabilitation of 1-4 unit homes. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions. The NMFS provided a response letter to the 1-4 unit rehabilitation action in Nassau County, dated July 9, 2013 (attached).

Next Steps

The number and location of participants in the Program is constantly evolving. The current priority is to complete the Section 7 review process for the two PEAs regarding the 1-4 unit rehabilitation for Nassau and Suffolk Counties. We understand you have had recent phone conversations about the Program with Shawn Williams of ProSource Technologies, LLC (ProSource). We authorize ProSource to coordinate on our behalf, as this Program review moves forward. We look forward to discussion of this Program in the near future to determine if a programmatic coverage letter is appropriate to meet Section 7 compliance, in regards to the various actions related to this Program. If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org.

Sincerely,



Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

Attachment:

- HUD transfer of authority to NYSHCR under 24 CFR 58.4
- July 9, 2013 Letter from NMFS for 1-4 rehabilitation in Nassau County

cc. Chris Leo, NYHCR
Mark Murray-Brown, NMFS



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

September 19, 2013

HOUSING
TRUST FUND
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STATE OF
NEW YORK MORTGAGE
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STATE OF
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TOBACCO SETTLEMENT
FINANCING
CORPORATION

Ms. Mary Colligan
Assistant Regional Administrator
National Marine Fisheries Service-Northeast Region
55 Great Republic Drive
Gloucester, Massachusetts 01930-2276

Re: Section 7 Review for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR): Program Update, and Introduction of Economic Development, Rehabilitation of 5+ Unit Homes, Rehabilitation of 1-4 Unit Homes Reimbursement and Buy-Out/Acquisition for all Affected Counties.

Dear Ms. Colligan:

On July 19, 2013 New York State Homes and Community Renewal (NYSHCR) submitted a Program Introduction letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program). A response letter acknowledging the Program, and providing Endangered Species Act (ESA) coverage (approval) for the activities defined in the July 19 letter, was provided by the National Marine Fisheries Service-Northeast Region (NMFS), dated July 31, 2013.

The purpose of this letter is to inform NMFS of the additional actions of the CDBG-DR program that were not specified in the initial letter to NMFS (Reimbursement, Economic Development, etc.). Since submittal of the July 19, 2013 letter, these actions have been identified as a priority for the Program, and NYSHCR is proceeding with preparation of the Environmental Review Records (ERR) for all of these actions. NYSHCR is requesting a brief letter from NMFS providing Section 7 clearance for the updated activities described in this letter, providing coverage for the entire program (all actions in all affected counties in the CDBG-DR program).

Program Overview

The CDBG-DR Program is large-scale and encompasses several Counties throughout New York. Program descriptions are included in **Attachment A**, and a brief overview is included below. A list of affected counties included in the CDBG-DR program, as currently defined, is included in **Attachment B**. Specific Federal Actions related to the program include:

1. Rehabilitation and repair of 1-4 unit homes, 5+ unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Reimbursement (incorporated as part of the Rehabilitation program). Qualifying participants may get reimbursed for expenses associated with disaster recovery, which were incurred before the CDBG-DR program funds were ready.
3. Buy-out of storm-damaged properties. The State will buy eligible properties and will result in demolition and return to green space for perpetuity.
4. Acquisition of damaged properties. The State will buy eligible properties, with options for future land use.
5. Economic Development- Eligible entities may receive funding for general economic recovery and improvement of the local economy.

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

NYSHCR is requesting a program comprehensive response letter from NMFS, covering all actions, that can be included in all Tier 1 ERRs to document that coordination with NMFS has been completed. NYSHCR understands that if the CDBG-DR program identifies the potential for actions to directly occur within marine environments (channels, bays, etc.), or if the actions have the potential to directly affect surface water quality, then coordination with NMFS should be initiated for the specified action/project to ensure listed species are not adversely affected.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org. Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

cc. Seth Diamond, NYSHCR

Attachment A - Program Descriptions

Attachment B- List of Affected and Actions for Counties Included in the CDBG-DR Program

Attachment A- Program Descriptions

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Buyout/Acquisition

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

Voluntary Buyouts and Acquisitions of One- and Two-unit Homes

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

Enhanced Buyout Areas

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

Program Activities

Summarized in the sections below are the physical program activities:

Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed, the land would be backfilled and graded, and the soil would be revegetated using locally appropriate, native plant species. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development. The acquisitions may occur in areas outside of designated floodplains.

Rehabilitation 1-4 Units and 5+ Units

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above.

Economic Development Program Description

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

Small Business Grant Program

This program will provide funding grants to eligible businesses for renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Construction, rehabilitation, reconstruction of buildings
- Infrastructure directly associated with economic development activities
- Any other eligible business related activity (requires State consultation and approval)

Funding is available to small businesses, as defined by the Small Business Administration (SBA), and non-profit organizations in one of New York State's designated disaster areas. Priority will be given to damaged businesses with 100 or fewer employees. Priority also will be given to businesses that meet a low- and moderate-income benefit, whether by qualifying as a low- or moderate-income microenterprise owner or by creating or retaining jobs primarily for low- and moderate-income persons.

Small Business Loan Program

This program will provide loans to eligible businesses for renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan. Funding is available to small businesses, as defined by the SBA, and non-profit organizations in one of New York State's designated disaster areas. Priority will be given to damaged businesses with 100 or fewer employees. Priority also will be given to businesses that meet a low- and moderate-income benefit, whether by qualifying as a low or moderate-income microenterprise owner or by creating or retaining jobs primarily for low and moderate-income persons.

Coastal Fishing Industry Program

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. This program will provide loans to eligible businesses for renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan. Funding is available to small businesses, as defined by the SBA, in one of New York State's designated disaster areas. Priority will be given to damaged businesses with 100 or fewer employees. Priority also will be given to businesses that meet a low- and moderate-income benefit, whether by qualifying as a low- or moderate income microenterprise owner or by creating or retaining jobs primarily for low- and moderate income persons.

Seasonal Tourism Industry Program

This program will provide funding to eligible seasonal tourism businesses. This program will provide loans to eligible businesses for renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan. Funding is available to small businesses, as defined by the SBA, in one of New York State's designated disaster areas. Priority will be given to damaged businesses with 100 or fewer employees. Priority also will be given to businesses that meet a low- and moderate income benefit, whether by qualifying as a low- or moderate-income microenterprise owner or by creating or retaining jobs primarily for low- and moderate-income persons.

Attachment B: List of Affected and Actions for Counties Included in the CDBG-DR Program								9/19/2013		
County	Impacted by:			Potential Programs				Total	total	Overall
	Irene	Lee	Sandy	BO/Acq	Rehab 1 - 4	Rehab 5+	Economic	Documents	started	total
Albany	x				1	1	1	3	0	3
Bronx	x		x	1				1	0	1
Broome		x			1	1	1	3	0	3
Chemung		x			1	1	1	3	0	3
Chenango		x			1	1	1	3	0	3
Clinton	x				1	1	1	3	0	3
Columbia	x				1	1	1	3	0	3
Delaware	x	x			1	1	1	3	0	3
Dutchess	x				1	1	1	3	0	3
Essex	x				1	1	1	3	0	3
Greene	x				1	1	1	3	0	3
Fulton		x			1	1	1	3	0	3
Herkimer	x	x			1	1	1	3	0	3
Kings	x		x	1				1	0	1
Montgomery	x				1	1	1	3	0	3
Nassau	x		x	1	1	1	1	4	3	1
New York			x	1				1	0	1
Oneida		x			1	1	1	3	0	3
Orange	x	x	x	1	1	1	1	4	0	4
Otsego	x	x			1	1	1	3	0	3
Putnam	x		x	1	1	1	1	4	0	4
Queens	x		x	1				1	0	1
Rensselaer	x				1	1	1	3	0	3
Richmond	x		x	1				1	0	1
Rockland	x		x	1	1	1	1	4	3	1
Saratoga	x				1	1	1	3	0	3
Schenectady	x	x			1	1	1	3	0	3
Schoharie	x	x			1	1	1	3	0	3
Suffolk	x		x	1	1	1	1	4	3	1
Sullivan	x		x	1	1	1	1	4	0	4
Tioga		x			1	1	1	3	0	3
Ulster	x	x	x	1	1	1	1	4	0	4
Warren	x				1	1	1	3	0	3
Washington	x				1	1	1	3	0	3
Westchester	x		x	1	1	1	1	4	1	3
TOTALS				13	30	30	30	103	10	93

Shawn Williams

From: Heather Spitzberg <HSpitzberg@nyshcr.org>
Sent: Wednesday, July 17, 2013 11:47 AM
To: Shawn Williams
Cc: Erica Davis; Thomas Maiello; Dave Hennen; Lori Shirley; Chris Leo
Subject: FW: Assumption of Authority Under Part 58.4

-----Original Message-----

From: Fretwell, Therese J [<mailto:Therese.J.Fretwell@hud.gov>]
Sent: Wednesday, July 17, 2013 12:35 PM
To: Heather Spitzberg
Subject: RE: Assumption of Authority Under Part 58.4

The New York State Homes and Community Renewal office is identified as the Responsible Entity in accordance with 24 CFR part 58 for the Community Development Block Grant - Disaster Recovery action plan activities in question. HUD regulations under 24 CFR 58.4 allow for the assumption of authority by the unit of local government when they are the direct recipient of federal funds via a HUD grant. The assumption of authority is applicable for conducting the compliance process under the National Environmental Policy Act and the related laws and authorities identified under 24 CFR 58.5. Under this clause the unit of local government, in this case the New York State Homes and Community Renewal office assumes the responsibility of a federal agency as the decision maker under the National Environmental Policy Act and will be held directly accountable by the law should any challenges to their decisions be made. Additionally, they are to act as a federal deputy in the completion of any consultation requirements required under the laws and authorities identified under 58.5, in this case, the Endangered Species Act section 7 compliance.

I am providing a link to a pdf of the Part 58 regulations if you wish to reference the specific citations.

<http://www.gpo.gov/fdsys/pkg/CFR-2004-title24-vol1/pdf/CFR-2004-title24-vol1-part58.pdf>

§ 58.4 Assumption authority.

(a) Assumption authority for responsible entities: General. Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in §58.5.

