

**Memorandum of Understanding
Between the
The Governor's Office of Storm Recovery
and
The State of New York Urban Development Corporation,
d/b/a Empire State Development**

I. PURPOSE

The purpose of this Memorandum of Understanding (“MOU” or “Agreement”) is to establish procedures in which the New York State Urban Development Corporation, d/b/a Empire State Development (“ESD”) may exchange data, subject to the Privacy Act, with the New York State Governor’s Office of Storm Recovery (“GOSR”) in connection with New York State’s Hurricane Irene/Tropical Storm Lee Small Business Recovery Program and the NY Rising Storm Recovery Small Business Program, administered respectively by ESD and GOSR. It is important that this data is exchanged by the parties to avoid a duplication of benefits (DOB) for businesses receiving assistance in the form of grants for losses suffered or incurred as a result of Hurricane Irene or Tropical Storm Lee.

II. BACKGROUND

On August 31, 2011, a Presidential Major Disaster Declaration was declared, as requested by the Governor of New York, in response to flooding due to Hurricane Irene. On September 13, 2011, a Presidential Major Disaster Declaration was declared, as requested by the Governor of New York in response to flooding caused by the remnants of Tropical Storm Lee. In response to the needs of the many small businesses in New York State affected by these storms, the legislature of the State of New York appropriated \$21 million in funds to provide grants for storm-related repairs and restoration of structures, as well as additional storm-related costs, which are not compensated by any other federal, state or local recovery program or any third-party payors. The legislature authorized ESD to implement and administer the Hurricane Irene–Tropical Storm Lee Business Flood Recovery Grant Program (the “ESD Program”).

The ESD Program provides grants to small businesses, not-for-profit organizations, farms and owners of multiple dwellings that sustained direct physical flood-related damage as a result of Hurricane Irene or Tropical Storm Lee. Such grants are available for storm-related repairs, restoration to structures and for additional storm-related costs, which were not covered by other federal, state or local recovery programs or third-party payors. Such grants may also be used as payment towards Small Business Administration (“SBA”) disaster assistance loans obtained and used to pay for the same disaster related repairs or costs for which an ESD Program grant is sought.

In response to the damage caused by Superstorm Sandy and other national disasters that occurred across the United States in 2011, 2012 and 2013, the U.S. Congress appropriated \$16 billion for

the Community Development Block Grant - Disaster Recovery (CDBG-DR) program. The State of New York received an allocation of \$1,713,960,000 CDBG-DR funds from the Department of Housing and Urban Development (“HUD”). The CDBG funds New York State received are being administered through the New York State Homes and Community Renewal (NYHCR) office.

In June 2013 Governor Cuomo established GOSR as a division of the Housing Trust Fund Corporation, one of several agencies that comprise NYHCR, to direct the administration and distribution of the CDBG-DR funding in New York State. The New York Rising Small Business Recovery Program is one of several disaster recovery initiatives created to utilize the CDBG-DR funding to assist small businesses in New York State to recover and rebuild after the 2011-2013 storms and to stimulate economic growth in communities affected by the storms.

As outlined in this Agreement, for the purpose of avoiding a duplication of benefits (DOB), ESD is providing grant information to GOSR about ESD Program grantees who have applied to GOSR for grants in excess of any amount received from ESD in connection with damages sustained as a result of Hurricane Irene or Tropical Storm Lee. GOSR will use this information to help verify eligible assistance through its New York Rising Small Business Recovery Program.

IV. ROLES AND RESPONSIBILITIES

A. ESD will:

1. Provide an Excel spreadsheet identifying ESD Program grant recipients including the following data elements:
 - a. applicant name(s);
 - b. ESD application number;
 - c. address where the property damage occurred including street, city, state, postal code, county;
 - d. the grant amount authorized;
 - e. the grant amount disbursed; and
2. Provide an updated Excel spreadsheet on a biweekly basis, provided there is updated information to report and until such time as the ESD program is no longer active.
3. Where it is determined that a New York Rising Small Business Recovery Program applicant received ESD Program funds, GOSR may request a copy of the ESD Program application which includes invoices and receipts provided by the applicant.