If you need additional information on our unique delegation authorities under NEPA, or would simply like to discuss the projects in further detail, please feel free to contact me. I may be reached via email or by phone at 212-542-7445.

Sincerely,
Therese Fretwell
Regional Environmental Officer
Housing & Urban Development
Office of Energy & Environment
Regions 1 & 2, NYC Office

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www.nyshcr.org

Appendix R:
USFWS Consultation Letters



United States Department of the Interior

FISH AND WILDLIFE SERVICE

3817 Luker Road
Cortland, NY 13045



September 25, 2013

Ms. Heather M. Spitzberg
NEPA Certifying Officer
NYS Home and Community Renewal
38-40 State Street, Hampton Plaza
Albany, NY 12207

Dear Ms. Spitzberg:

This is the U.S. Fish and Wildlife Service's (Service) response to your correspondence dated August 26, 2013, concerning early coordination for Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) review of the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant-Disaster Recovery Program, administered by the New York State Homes and Community Renewal Program (NYSHCR). Specifically, your letter introduced additional program elements including economic development, rehabilitation of 5+ unit homes, rehabilitation of 1-4 unit homes reimbursement, and buy-out/acquisitions for inclusion in the ESA consultation.

The Service has contributed to NYSHCR's initial request for ESA consultation including participation in teleconferences, providing written correspondence dated August 6, 2013, acknowledging NYSHCR's consultation request, as well as providing NYSHCR with Google Earth kml and Geographical Information System (GIS) files on the location of federally-listed species including the piping plover (*Charadrius melodus*; threatened), roseate tern (*Sterna dougallii dougallii*; endangered), seabeach amaranth (*Amaranthus pumilus*; threatened), and sandplain gerardia (*Agalinus acuta*; endangered) breeding and growing areas for Nassau, Suffolk, Queens, and Kings County, New York. We are developing polygons showing habitat utilized by red knot (*Calidris canutus rufa*), a candidate for protection under the ESA.

The purpose of this letter is to acknowledge NYSHCR additional program elements as noted above and to provide preliminary comments on NYHCR ESA determination worksheet that was provided at the end of your August 26, 2013, letter.

Service Comments on NYSHCR Endangered Species Act Determination Worksheet

Bullet 1, First paragraph, second sentence: It is correct that the Service provided and will continue to update and inform NYSHCR about endangered species areas in their program area,

but please note that pursuant to section 7 of the ESA, it is the responsibility of the action agency, in this case HUD or its non-federal designee, to determine whether a proposed activity may affect listed species.

The piping plover, seabeach amaranth, and roseate tern utilize the coastal barrier island habitats along the south shore of Long Island, with only a couple of bay side breeding areas located on the mainland shoreline in middle to eastern Suffolk County. Sandplain gerardia is an upland grassland species found in discrete locations in Nassau and Suffolk Counties. The piping plover also utilizes Long Island Sound beaches along the north shore of Long Island from Manhasset Bay to Orient Point, and shorelines within the Peconic Bay system. Seabeach amaranth and sandplain gerardia growing areas and roseate tern breeding areas are not found along the north shore of Long Island. However, seabeach amaranth's range is similar to that of the piping plover on the Atlantic Ocean beaches. Several small colonies of roseate terns can be found within the Peconic Bay system, with the largest colony occurring on Great Gull Island.

First paragraph, sentence 3: NYSHCR did not provide a justification for using a 200 feet (ft) buffer zone for analyzing project impacts to listed species. We agree that this may be appropriate and reasonable in the case of listed plant species for certain types of program activities. However, we would advise against the use of 200 ft buffer zones for piping plover and roseate terns, as program activities may result in adverse effects under this scenario. Therefore, we recommend that HUD undertake further consultation with the Service for projects within a 1000 meter (m) of plover and tern breeding areas, as both species have the ability to move around the landscape in search of feeding, breeding, and sheltering areas.

Bullet 2, First paragraph: See comment above regarding the Service recommendation to increase the buffer zone to 1000 m.

Bullet 2, sub-bullet 2, paragraph 1, sentence 1: Please describe "area of concern for the species."

In conducting its analysis, NYSHCR should evaluate the potential impacts of its program considering direct and indirect effects on listed species. In most cases, direct effects, such as species' disturbance due to re-construction activities, can be avoided by undertaking activities outside of the breeding and growing season. For piping plover and roseate tern, this period is from April 1 to September 1. The seabeach amaranth and sandplain gerardia season extends from May 1 to November 1. Indirect effects, such as man-induced changes in habitat or land use which result in adverse effects to listed species, would require further consultation with the Service.

If you have any questions or require further information, please have your staff contact Steve Papa of the Long Island Field Office at (631) 286-0485 ext. 2120.

Sincerely,

for Patricia Cole
David A. Stilwell
Field Supervisor



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

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STATE OF
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NEW YORK STATE
AFFORDABLE HOUSING
CORPORATION

STATE OF
NEW YORK MUNICIPAL
BOND BANK AGENCY

TOBACCO SETTLEMENT
FINANCING
CORPORATION

August 26, 2013

Ms. Patricia Cole
Deputy Field Supervisor
New York Field Office
U.S. Fish and Wildlife Service
3817 Luker Road
Cortland, New York 13045

Re: Early Coordination for Section 7 Review for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR): Program Update, and Introduction of Economic Development, Rehabilitation of 5+ Unit Homes, Rehabilitation of 1-4 Unit Homes Reimbursement and Buy-Out/Acquisition for all Affected Counties.

Dear Ms. Cole:

On July 18, 2013 New York State Homes and Community Renewal (NYSHCR) submitted a Program Introduction letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program). A response letter acknowledging the Program, and providing Endangered Species Act (ESA) information, was provided by the U.S. Fish and Wildlife Service-New York Field Office (USFWS), dated August 7, 2013.

NYSHCR is providing this letter to USFWS to introduce the aforementioned actions of the overall CDBG-DR Program. Since submittal of the July 18, 2013 letter, these actions have been identified as a priority for the Program, and NYSHCR is proceeding with preparation of the Environmental Review Records (ERR) for all of these actions. Program descriptions, which constitute the actions, are included in **Attachment A**.

As outlined in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), the vast majority of the storm-damaged properties are located in Nassau, Suffolk, Kings, and Queens Counties. A list of affected counties included in the CDBG-DR program and the specific programs (and associated ERRs) planned for each of these counties is included in **Attachment B**.

The primary purpose of this letter is to inform the USFWS that NYSHCR would like to work with the USFWS to develop an agreed-upon compliance process so that NYSHCR, as the Responsible Entity (RE), can accurately determine Section 7 compliance at the Tier 2 level of review. NYSHCR is requesting whether a standardized species habitat matrix table (sorted by county), maps, and/or GIS data, may be adopted as the compliance tool for Tier 2 reviews.

A draft Excel table and a draft Tier 2 Site-Specific Checklist (Wildlife Section) are included in **Attachment C**, for consideration. The USFWS website is the source of the information in the table. In previous discussions between ProSource and USFWS, a species matrix table, sorted by county, was considered but was not adopted for the CDBG-DR Program.

NYSHCR is requesting a program comprehensive response letter from USFWS, covering all actions, that can be included in all Tier 1 ERRs to document that coordination with USFWS is being completed, and that Compliance with Section 7 will be completed during Tier 2 site specific review. As soon as reasonably possible, we would like to work with USFWS to develop a suitable tool for Tier 2 compliance. NYSHCR has begun Tier 2 site-specific reviews for the Program and an approved process needs to be ready for implementation.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Heather Spitzberg". The signature is written in a cursive style and is positioned above the typed name and title.

Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

cc. Chris Leo, NYHCR
Steve Papa, USFWS

Attachment A - Program Descriptions
Attachment B- List of Affected and Actions for Counties Included in the CDBG-DR Program
Attachment C- Species Matrix Table for Affected NY Counties

Attachment A- Program Descriptions

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Buyout/Acquisition

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

Voluntary Buyouts and Acquisitions of One- and Two-unit Homes

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

Enhanced Buyout Areas

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

Program Activities

Summarized in the sections below are the physical program activities:

Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

Rehabilitation 1-4 Units and 5+ Units

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

Economic Development Program Description

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

Small Business Grant Program

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

Small Business Loan Program

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

Coastal Fishing Industry Program

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

Seasonal Tourism Industry Program

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.

Common Name	Scientific Name	Status	Distribution	Storm-Affected Counties
				Albany
FISHES				
Sturgeon, Shortnose*	<i>Acipenser brevirostrum</i>	E	Hudson River & Atlantic Coastal Rivers	X
REPTILES				
Turtle, bog	<i>Clemmys [=Glyptemys] muhlenbergii</i>	T		X
Turtle, green*	<i>Chelonia mydas</i>	T	Oceanic summer visitor coastal waters	
Turtle, hawksbill*	<i>Eretmochelys imbricata</i>	E	Oceanic summer visitor coastal waters	
Turtle, leatherback*	<i>Dermochelys coriacea</i>	E	Oceanic summer resident coastal waters	
Turtle, loggerhead*	<i>Caretta caretta</i>	T	Oceanic summer resident coastal waters	
Turtle, Atlantic ridley*	<i>Lepidochelys kempii</i>	E	Oceanic summer resident coastal waters	
BIRDS				
Eagle, bald	<i>Haliaeetus leucocephalus</i>	T		X
Plover, piping (Atlantic Coast Population)	<i>Charadrius melodus</i>	T	Coastal sites (Atlantic Coast)	
Tern, roseate	<i>Sterna dougallii dougallii</i>	E	Southeastern coastal portions of state	
MAMMALS				
Bat, Indiana	<i>Myotis sodalis</i>	E		X
Cougar, eastern	<i>Felis concolor couguar</i>	E	Probably extinct	X
MOLLUSKS				
Mussel, dwarf wedge	<i>Alasmidonta heterodon</i>	E	lower Neversink River	
BUTTERFLIES				
Butterfly, Karner blue	<i>Lycaeides melissa samuelis</i>	E		X
PLANTS				
Monkshood, northern wild	<i>Aconitum noveboracense</i>	T		
Pogonia, small whorled	<i>Isotria medeoloides</i>	T		X
Swamp pink	<i>Helonias bullata</i>	T	Staten Island - presumed extirpated	
Gerardia, sandplain	<i>Agalinis acuta</i>	E		
Amaranth, seabeach	<i>Amaranthus pumilus</i>	T	Atlantic coastal plain beaches	
E=endangered T=threatened P=proposed C=candidate				Bold = m
* = Except for sea turtle nesting habitat, principal responsibility for these species is vested with NMFS				

Endangered Species Act

- The proposed eligible activity does not affect the (specie[s]). The USFWS defined the geographic area of concern where project activities may affect the (specie[s]). Based upon initial findings, there is no potential impact on the (specie[s]) because the proposed project site is located outside of the (species'/specie's) mapped buffer zone(s) (area[s] of concern plus a 200-foot buffer zone). See attached (map name).
- The proposed eligible activity may affect the (specie[s]). Based upon comparison of the proposed project site location with the (species'/specie's) mapped buffer zone(s) (area[s] of concern plus a 200-foot buffer zone), it has been determined that (check one):
 - The proposed project site is located within the mapped buffer zone, but not the area of concern for the (specie[s]). Proposed eligible project activities cannot proceed during the (season) which occurs from (dates). *(If an optional USFWS consultation was conducted then include the following language: The USFWS finding stated/concluded _____.* The proposed project site map and the USFWS biologist's finding are attached.)
 - The proposed project site is located within the area of concern for the (specie[s]). Proposed eligible project activities cannot proceed during the (season) which occurs from (dates) and will require USFWS consultation. The USFWS finding stated/concluded _____. The proposed project site map and the USFWS biologist's finding are attached.
 - Consultation with the USFWS resulted in a determination that (check one):
 - The proposed eligible activity incorporating appropriate measures to avoid adverse impacts would not adversely affect the (specie[s]). (Explain how this conclusion was reached and describe mitigation measures.) The (supporting documentation) is/are attached.
 - The proposed eligible activity would adversely affect the (specie[s]). (Explain how this conclusion was reached.) The (supporting documentation) is/are attached. *Activity is not in compliance.*



United States Department of the Interior



FISH AND WILDLIFE SERVICE

3817 Luker Road
Cortland, NY 13045

August 7, 2013

Ms. Heather M. Spitzberg
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street, Hampton Plaza
Albany, NY 12207

Dear Ms. Spitzberg:

This responds to your July 18, 2013, letter requesting informal consultation with the U.S. Fish and Wildlife Service (Service) pursuant to section 7 of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d), and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755) for the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant - Disaster Recovery Housing Assistance Program (CDBG-DR).

In a letter to the Service dated July 23, 2013, HUD certified New York State Homes and Community Renewal (NYSHCR) with the authority to assume all federal responsibilities for all National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related environmental laws and authorities as identified in HUD regulation 24 Code of Federal Regulations (CFR) 58.5. Consultation arising from activities funded under this program will be conducted directly by NYSHCR in accordance with the assumption authority of 24 CFR 58.4.

Program Description

NYSHCR developed the "*State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*," (Action Plan) in April 2013. This is a large-scale program that will encompass several counties throughout New York and will implement specific federal actions related to the program including:

1. Rehabilitation and repair of one- to four-unit homes, five- to nine-unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation;

2. Buy-out of storm-damaged properties (result in demolition and return to green space for perpetuity); and
3. Acquisition of damaged properties (result in demolition and options for future land use).

Nassau and Suffolk Counties

Presently, NYSHCR is preparing an amended Programmatic Environmental Assessment (PEA) for reconstruction and rehabilitation of one- to four-unit homes in Nassau and Suffolk Counties. The one- to four-unit actions will cover participating homeowners at various locations within the boundaries of Nassau and Suffolk Counties. NYSHCR will restore storm-damaged homes, including elevation and/or other mitigation activities within the original footprint of the structure(s). No new construction or housing developments will occur as a result of the rehabilitation of one- to four-unit homes. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions.

Endangered Species Act Section 7 Consultation

The ESA requires that the “action agency,” in this case NYSHCR which is acting as HUD’s designated representative, make a determination of effect to any federally listed species or designated critical habitat that may occur as a result of any action that is funded, authorized, or carried out by that agency. This determination for listed species results in one of the following outcomes:

- (1) No Effect, in which case no concurrence from the Service is necessary;
- (2) May Affect, but Not Likely to Adversely Affect (NLAA), which requires the Service’s written concurrence, or
- (3) May Affect, Likely to Adversely Affect (LAA), which requires formal consultation with the Service and results in the Service’s issuance of a biological opinion.

If a project is likely to adversely affect a listed species, formal consultation with the Service should be initiated as soon as practicable. Note, if NYSHCR determines after their review that there are a significant number of LAAs, then we recommend that formal programmatic consultation be initiated in order to streamline and facilitate the completion of this obligation. Please note that the ESA provides for 90 days to complete consultation and 45 days to produce the final biological opinion, for a total of 135 days.

Any additional information regarding specific projects and their potential to impact state-listed species should also be coordinated with the New York State Department of Environmental Conservation (NYSDEC). The NYSDEC Wildlife Diversity Unit is located at 625 Broadway, Albany, NY 12233 (telephone (518) 402-8859). For additional information on fish and wildlife resources or state-listed species, we suggest you contact the appropriate NYSDEC regional office(s).*

As noted in your letter, the current priority, as outlined in the Action Plan and expressed to the Service in an interagency conference call on July 30, 2013, is one- to four-unit homes and buyouts in Nassau and Suffolk Counties. However, we understand through coordination with ProSource Technologies, LLC., on August 5, 2013, that your agency is also interested in including Rockland County in the list of priority locations at this time.

We are including information relative to the following counties in order to assist your agency conduct the necessary environmental evaluations and species determinations: New York, Bronx, Westchester, Rockland, Richmond, Kings, Queens, Nassau, and Suffolk.

New York, Bronx, Richmond, and Kings Counties

Federally-listed species under the jurisdiction of the Service are not present in these counties, therefore, no further consultation is required with the Service at this time. We recommend you visit the Service's website at <http://www.fws.gov/northeast/nyfo/es/section7.htm> every 90 days for updated information.

Queens, Nassau, and Suffolk Counties

There are three federally-listed species that are known to occur in the coastal areas of Queens, Nassau, and Suffolk Counties – the piping plover (*Charadrius melodus*; threatened), the roseate tern (*Sterna dougallii dougallii*; endangered), and the seabeach amaranth (*Amaranthus pumilus*; threatened). Sandplain gerardia (*Agalinus acuta*; endangered) is an annual plant that is also protected under the ESA and is found in several upland grassland habitats in Nassau and Suffolk Counties.

The red knot (*Calidris canutus rufa*) is a candidate species for listing under the ESA. Candidate species are plant and animal taxa considered for possible addition to the List of Endangered and Threatened Species. These are taxa for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list, but issuance of a proposed rule is currently precluded by higher priority listing actions (61 FR 7596-7613 [February 28, 1996]). While candidate species are not afforded protection under the ESA, the Service encourages their consideration in environmental planning. If impacts to candidate species can be avoided, the likelihood that they will require the protection of the ESA in the future may be reduced.

Piping plovers are distributed across the Atlantic Ocean beaches from Queens to eastern Suffolk County and north shores of Nassau and Suffolk Counties as well as throughout the Peconic Bay ecosystem in eastern Suffolk County. Along the south shore, piping plovers are present from March to September on Atlantic Ocean beaches from Rockaway Inlet in Queens to Montauk Point in eastern Suffolk County. Piping plovers are not present during this time along the northern shorelines of Jamaica Bay, Great South Bay (except for Roe Avenue County Park in East Patchogue), Moriches Bay, and Shinnecock Bay (except for Middle Pond Inlet).

Along the north shore of these counties, piping plover are not present in Queens County, but are present from March to September at discrete locations from Manhasset Bay to Orient Point in the counties of Nassau and Suffolk, respectively.

In the Peconic Bay System between the north and south forks of Long Island, piping plovers are present from March to September at discrete locations along the shoreline from Orient Point to Montauk Point, including bay islands such as Plum Island, Shelter Island, Robins Island, and Gardiner's Island.

Seabeach amaranth is only present on the Atlantic shoreline of Long Island from May to November.

The vast majority of breeding roseate terns are restricted to Great Gull Island, with smaller satellite colonies located on several small islands in the Peconic Bay System.

Sandplain gerardia is extremely limited in its distribution and occurs on upland habitats managed by Nassau County, the Service's National Wildlife Refuge, the New York State Office of Parks and Recreation, and the Town of East Hampton.

Red knots utilize extensive tidal flat areas for migratory stopover areas from May to September within Jamaica Bay, Rockaway Inlet, East Rockaway Inlet, Jones Inlet, Fire Island Inlet, Moriches Inlet, and Shinnecock Inlet.

Small whorled pogonia (*Isotria medeoloides*; historic; threatened) may be present in Nassau and Suffolk Counties.

Rockland and Westchester Counties

The New England cottontail (*Sylvilagus transitionalis*) is a candidate species that may be present in Rockland and Westchester Counties.

The bog turtle (*Clemmys [=Glyptemys] muhlenbergii*; threatened) may be present in both Rockland and Westchester Counties.

The Indiana bat (*Myotis sodalis*; threatened) may be present in Westchester County.

Small whorled pogonia may be present in Rockland County.

Bald and Golden Eagle Protection Act

NYSHCR should refer to the Service's Bald Eagle Management Guidelines, found on the Service's website at <http://www.fws.gov/northeast/nyfo/es/step6.htm> for information on avoiding and minimizing impacts to bald eagles (*Haliaeetus leucocephalus*) and their nests, if found within a NYSHCR project area. In such cases, we recommend that NYSHCR contact the Service to see whether a permit is required under BGEPA. Within the Action Plan area that includes

Long Island, the Service is only aware of one pair of bald eagles present within the Wertheim National Wildlife Refuge in Shirley, NY. The bald eagle is also present in Rockland and Westchester Counties, and in Inwood Hill Park in New York County.

Migratory Bird Treaty Act

The MBTA implements four treaties that provide for international protection of migratory birds and prohibits taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. Take (*i.e.*, killing) of migratory birds by any person constitutes a violation of MBTA. While MBTA has no provisions for authorizing take, we recognize that some birds may be killed even if all reasonable measures to avoid it are implemented. Therefore, the Service will provide technical assistance to NYSHCR when funding post-storm projects to ensure that the proposed projects avoid and minimize impacts to migratory birds to the greatest extent possible.