4. Provide a primary contact person to facilitate communication between ESD and GOSR.

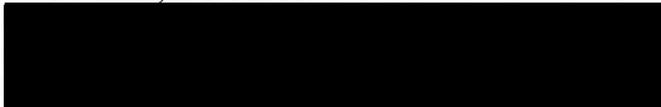
B. GOSR will:

1. Receive ESD Program grant information provided by ESD and use that information to cross-reference and identify those businesses that have received ESD Program grants against businesses that have also applied for GOSR grant funds for damage sustained as a result of Hurricane Irene or Tropical Storm Lee (“Mutual Clients”).
2. Use the data it receives from ESD to annotate GOSR records in order to prevent DOBs with respect to Mutual Clients in cases of late application processing, loan increase requests, reconsiderations and final appeals.
3. Provide a primary contact person to facilitate communication between GOSR and ESD.

V. POINTS OF CONTACT

GOSR

Natalya Sholomyansky
Asst. Dir., Organizational Systems & Performance
25 Beaver Street
New York, NY 10004



ESD

Christine J. Costopoulos
Vice President
625 Broadway
Albany, NY 12245



VI. TERM, TERMINATION AND AMENDMENT

This Agreement will take effect when signed by both parties and will continue until December 31, 2016, unless sooner terminated. This Agreement may only be amended upon written mutual consent of both parties. Either party may terminate its participation upon thirty (30) calendar days written notice to the other party.

VII. PROTECTION OF DATA

Any data obtained from the other party may only be used for the purpose of verifying whether a duplication of benefits has occurred. Both parties agree to strictly control the use and retention of any personal and confidential information provided by the other party so that only those personnel who have a need to know, for the purpose of evaluating whether there has been a duplication of benefits, shall have access to such material. No further dissemination or use of

material provided by either party is authorized without written permission of the other party. Each party's responsibility to protect personal and confidential data from unauthorized disclosure will survive the term of this Agreement.

ESD and GOSR are hereby authorized to disclose any data obtained from the other party with consultants or other agents retained by either party to assist with implementing or administering their respective flood business recovery programs. Except however, neither party shall disclose any such data to a consultant or other agent unless the consultant or agent agrees in writing to: (1) abide by the terms of this agreement, (2) execute a written non-disclosure and confidentiality agreement in a form acceptable to ESD, and (3) comply with the NYS Information Technology Policies, Standards and Best Practices Guidelines (<http://its.ny.gov/tables/technologypolicyindex.htm>) with respect to storing and securing the data. Both parties agree that information will be transmitted through a secure file sharing protocol in accordance with NYS information security and encryption policies, as outlined in the NYS Information Technology Policies, Standards and Best Practices Guidelines, including but not limited to: <http://its.ny.gov/policy/enterprise-encryption-standard-v1.0.pdf>, which applies to encryption for sensitive data at rest and transit.

Because ESD in its role as the administrator of the ESD Program is not currently executing a Federal benefits program, the provisions of the Computer Matching Privacy Protection Act (5 U.S.C. 552a *et seq.*) do not apply to ESD. However, both parties agree to revisit this issue should ESD receive Federal funds at any time during the life of this agreement.

VIII. GENERAL TERMS

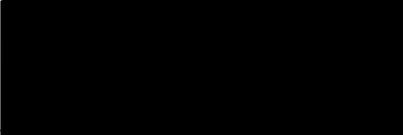
- A. Nothing in this Agreement is intended to conflict with current law(s), regulation(s), or the directives of the SBA. If a provision in this Agreement is found to be inconsistent with such authority, then that provision shall be reviewed and modified or annulled as agreed to by ESD and GOSR in writing, but the remaining provisions of this Agreement shall remain in force and effect unless otherwise noted.
- B. All records and data will be subject to existing Federal and State record retention requirements.
- C. ESD and GOSR further recognize that the sharing of information is subject to the rights of audit and inspection of various federal and state agencies and that the disclosure of such information may be required by law.

IX. SIGNATURE

The signatories below represent that they have the authority to make such commitments on behalf of their respective organizations.

New York State
Urban Development Corporation,
d/b/a Empire State Development

New York State
Governor's Office of Storm Recovery

BY: 

Kenneth Adams, President & CEO
Date:

BY: 

James Rubin, Director of Storm Recovery
Date: 