Coastal Barrier Resources Act

The Service notes that in addition to consultation pursuant to section 7 of the ESA, consultation is also required by the Coastal Barrier Resources Act (CBRA) of 1982, as amended (96 Stat. 1653, as amended; 16 U.S.C. 3501 *et seq.*). Federal agencies are required to consult with the Service prior to committing funds for projects or actions within or affecting the Coastal Barrier Resources System (CBRS). Below is the general process and guidelines for CBRA consistency consultations.

Coastal Barrier Resources Act Process

Federal agencies must first determine whether a proposed project or action is located within a CBRS unit or an Otherwise Protected Area (OPA) of the CBRS. If a proposed project is located close to a CBRS boundary, the federal funding agency may request assistance from the Service to determine whether the proposed project or action is located within the CBRS. Further consultation with the Service is not needed if the proposed project or action is located within an OPA and is not related to federal flood insurance. The only federal spending prohibition within OPAs is the prohibition on federal flood insurance; other federal expenditures are permitted.

If the proposed project or action is within or will affect a System unit, the federal agency must consult with the Service to determine whether or not any of the Section 6 exceptions under CBRA (16 U.S.C. § 3505) are applicable. If none of CBRA's exceptions are applicable, the proposed project should not proceed with federal funding. The Service's response to a consultation request is advisory only. The funding agency is responsible for complying with the provisions of CBRA. A description of the limitations on federal expenditures and the exceptions to these limitations is at the Service's website found at <http://www.fws.gov/cbra/Consultations/Limitations-and-Exceptions.html>.

Thank you for the opportunity to provide assistance. For further assistance, please contact Mr. Steve Papa at our Long Island Field Office at 631-286-0485.

Sincerely,

for Patricia Cole

David A. Stilwell
Field Supervisor

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>



**U.S. Department of Housing and Urban
Development**
New York State Office
Jacob K. Javits Federal Building
26 Federal Plaza, Suite 3541
New York, New York 10278-0068
Office (212) 264-8000, Fax (212) 264- 0993
TTY (212) 264-0927

23 July 2013

Ms. Patricia Cole
Deputy Field Supervisor
New York Field Office
U.S. Fish and Wildlife Service
3817 Luker Road
Cortland, New York 13045

**Re: Responsible Entity Certification for Section 7 Review for
U.S. Department of Housing and Urban Development (HUD) Community
Development Block Grant-Disaster Recovery (CDBG-DR) Housing
Assistance Program, administered by New York State Homes and
Community Renewal (NYSHCR)**

Dear Ms. Cole:

The Department of Housing and Urban Development (HUD) has authorized New York State Homes and Community Renewal (NYSHCR) to implement the HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). In accordance with prior coordination agreements between HUD and the FWS, HUD certifies that NYSHCR shall assume federal responsibilities for all National Environmental Policy Act and all related environmental laws and authorities as identified in HUD regulation 24 CFR 58.5. Consultations arising from activities funded under this Program will be conducted directly by NYSHCR in accordance with the assumption authority of 24 CFR 58.4

According to HUD regulations at 24 CFR §58.4, state and local governments that receive HUD funds assume the status of ‘responsible entity,’ and act as the federal action agency for all necessary consultations and other compliance measures. The assumption of federal status for environmental review purposes extends to substantive and procedural compliance with Section 7 of the Endangered Species Act, per 24 CFR §58.5.

For all Section 7 consultations arising from HUD-funded activities under any of the programs listed at 24 CFR §58.1(b), the State of New York and all local governments therein have been granted authority to act as the federal action agency. These governments should alert the FWS when seeking a HUD Release of Funds for a project that requires Section 7 consultation. The FWS may notify HUD if the State or local government has not fulfilled its Section 7 requirements, and HUD will not release the funds in those instances.

Please contact Regional Environmental Officer Therese Fretwell at 212-542-7445 if you have any questions regarding HUD's designation of the State of New York for Section 7 purposes under the CDBG-DR program, or HUD's general regulations concerning assumption of federal authority for Section 7 consultations.

Sincerely,



Therese Fretwell
Regional Environmental Officer
Department of Housing and Urban Development
26 Federal Plaza, Room 3513
New York, NY 10278

cc: Steven T. Papa, Long Island Field Office



ANDREW M. CUOMO
GOVERNOR

DARRYL C. TOWNS
COMMISSIONER/CEO

NEW YORK STATE
DIVISION OF HOUSING
& COMMUNITY
RENEWAL

July 18, 2013

HOUSING
TRUST FUND
CORPORATION

Ms. Patricia Cole
Deputy Field Supervisor
New York Field Office
U.S. Fish and Wildlife Service
3817 Luker Road
Cortland, New York 13045

STATE OF
NEW YORK MORTGAGE
AGENCY

NEW YORK STATE
HOUSING FINANCE
AGENCY

NEW YORK STATE
AFFORDABLE HOUSING
CORPORATION

STATE OF
NEW YORK MUNICIPAL
BOND BANK AGENCY

TOBACCO SETTLEMENT
FINANCING
CORPORATION

Re: Project Introduction and Early Coordination for Section 7 Review for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR)

Dear Ms. Cole:

New York State Homes and Community Renewal (NYSHCR) has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

The purpose of this letter is to provide the U.S. Fish and Wildlife Service-New York Field Office (USFWS) notice of the Program and begin early coordination, under the U.S. National Environmental Policy Act (NEPA), for preparation of an approach to completing the Section 7, Migratory Bird Treaty Act (MBTA), Bald and Golden Eagle Protection Act (BGEPA), and other regulatory compliance.

Program Overview

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Specific Federal Actions related to the program include:

1. Rehabilitation and repair of 1-4 unit homes, 5-9 unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Buy-out of storm-damaged properties (result in demolition and return to green space for perpetuity)
3. Acquisition of damaged properties (result in demolition and options for future land use).

The current priority, as outlined in the Action Plan, is 1-4 unit homes and buyouts in the counties most impacted by the disasters (Nassau, Suffolk, Westchester, and Rockland).

Nassau and Suffolk Counties

Presently, NYSHCR is preparing the NEPA Programmatic Environmental Assessments (PEA) for reconstruction and rehabilitation of 1-4 unit homes in Nassau and Suffolk Counties. The 1-4 unit action will cover participating homeowners at various locations within the boundaries of Nassau and Suffolk Counties. The Program activities will restore storm-damaged homes, including elevation and/or other mitigation activities within the original footprint of the structure (s). No new construction or housing developments will occur as a result of the rehabilitation of 1-4 unit homes. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions.

Next Steps

The number and location of participants in the Program is constantly evolving. We understand the USFWS has recently completed a large scale program review, similar in nature, for the U.S. Federal Emergency Management Agency (FEMA). We anticipate following a similar approach for this Program.

The current priority is to complete the Section 7 review process for the two PEAs regarding the 1-4 unit rehabilitation for Nassau and Suffolk Counties. We understand you have had recent phone conversations about the Program with Shawn Williams of ProSource Technologies, LLC (ProSource). We authorize ProSource to coordinate on our behalf as this Program review moves forward. We look forward to discussion of this Program in the near future via phone conference call, at your earliest convenience. If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or hspitzberg@nyshcr.org.

Sincerely,

A handwritten signature in blue ink that reads "Heather Spitzberg". The signature is written in a cursive style with a blue circular stamp or mark at the end.

Heather M. Spitzberg, Esq.
NEPA Certifying Officer
NYS Homes and Community Renewal
38-40 State Street
Hampton Plaza
Albany, NY 12207

Attachment:

- HUD transfer of authority to NYSHCR under 24 CFR 58.4

cc. Chris Leo, NYHCR

Shawn Williams

From: Heather Spitzberg <HSpitzberg@nyshcr.org>
Sent: Wednesday, July 17, 2013 11:47 AM
To: Shawn Williams
Cc: Erica Davis; Thomas Maiello; Dave Hennen; Lori Shirley; Chris Leo
Subject: FW: Assumption of Authority Under Part 58.4

-----Original Message-----

From: Fretwell, Therese J [<mailto:Therese.J.Fretwell@hud.gov>]
Sent: Wednesday, July 17, 2013 12:35 PM
To: Heather Spitzberg
Subject: RE: Assumption of Authority Under Part 58.4

The New York State Homes and Community Renewal office is identified as the Responsible Entity in accordance with 24 CFR part 58 for the Community Development Block Grant - Disaster Recovery action plan activities in question. HUD regulations under 24 CFR 58.4 allow for the assumption of authority by the unit of local government when they are the direct recipient of federal funds via a HUD grant. The assumption of authority is applicable for conducting the compliance process under the National Environmental Policy Act and the related laws and authorities identified under 24 CFR 58.5. Under this clause the unit of local government, in this case the New York State Homes and Community Renewal office assumes the responsibility of a federal agency as the decision maker under the National Environmental Policy Act and will be held directly accountable by the law should any challenges to their decisions be made. Additionally, they are to act as a federal deputy in the completion of any consultation requirements required under the laws and authorities identified under 58.5, in this case, the Endangered Species Act section 7 compliance.

I am providing a link to a pdf of the Part 58 regulations if you wish to reference the specific citations.

<http://www.gpo.gov/fdsys/pkg/CFR-2004-title24-vol1/pdf/CFR-2004-title24-vol1-part58.pdf>

§ 58.4 Assumption authority.

(a) Assumption authority for responsible entities: General. Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in §58.5.

If you need additional information on our unique delegation authorities under NEPA, or would simply like to discuss the projects in further detail, please feel free to contact me. I may be reached via email or by phone at 212-542-7445.

Sincerely,
Therese Fretwell
Regional Environmental Officer
Housing & Urban Development
Office of Energy & Environment
Regions 1 & 2, NYC Office

Confidentiality Notice: This e-mail message, including attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is

prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Like us on Facebook: <https://www.facebook.com/nyshcronline>

Follow us on Twitter: <https://twitter.com/NYSHCRonline>

www.nyshcr.org

Appendix S:
Nassau County Sample Floodplain Management Public Notices

**EARLY NOTICE AND PUBLIC REVIEW OF A PROPOSED
ACTIVITY IN A 100-YEAR FLOODPLAIN**

Month XX, XXXX:

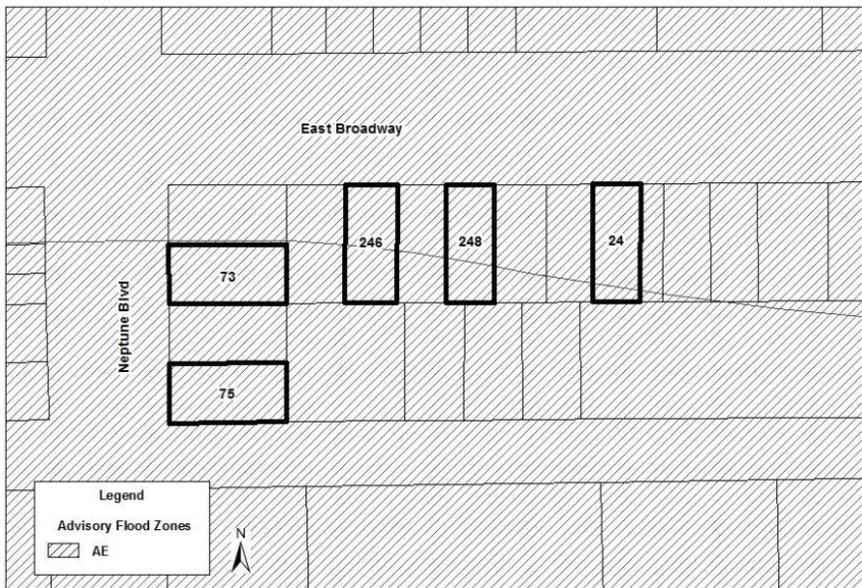
To: All Interested Agencies, Groups & Individuals

This is to give notice that the New York State Homes and Community Renewal (HCR) has conducted an evaluation as required by Executive Order 11988, in accordance with HUD regulations at 24 CFR 55.20 Subpart C, Procedures for Making Determinations on Floodplain Management, to determine the potential effect that its activity in the floodplain will have on the human environment for Community Development Block Grant – Disaster Recovery (CDBG-DR) Nassau County Housing Assistance Program under Title I of the Housing and Community Development Act of 1974 (PL 93-383). In accordance with the regulations, a Floodplain Management Areawide Compliance Document has been prepared for the CDBG-DR Housing Assistance Program for rehabilitation and mitigation of 5+ Unit Residential Properties in Nassau County.

New York State has been allocated \$1.7 Billion of CDBG-DR funds for acquisition, reconstruction, improvement, financing, and use of existing properties in the most impacted municipalities and counties. This funding reflects activity under the first allocation of funds. A significant portion of the current allocation will be used for the renovation of some of the worst damaged properties, including those that are the subject of this Notice. It is HCR’s expectation that with additional unmet needs assessment the number of housing units in this and other areas to be assisted additional funding will further increase. Additional areas will be the subject of additional notices, as needs arise.

The properties shown below are subject to this public notice:

City	Block	Lot	Address	Lot Acreage	Lot Acreage withing 100 Yr Flood Zone
Long Beach	190	246	5 East Boradway	0.102	0.102
Long Beach	190	73	23 Neptune Blvd	0.114	0.114
Long Beach	190	24	15 East Boradway	0.09	0.09
Long Beach	190	248	9 East Boradway	0.09	0.09
Long Beach	190	75	21 Neptune Blvd	0.115	0.115



There are approximately 104,368 acres in the floodplain in Nassau County. The tidal floodplains in the State are depicted on two maps: the advisory mapping developed by FEMA, which can be viewed by selecting "FEMA's Interactive ABFE Map" link at www.region2coastal.com/sandy/abfe and the FEMA Base Flood Elevation Map link at www.msc.fema.gov.

Owners of 5+ unit residential properties that sustained substantial damage will be issued grant awards. These awards will assist in the rehabilitation of damaged homes. In order to receive a grant award the damaged structure must be elevated if technically feasible. The height of elevations will be based on current building ordinances and estimated 100 year flood data.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment have an opportunity to express their concerns and provide information about these areas. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains facilitates and enhances Federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

It is preferred for written comments to be submitted via e-mail at NYSCDBG_DR_ER@nyshcr.org. Please include "Nassau County Floodplain Work Comments" in the subject line. Written comments may also be sent to HCR at the following address: NYS Homes and Community Renewal, 38-40 State Street, 4th Floor, Hampton Plaza, Albany, NY 12207 and (518) 473-4732 Attention: Amy Zamenick, Certifying Officer. All comments must be received on or before **Day, Month XX, XXX**. A full copy of the Floodplain Management Document can be viewed from Monday - Friday: 9:00 AM - 5:00 PM at NYS Homes and Community Renewal, 38-40 State Street, Hampton Plaza, Albany, NY 12207 or at <http://www.nyshcr.org/Programs/NYS-HCR-CDBG-DR/EnvironmentalReview>.

Amy Zamenick, Certifying Officer
New York State Homes & Community Renewal
Hampton Plaza
38-40 State Street
Albany, NY 12207
(518) 473-4732
NYSCDBG_DR_ER@nyshcr.org

**FINAL NOTICE AND PUBLIC REVIEW OF A PROPOSED
ACTIVITY IN A 100-YEAR FLOODPLAIN**

Month XX, XXXX:

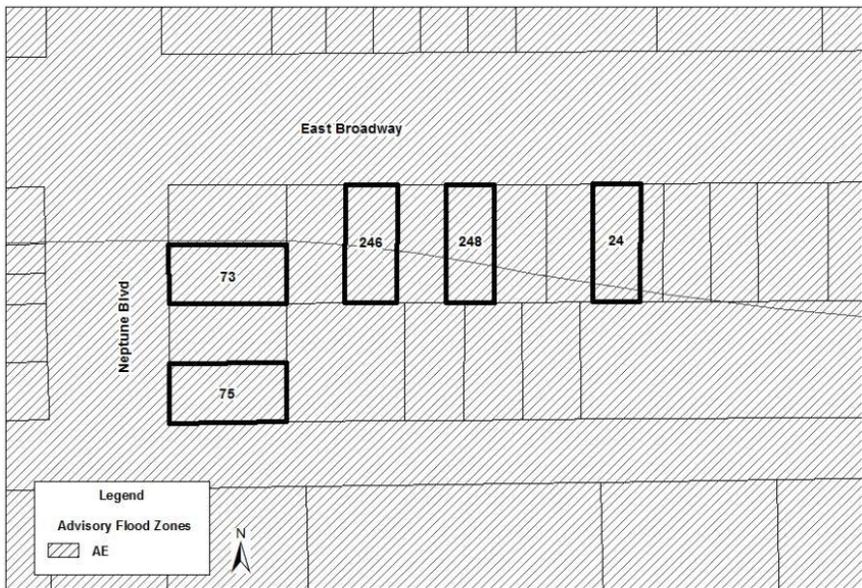
To: All Interested Agencies, Groups & Individuals

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The properties shown below are subject to this public notice:

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Long Beach	190	24	15 East Boradway	0.09	0.09
Long Beach	190	248	9 East Boradway	0.09	0.09
Long Beach	190	75	21 Neptune Blvd	0.115	0.115



There are approximately 104,368 acres in the floodplain in Nassau County. The tidal floodplains in the State are depicted on two maps: the advisory mapping developed by FEMA, which can be viewed by selecting "FEMA's Interactive ABFE Map" link at www.region2coastal.com/sandy/abfe and the FEMA Base Flood Elevation Map link at www.msc.fema.gov.

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It is preferred for written comments to be submitted via e-mail at NYSCDBG_DR_ER@nyshcr.org. Please include "Nassau County Floodplain Work Comments" in the subject line. Written comments may also be sent to HCR at the following address: NYS Homes and Community Renewal, 38-40 State Street, 4th Floor, Hampton Plaza, Albany, NY 12207 and (518) 473-4732 Attention: Amy Zamenick, Certifying Officer. All comments must be received on or before **Day, Month XX, XXX**. A full copy of the Floodplain Management Document can be viewed from Monday - Friday: 9:00 AM - 5:00 PM at NYS Homes and Community Renewal, 38-40 State Street, Hampton Plaza, Albany, NY 12207 or at <http://www.nyshcr.org/Programs/NYS-HCR-CDBG-DR/EnvironmentalReview>.

Amy Zamenick, Certifying Officer
New York State Homes & Community Renewal
Hampton Plaza
38-40 State Street
Albany, NY 12207
(518) 473-4732
NYSCDBG_DR_ER@nyshcr.org

Appendix T:
Combined Finding of No Significant Impact
and Notice of Intent to Request Release of Funds
(FONSI/NOIRROF)



Recreate NY

Smart Home Buyout Program Office

Repair. Rebuild. Reimagine. NY Rising: resilience for our future

April 4, 2014

MEMORANDUM

**RE: COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)
NY RISING HOUSING RECOVERY PROGRAM FOR 5+ UNIT RESIDENTIAL PROPERTIES:
NASSAU COUNTY, NY
BY NEW YORK STATE HOUSING TRUST FUND CORPORATION**

*New York State Housing Trust Fund Corporation (HTFC)
38-40 State Street
Albany, NY 12207
(518) 473-4732*

Name of Responsible Entity and Recipient: New York State Homes and Community Renewal (HCR) 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Amy Zamenick.

This combined notice satisfies two separate procedural requirements for project activities to be undertaken.

Per 24 CFR Part 58.33, the combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF) will be published simultaneously with the submission of the Request for Release of Funds (RROF). The funds are needed on an emergency basis due to a declared disaster resulting from the impacts of Hurricane Sandy, which made landfall on October 29, 2012. As a result, the comment periods for the FONSI/NOIRROF and the RROF have been combined.

Project Description: HTFC intends to undertake the following project, funded by United States Department of Housing & Urban Development's (HUD) 2013 Community Development Block Grant—Disaster Recovery (CDBG-DR) funds under the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County.

The activities associated with the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County described herein will address unmet housing recovery needs of homeowners and tenants of rental properties, for which CDBG-DR funding shall be made available to Nassau County residents who qualify. NY Rising Housing Recovery Program for 5+ Unit Residential Properties activities to be funded by CDBG-DR have been designed to provide assistance for repairing property, reconstructing homes, and mitigating properties for future resilience. This program is anticipated to provide permanent, sustainable housing solutions that allow these residents to return to their neighborhoods, where possible.

The program may also provide reimbursements for owners of five (5) or more unit buildings and owners and renters of individual units in five (5) or more unit buildings that have started or completed storm-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements.

This is the first tier of review in a 2-tiered process. The specific addresses of 5+ unit residential properties are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on properties until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

FINDING OF NO SIGNIFICANT IMPACT

A Tier 1 Environmental Review Record (ERR) was established and is maintained on file. The ERR is incorporated by reference into this FONSI. A full copy of the ERR, including a completed National Environmental Policy Act of 1969 (NEPA) Environmental Assessment Checklist, an Environmental Assessment Worksheet, and area map, is available for public inspection during normal business hours in accordance with 24 CFR Part 58 at the offices listed below or at <http://www.HCR.org/Programs/NYS-CDBG-DR/EnvironmentalReview.htm>.

HTFC has determined that the ERR for the project identified herein complies with the requirements of HUD environmental review regulations at 24 CFR Part 58, et al.

HTFC has also determined that the project described herein, as proposed, will have no significant adverse environmental or socioeconomic impacts, either direct, indirect, or cumulative. There will be no significant impact on the human environment, and the action will not negatively impact the quality of the environment. Therefore, HTFC has determined that the project, as proposed, is not an action that will result in a significant impact on the quality of the human environment. Moreover, the project does not require an Environmental Impact Statement under NEPA.

Public Review: Public viewing of the ERR is available on the internet and is also available in person Monday – Friday, 9:00 AM - 5:00 PM at the following addresses:

*New York State Housing Trust Fund Corporation Care of Office of Community Renewal
NYS Department of Homes and Community Renewal 38-40 State Street
Albany, NY 12207*

Contact: Amy Zamenick (518) 473-4732

&

Recreate NY Smart Home Program Office

4160 Industrial Place

Island Park, NY 11558

Contact: Sandra Crespo (516) 415-7939

Further information may be requested at NYS-CDBG_DR_ER@HCR.org or by calling HTFC at (518) 473- 4732. This combined notice is being sent to individuals and groups known to be interested in these activities, local news media, appropriate local, state, and federal agencies, the regional office of U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in newspapers of general circulation in the affected community.

Public Comments on FONSI/Findings and NOIRROF

Any individual, group, or agency may submit written comments on this project. Those wishing to comment should specify in their comments which distinct part(s) of this Combined Notice they intend their comments to address. Comments should be submitted via email, in the proper format, on or before Monday, April 21, 2014 at: NYSCDBG_DR_ER@HCR.org. Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before Monday, April 21, 2014.

*Ms. Amy Zamenick
Certifying Officer Office of Community Renewal
New York State Department of Homes & Community Renewal
38-40 State Street
Hampton Plaza Albany, NY 12207*

If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

REQUEST FOR RELEASE OF FUNDS

Written notice of environmental clearance will be required prior to the removal of any limitation on commitment of federal funds in accordance with regulations at 24 CFR Part 58.70.

On Friday, April 4, 2014, the HCR Certifying Officer will submit this 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 State CDBG-DR program.

HCR certifies to HUD that Ms. Amy Zamenick, acting in 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 reviews, decision-making, and action, and that these responsibilities have been satisfied. Moreover, HCR certifies that a Tier 1 environmental review for the project described herein has been completed and that additional Tier 2 site-specific review will occur once the specific sites are identified. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows HTFC/HCR to use CDBG-DR funds.

Objections to Release of Funds - HUD will consider objections to the RROF and/or FONSI certification for a period of fifteen (15) days following the submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD 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 the responsible entity's Certifying Officer;
- (b) The responsible entity has omitted or failed to make a step, decision, or finding required by HUD regulations at 24 CFR Part 58;
- (c) The responsible entity 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 writing in accordance with the required procedures and format (24 CFR Part 58) and shall be addressed to:

Tennille Smith Parker
Acting Director/Assistant 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

A handwritten signature in cursive script that reads "Amy L. Zamenick". The signature is written in dark ink and is positioned above a faint, light-colored rectangular stamp or watermark.

Amy Zamenick
HCR Certifying Officer
Friday, April 4, 2014

NEWSDAY
AFFIDAVIT OF PUBLICATION

PROSOURCE TECHNOLOGIES, LLC
9219 E. RIVER RD., NW
MINNEAPOLIS , MN 55433-5722

STATE OF NEW YORK)
SS.:
COUNTY OF SUFFOLK)

Legal Notice No. 17241669

R. Lopes

of Newsday LLC, 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 LLC, 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/ counties of said newspaper on the following dates:

FRIDAY APRIL 04 2014 Nassau

SWORN to before me this
04 Day of April, 2014.

Guy P. Wasser
Notary Public, State of New York
No. 01WA6045924
Commission Expires 10/20/2014
Qualified in Suffolk County



**PUBLIC NOTICE
COMBINED NOTICE OF
FINDING OF
NO SIGNIFICANT IMPACT
(FONSI) AND
NOTICE OF INTENT TO
REQUEST RELEASE OF
FUNDS (NOIRROF)
NY RISING HOUSING
RECOVERY PROGRAM FOR
5+ UNIT RESIDENTIAL
PROPERTIES:
NASSAU COUNTY, NY
BY NEW YORK STATE
HOUSING TRUST FUND
CORPORATION
APRIL 4, 2014**

New York State Housing Trust Fund Corporation (HTFC) 38-40 State Street Albany, NY 12207 (518) 473-4732

Name of Responsible Entity and Recipient: New York State Homes and Community Renewal (HCR) 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Amy Zamenick.

This combined notice satisfies two separate procedural requirements for project activities to be undertaken. Per 24 CFR Part 58.33, the combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF) will be published simultaneously with the submission of the Request for Release of Funds (RROF). The funds are needed on an emergency basis due to a declared disaster resulting from the impacts of Hurricane Sandy, which made landfall on October 29, 2012. As a result, the comment periods for the FONSI/NOIRROF and the RROF have been combined.

Project Description: HTFC intends to undertake the following project, funded by United States Department of Housing & Urban Development's (HUD) 2013 Community Development Block Grant-Disaster Recovery (CDBG-DR) funds under the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County.

The activities associated with the NY Rising Housing Recovery Program for 5+ Unit Residential Properties in Nassau County described herein will address unmet housing recovery needs of homeowners and tenants of rental properties, for which CDBG-DR funding shall be made available to Nassau County residents who qualify. NY Rising Housing Recovery Program for 5+ Unit Residential Properties activities to be funded by CDBG-DR have been designed to provide assistance for repairing property, reconstructing homes, and mitigating properties for future resilience. This program is anticipated to provide permanent, sustainable housing solutions that

allow these residents to return to their neighborhoods, where possible.

The program may also provide reimbursements for owners of five (5) or more unit buildings and owners and renters of individual units in five (5) or more unit buildings that have started or completed storm-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements.

This is the first tier of review in a 2-tiered process. The specific addresses of 5+ unit residential properties are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on properties until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

FINDING OF NO SIGNIFICANT IMPACT
A Tier 1 Environmental Review Record (ERR) was established and is maintained on file. The ERR is incorporated by reference into this FONSI. A full copy of the ERR, including a completed National Environmental Policy Act of 1969 (NEPA) Environmental Assessment Checklist, an Environmental Assessment Worksheet, and area map, is available for public inspection during normal business hours in accordance with 24 CFR Part 58 at the offices listed below or at <http://www.HCR.org/Programs/NYS-CDBG-DR/EnvironmentalReview.htm>.

HTFC has determined that the ERR for the project identified herein complies with the requirements of HUD environmental review regulations at 24 CFR Part 58, et al.

HTFC has also determined that the project described herein, as proposed, will have no significant adverse environmental or socioeconomic impacts, either direct, indirect, or cumulative. There will be no significant impact on the human environment, and the action will not negatively impact the quality of the environment. Therefore, HTFC has determined that the project, as proposed, is not an action that will result in a significant impact on the quality of the human environment.

Moreover, the project does not require an Environmental Impact Statement under NEPA.

Public Review: Public viewing of the ERR is available on the internet and is also available in person Monday-Friday, 9:00 AM - 5:00 PM at the following addresses: New York State Housing Trust Fund Corporation Care of Office of Community Renewal NYS Department of Homes and Community Renewal 38-40 State Street Albany, NY 12207 Contact: Amy Zamenick (518) 473-4732

& Recreate NY Smart Home Program Office 4160 Industrial Place Island Park, NY 11558 Contact: Sandra Crespo (516) 415-7939

Further information may be requested at NYSCDBG_DR_ER@HCR.org or by calling HTFC at (518) 473-4732. This combined notice is being sent to individuals and groups known to be interested in these activities, local news media, appropriate local, state, and federal agencies, the regional office of U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in newspapers of general circulation in the affected community.

Public Comments on FONSI/Findings and NOIRROF

Any individual, group, or agency may submit written comments on this project. Those wishing to comment should specify in their comments which distinct part(s) of this Combined Notice they intend their comments to address. Comments should be submitted via email, in the proper format, on or before Monday, April 21, 2014 at: NYSCDBG_DR_ER@HCR.org. Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before Monday, April 21, 2014.

Ms. Amy Zamenick Certifying Officer Office of Community Renewal New York State Department of Homes & Community Renewal 38-40 State Street Hampton Plaza Albany, NY 12207

If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

REQUEST FOR RELEASE OF FUNDS

Written notice of environmental clearance will be required prior to the removal of any limitation on commitment of federal funds in accordance with regulations at 24 CFR Part 58.70.

On Friday, April 4, 2014, the HCR Certifying Officer will submit this request and cer-

tification 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 State CDBG-DR program.

HCR certifies to HUD that Ms. Amy Zamenick, acting in 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 reviews, decision-making, and action, and that these responsibilities have been satisfied. Moreover, HCR certifies that a Tier 1 environmental review for the project described herein has been completed and that additional Tier 2 site-specific review will occur once the specific sites are identified. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows HTFC/HCR to use CDBG-DR funds.

Objections to Release of Funds - HUD will consider objections to the RROF and/or FONSI certification for a period of fifteen (15) days following the submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD 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 the responsible entity's Certifying Officer;
- (b) The responsible entity has omitted or failed to make a step, decision, or finding required by HUD regulations at 24 CFR Part 58;
- (c) The responsible entity 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 writing in accordance with the required procedures and format (24 CFR Part 58) and shall be addressed to: Tennille Smith Parker Acting Director/ Assistant 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 Amy Zamenick HCR Certifying Officer Friday, April 4, 2014

NEWSDAY PROOF

Customer: PROSOURCE TECHNOLOGIES, LLC Contact: MICAELA Phone: 7637861445

Ad Number: 17241669 Start Date: 04/04/2014 End Date: 04/04/2014 Times: 1

Price: \$1620.00 Size: 4 x 102 Section: CL Class: 11100

Printed By: L003 Date: 04/02/2014

Signature of Approval: _____ Date: _____

Zones:

Appendix U:
Response to EPA Comments

Thomas J. King, Esq.
Certifying Officer
Governor's Office of Storm Recovery
99 Washington Avenue, Suite 1010
Albany, NY 12231

Dear Mr. King:

The Environmental Protection Agency has reviewed the Tier 1 Environmental Review Record (ERR)/Programmatic Environmental Assessment (PEA) prepared by New York State Homes and Community Renewal for the expenditure of U.S. Department of Housing and Urban Development's 2013 Community Development Block Grant-Disaster Recovery (CDBG-DR) funding. These funds are intended to support the NY Rising Housing Recovery Program and the Housing Rehabilitation 5+ Units Programs in New York counties affected by recent eligible disaster events. The PEA for Nassau County, New York indicates that separate PEAs will be prepared on a county-by-county basis. In fulfilling the requirements of the National Environmental Policy Act, the Tier 1 documents assess the potential environmental effects that are not location specific; Tier 2 site-specific analyses will be completed once specific sites are selected.

Background:

Nassau County covers 289,900 acres of which 104,368 acres are in floodplains. The number of residents most impacted by Hurricane Sandy's storm surge represents 25 percent of the county's population. There are 53,023 5+ unit residential buildings in Nassau, but FEMA damage assessment information has not yet been made available. As of March 2014, 19 applications for CDBG-DR had been received for the County's 5+ unit residential buildings.

The PEA indicates that the purpose and need of the proposed action is to provide assistance to owners and tenants of 5+ unit residential properties in Nassau County whose homes were damaged or destroyed by the eligible recent events. The alternatives offered in the document are:

1. No-Action Alternative,
Dismissed because damage would be unabated.
2. Limited Action Alternative – Rehabilitation without Resilience Measures,
Dismissed because safety would not be improved.
3. Limited Action Alternative – No Reimbursement Funding,
Dismissed because recovery has moved forward with independent funds and would have been delayed otherwise.
4. Limited Area Options – Buyout and/or Acquisition programs,
Dismissed because would not retain neighborhood character.

5. Proposed Alternative – Repair, Reconstruction, Resiliency and Reimbursement.

Comments:

Following are EPA's comments on the PEA for 5+ Unit Residential Properties in Nassau County, NY, Tier 1 document.

- For multi-resident properties, perhaps there should be some form of an acquisition alternative for individual unit owners.
- For those buildings that have to be demolished and reconstructed, as opposed to repaired, perhaps a buyout could be included as part of the proposed alternative. This would allow the option of creating open public space (e.g., playgrounds, small parks with green infrastructure elements to alleviate storm water runoff). "Green-converted" sites would provide extra protection and resilience within the floodplain and to nearby residents. Analysis has proven that ecological restoration can provide long-term economic benefits that far exceed the cost of a project.
<http://www.americanprogress.org/issues/green/report/2014/04/09/87438/the-economic-benefits-of-restoring-coastal-ecosystems/>.
- Even though using a tiering approach, the PEA should address the potential direct, indirect and cumulative impacts of each alternative.
- The cumulative impacts analysis should consider the environmental impacts of the project/program as a whole, and as one of a number of other proposed and/or approved actions in the area that would have the potential to impact the same resources (e.g., amount of pervious surface).
- The Cumulative Effects section mentions that resiliency measures will mitigate the flood risk of future storms. The PEA should include a listing of at least some of the possible measures, and in a general way, discuss the potential impacts of implementation, both beneficial and adverse.
- Additionally, it is necessary to include information making it clear that resilience measures will lessen, but not eliminate risk from future storms. The PEA needs to emphasize the difference between mitigation and avoidance. The document should clearly state the risk associated with living in a floodplain, even if structures are elevated.
- Natural elevations, storm surge, storm tide, winds, distance from the ocean and other factors influence the success of recovery techniques. The EA should indicate the existing conditions in the county and in a general way identify how these factors may influence the flood risk associated with future events. There should also be a discussion of ongoing sea level rise. Mapping tools are available for both sea level rise and potential storm surge. (Sea Level Rise and Coastal Flooding Impacts Viewer
http://www.csc.noaa.gov/digitalcoast/tools/slrviewer/?utm_source=DCC&utm_medium=

email&utm_campaign=DCC_May14)

- Stormwater issues should be discussed, pre-storm measures as well as projects being considered post-storm. The relationship between damaged structures and new anticipated structures with new strategies and practices on flood risk should be discussed.
- EPA understands the purpose and need of providing safe and adequate housing while retaining neighborhood character. However, there is an additional challenge in ensuring adequate and resilient multi-resident housing. This may be particularly relevant for renters who no longer wish to live in the floodplain. Also, renters and condominium or co-op owners have less control over ensuring appropriate resilience measures are taken. This should be discussed in the PEA as a potential socio-economic impact.
- Construction impacts section. EPA emphasizes the importance of the deconstruction activity. Millions of tons of usable material are needlessly buried each year in landfills. Energy and natural resources can be saved and/or usage reduced and the initial projected budget for a project may be decreased at the end. EPA understands that funded projects will be in accordance with federal, state, and local laws and regulations, and that they will include some degree of reuse and recycling, but EPA believes that the projects may have the opportunity to achieve more and would like to remind you of the following information:
 - EPA has developed a report and tool, “On the Road to Reuse: Residential Demolition Bid Specification Development Tool” (EPA Report 560K13002), for use by cities, counties or land banks undertaking large-scale residential demolitions. The tool allows the user to anticipate the environmental issues and concerns such that they can be factored into the planning and procurement process. The user is aided in developing contract language for a bid package that instructs contractors on specific technical requirements to achieve improved environmental results in a demolition project. Please refer to:
<http://www2.epa.gov/large-scale-residential-demolition/road-reuse-residential-demolition-bid-specification-development>.
- As this program is federally funded, it requires a general conformity applicability analysis in accordance with 40 CFR 93 Subpart B for any portion of the program that would fall within a nonattainment or maintenance area. The analysis should be completed prior to the start of any work, include all direct emissions that would be anticipated from demolition/construction/renovation activities, and be based on the best planning assumptions available at the time of the analysis. If emissions are estimated to be greater than the de minimis levels listed in 40 CFR 93.153(b) for any pollutant or precursor, then a full conformity determination would be required. The EPA Green Book Nonattainment Areas for Criteria Pollutants shows Nassau County, NY in the Non-attainment area for 8-hour Ozone and PM-2.5, and in the Maintenance area for Carbon Monoxide. Although the projects will not all be occurring at the same time, the air emissions associated with rehabilitation, reconstruction, and demolition should be evaluated. Estimates can be made of standard construction and demolition equipment emissions as well as the number of

activities based on FEMA damage assessments.

- Appendix P contains the NY Historic Preservation Programmatic Agreement, but none of the tribes mentioned in the agreement signed. Please clarify this.

Finally, EPA would like to recommend that details about the funded projects be added to the grants' database. Adding information on implemented adaptation measures to the already existing database of CDBG-DR funded projects will help increase knowledge of what measures and techniques are most successful in reducing risk levels. Having information such as resilience techniques, dollars spent, locations, etc., would facilitate smarter decision making and future environmental and economic analyses.

Thank you for the opportunity to comment. Please refer any questions to Maria R. Clark of my staff at (212) 637-3789 or clark.maria@epa.gov.

Sincerely,

Grace Musumeci, Chief
Environmental Review Section

cc: T.S. Parker, HUD
T. Fretwell, HUD

This attachment provides responses to comments on the NY Rising Housing Rehabilitation 5+ Units Program for Nassau County Tier 1 Programmatic Environmental Assessment (Nassau 5+ Tier 1 PEA) provided by the United States Environmental Protection Agency (EPA) on May 20, 2014.

EPA COMMENTS AND RESPONSES

Comment 1: For multi-resident properties, perhaps there should be some form of an acquisition alternative for individual unit owners.

Response: As discussed in Section 1.8 of the Nassau 5+ Tier 1 PEA, under the Acquisition Option of the Limited Area Alternative, funding would be authorized to purchase damaged residential properties for the purpose of future resilient redevelopment within Nassau County. Since individual units within a 5+ unit building are oftentimes structurally dependent upon each other, it may not be feasible to acquire and redevelop an individual unit in a more resilient manner. As such, the Acquisition Option considers the purchase of the entire building.

Comment 2: For those buildings that have to be demolished and reconstructed, as opposed to repaired, perhaps a buyout could be included as part of the proposed alternative. This would allow the option of creating open public space (e.g., playgrounds, small parks with green infrastructure elements to alleviate storm water runoff). “Green-converted” sites would provide extra protection and resilience within the floodplain and to nearby residents. Analysis has proven that ecological restoration can provide long-term economic benefits that far exceed the cost of a project.

<http://www.americanprogress.org/issues/green/report/2014/04/09/87438/the-economicbenefits-of-restoring-coastal-ecosystems/>

Response: A buyout option has been approved for Nassau County as a separate NY Rising Housing Recovery Program. The Tier 1 PEA for this program and other associated documents can be viewed online at <http://www.nyshcr.org/Programs/NYS-CDBG-DR/EnvironmentalReview.htm>.

As discussed in Section 1.8 of the Nassau 5+ Tier 1 PEA, a buyout option is considered as part of the Limited Area Alternative. However, this alternative would affect local economies and would result in costs far greater than those of repairing and rebuilding in a more resilient manner. The proposed action would provide assistance for repair, rehabilitation, replacement and reimbursement for completed repairs to owners and renters of 5+ unit residential properties in

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Nassau County that were damaged or destroyed by Hurricane Irene and Superstorm Sandy. The program is needed to restore properties impacted by these storms through repair and replacement, and to help prevent future damage through the implementation of resiliency measures. Another goal of the program is to facilitate the provision of safe and adequate housing for residents of these communities, retain neighborhood character over the long-term, and improve the communities' resiliency to future storms.

Comment 3: Even though using a tiering approach, the PEA should address the potential direct, indirect and cumulative impacts of each alternative.

Response: The Nassau 5+ Tier 1 PEA has been amended to address the potential direct, indirect and cumulative impacts of each alternative (see Section 1.8).

Comment 4: The cumulative impacts analysis should consider the environmental impacts of the project/program as a whole, and as one of a number of other proposed and/or approved actions in the area that would have the potential to impact the same resources (e.g., amount of pervious surface).

Response: As discussed in the Nassau 5+ Tier 1 PEA, the proposed initiative would provide assistance for repair, rehabilitation, replacement and reimbursement for completed repairs to owners and renters of residential properties with five or more units in Nassau County that were damaged or destroyed by Hurricane Irene and Superstorm Sandy. Because the affected housing units already exist, there would be no new impacts to pervious surfaces, natural resources, etc. Since this is a Tier 1 programmatic review, and the complete list of site specific projects have not yet been identified, it is not feasible to quantify the potential increase in impervious surface. However, since these structures already exist no substantial change in the amount of pervious surface is anticipated. The Nassau 5+ Tier 1 PEA has been amended to address cumulative impacts generally, and where feasible more detailed information has been provided (see Section 1.9). Site specific details will be provided during the Tier 2 analysis.

Comment 5: The Cumulative Effects section mentions that resiliency measures will mitigate the flood risk of future storms. The PEA should include a listing of at least some of the possible measures, and in a general way, discuss the potential impacts of implementation, both beneficial and adverse.

Response: As discussed in Section 1.7 "Program Description," the program would fund the following resiliency measures:

- Elevation of housing structures to the required ABFE plus freeboard as required by each community's floodplain ordinance;
- Flood-proofing housing structures as required by each community's floodplain ordinance;

- Elevation or resiliency measures for electrical systems and components;
- Securing of fuel tanks;
- Use of flood resistant building materials below base flood elevation (retrofits to be limited in scope to be cost-effective);
- Installation of flood vents;
- Installation of backflow valves; and
- Installation of roof strapping.

The above resiliency measures would reduce potential flood risks to the repaired or reconstructed structures during future storm events. By reducing the amount of potential damage in the future, the program could have a long term positive fiscal effect on the community, as well as a positive effect on community character.

Comment 6: Additionally, it is necessary to include information making it clear that resilience measures will lessen, but not eliminate risk from future storms. The PEA needs to emphasize the difference between mitigation and avoidance. The document should clearly state the risk associated with living in a floodplain, even if structures are elevated.

Response: Comment noted. The Nassau 5+ Tier 1 PEA has been amended to explain the difference between mitigation and avoidance (see Section 1.2). The document identifies that the resiliency measures would reduce, but not eliminate, potential flood risks to the repaired or reconstructed structures during future storm events. It is noted that the New York Rising Housing Recovery Program also includes a Buyout program for areas of greatest risk. Actions that remove structures from the floodplain would avoid damage from future storm events. However, avoidance is not always the most economical or practical solution. As such, mitigation and resiliency measures are considered as part of the propped action. Resiliency measures, such as those identified in Response to Comment 5 above, reduce the risk of property damage or destruction during severe storm events, but the potential for future damage cannot be eliminated.

Comment 7: Natural elevations, storm surge, storm tide, winds, distance from the ocean and other factors influence the success of recovery techniques. The EA should indicate the existing conditions in the county and in a general way identify how these factors may influence the flood risk associated with future events. There should also be a discussion of ongoing sea level rise. Mapping tools are available for both sea level rise and potential storm surge. Sea Level Rise and Coastal Flooding Impacts Viewer:

http://www.csc.noaa.gov/digitalcoast/tools/slrviewer/?utm_source=DCC&utm_medium=email&utm_campaign=DCC_May14

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Response: As noted in the Tier 1 PEA, climate change poses increasing risk of flooding as sea levels rise and storms become more intense. The Tier 1 PEA includes a discussion of floodplains, which account for natural elevations and distance from the ocean as factors in flood risk. All proposed reconstruction and repair of substantially damaged structures in a floodplain under the proposed action must adhere to the latest (most recent) elevation requirements and/or flood-proofing in accordance with 6 NYCRR Part 502 or the New York State Building Code. The resiliency measures discussed in Section 1.7 “Program Description” are intended to minimize future flood risk.

Comment 8: Stormwater issues should be discussed, pre-storm measures as well as projects being considered post-storm. The relationship between damaged structures and new anticipated structures with new strategies and practices on flood risk should be discussed.

Response: As discussed in the Nassau 5+ Tier 1 PEA, all sites will be evaluated for the need to comply with stormwater permitting requirements including a NYSDEC general permit or a Municipal Separate Storm Sewer Systems (MS4) permit. If multiple adjacent sites are involved, the sites will be aggregated for construction stormwater compliance. The proposed action involves the rehabilitation of existing structures and therefore would not result in substantial changes to stormwater flows.

Comment 9: EPA understands the purpose and need of providing safe and adequate housing while retaining neighborhood character. However, there is an additional challenge in ensuring adequate and resilient multi-resident housing. This may be particularly relevant for renters who no longer wish to live in the floodplain. Also, renters and condominium or co-op owners have less control over ensuring appropriate resilience measures are taken. This should be discussed in the PEA as a potential socio-economic impact.

Response: Section 3.17 of the Nassau 5+ Tier 1 PEA includes an environmental justice analysis. As discussed in that section, this program may have a positive impact on environmental justice as priority may be given to applicants whose income is below 80% of the median income, or in the case of multi-family housing, where at least 51% of tenants are of low or moderate income. These individuals are most in need of assistance in rehabilitating or reconstructing their living environment, and the program would help to remedy the environmental and health hazards caused by the recent storms. Approximately 45.7% of all NY Rising applications have been from low to moderate income individuals. The State will pay particular attention to the needs of the most vulnerable populations; the elderly and disabled, minority populations, low- to moderate-income residents, and others. NYS and its partners will be conducting extensive

outreach to ensure that available resources are made available to the populations with the greatest needs.

Comment 10: EPA emphasizes the importance of the deconstruction activity. Millions of tons of usable material are needlessly buried each year in landfills. Energy and natural resources can be saved and/or usage reduced and the initial projected budget for a project may be decreased at the end. EPA understands that funded projects will be in accordance with federal, state, and local laws and regulations, and that they will include some degree of reuse and recycling, but EPA believes that the projects may have the opportunity to achieve more and would like to remind you of the following information: EPA has developed a report and tool, “On the Road to Reuse: Residential Demolition Bid Specification Development Tool” (EPA Report 560K13002), for use by cities, counties or land banks undertaking large-scale residential demolitions. The tool allows the user to anticipate the environmental issues and concerns such that they can be factored into the planning and procurement process. The user is aided in developing contract language for a bid package that instructs contractors on specific technical requirements to achieve improved environmental results in a demolition project. Please refer to: <http://www2.epa.gov/large-scale-residential-demolition/road-reuse-residentialdemolition-bid-specification-development>.

Response: Comment noted. The proposed action would not involve large-scale residential demolitions.

Comment 11: As this program is federally funded, it requires a general conformity applicability analysis in accordance with 40 CFR 93 Subpart B for any portion of the program that would fall within a nonattainment or maintenance area. The analysis should be completed prior to the start of any work, include all direct emissions that would be anticipated from demolition/construction/renovation activities, and be based on the best planning assumptions available at the time of the analysis. If emissions are estimated to be greater than the de minimis levels listed in 40 CFR 93.153(b) for any pollutant or precursor, then a full conformity determination would be required. The EPA Green Book Nonattainment Areas for Criteria Pollutants shows Nassau County, NY in the Non-attainment area for 8- hour Ozone and PM-2.5, and in the Maintenance area for Carbon Monoxide. Although the projects will not all be occurring at the same time, the air emissions associated with rehabilitation, reconstruction, and demolition should be evaluated. Estimates can be made of standard construction and demolition equipment emissions as well as the number of activities based on FEMA damage assessments.

Response: Comment noted. An Air Quality conformity screening analysis is provided in Appendix M. The analysis concludes that emissions from construction activities would be less than de minimis levels above which a general conformity analysis or determination would be required

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Comment 12: Appendix P contains the NY Historic Preservation Programmatic Agreement, but none of the tribes mentioned in the agreement signed. Please clarify this.

Response: The Federal Emergency Management Agency (FEMA) entered into a Statewide Programmatic Agreement for New York, pursuant to 36 CFR Part 800, regulations implementing Section 106 the National Historic Preservation Act of 1966 (as amended). The purpose of the Agreement is to ensure that FEMA satisfies its Section 106 responsibilities for all undertakings administered through its Federal disaster assistance programs, and at the same time avoids delays in its effort to help New York recover from Hurricane Sandy. Parties to the Agreement include the New York State Historic Preservation Officer, the New York State Office of Emergency Management, Advisory Council on Historic Preservation and tribes that may have an interest in sites that may contain human remains and/or associated cultural items uncovered as a result of FEMA’s undertakings. The Programmatic Agreement was signed by the Federal Emergency Management Agency, the New York State Historic Preservation Officer, the New York State Office Of Emergency Management, the Landmarks Preservation Commission, and the Advisory Council On Historic Preservation. The Programmatic Agreement was properly noticed and provided to the appropriate Tribal Historic Preservation Officers for signature. However, no response was received.

Comment 13: EPA would like to recommend that details about the funded projects be added to the grants’ database. Adding information on implemented adaptation measures to the already existing database of CDBG-DR funded projects will help increase knowledge of what measures and techniques are most successful in reducing risk levels. Having information such as resilience techniques, dollars spent, locations, etc., would facilitate smarter decision making and future environmental and economic analyses.

Response: Comment noted.