

MEMORANDUM OF UNDERSTANDING

relating to the

HURRICANE SANDY DISASTER NATIONAL EMERGENCY GRANT

between

NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES

and

NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION

This **MEMORANDUM OF UNDERSTANDING** (“MOU”) dated NOVEMBER 27, 2012, is entered into between the **New York City Department of Small Business Services** (“SBS”), with offices located at 110 William Street, 7th Floor, New York, New York 10038, and the **New York City Department of Parks and Recreation** (“DPR”), with its principal office located at 830 Fifth Avenue, New York, New York 10065 (collectively, the “Parties”).

WITNESSETH:

WHEREAS, SBS makes it easier for businesses in the City of New York (the “City”) New York to start, operate and expand by providing direct assistance to business owners, fostering neighborhood development in commercial districts, and linking employers to a skilled and qualified workforce;

WHEREAS, DPR has jurisdiction over all trees growing in the City’s public right-of-way, including trees along streets, parkways, and in City parks;

WHEREAS, in response to the destruction caused by Hurricane Sandy throughout the City, Governor Cuomo, through NYSDOL (as Grantor), issued a *Notice of Obligational Authority (NOA) for Local Workforce Investment Area (LWIA)-New York City* (dated November 13, 2012) authorizing Program Year 2012 funding to Mayor Bloomberg (as Grantee) on behalf of the City in the form of a \$7,455,800 “NEG Disaster” WIA Grant (the “Grant” or “WIA Grant”) as more specifically described herein to be used for the *New York City Direct Hire Program*;

WHEREAS, SBS seeks to make available certain funding to DPR for services provided by DPR in connection with the Grant (defined below). Specifically, these payments to DPR would include initial start-up costs for eligible expenses and subsequent payments in connection with the hiring of temporary maintenance workers to clear streets located throughout the City and perform related maintenance services due to damage caused by Hurricane Sandy (“NEG-Funded Participant Services” or “Services”); and

WHEREAS, DPR is ready, willing and able to use the Grant funding to cover costs incurred by it in connection with the provision of NEG-Funded Participant Services in accordance with terms set forth in this MOU as well as all applicable City, State and federal rules, regulations, guidelines and policies, including the general terms and conditions applicable to the Hurricane Sandy Disaster NEG (as provided by NYSDOL) and NYSDOL’s *Disaster NEG Desk Guide*;

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1. TERM

Unless sooner terminated or extended pursuant to this MOU, the term of this MOU shall be for the same period identified in the *Notice of Obligational Authority (NOA) for Local Workforce Investment Area (LWIA)-New York City* dated November 13, 2012 (attached to this MOU as Exhibit B) for the NEG Disaster WIA Grant Program Year 2012 Funding (October 30, 2012 through September 30, 2013 or “Term”).

ARTICLE 2. SCOPE

- A. During the Term, DPR shall use the WIA Grant Funding to cover costs incurred by DPR in connection with the *New York City Direct Hire Program* and the hiring of temporary maintenance and forestry workers to clear streets located throughout the City of fallen trees and debris as well as to perform related clean-up and maintenance services caused by Hurricane Sandy (“NEG-Funded Participant Services” or “Services”). DPR is prohibited from using the Grant Funding for any purpose other than the following: (1) hiring temporary workers whose total work hours include regular work hours plus overtime work hours; (2) purchasing disaster-related supplies, including small equipment; (3) providing humanitarian assistance, clean-up, demolition, repair and renovation related to public facilities, structures and lands; (4) paying for related administration costs¹; and (5) paying for supervisory costs, transportation costs and costs related to employee uniforms and trailers.
- B. DPR shall comply with all applicable City, State and federal rules, regulations, guidelines and policies, including the NYSDOL general terms and conditions for the NEG Disaster WIA Grant and NYSDOL’s *Disaster NEG Desk Guide* in the performance of the Services required by this MOU.
- C. SBS shall ensure that all “Disaster NEG Supported Workers” meet the eligibility criteria established by NYSDOL under the NEG Disaster WIA Grant.

ARTICLE 3. PAYMENT

- A. **Total Budget for Services Provided Pursuant to the NEG Disaster WIA Grant.** During the Term, SBS shall pay to DPR, subject to and in accordance with this MOU, an aggregate amount not to exceed Seven Million Four Hundred Fifty Five Thousand Eight Hundred Dollars (\$7,455,800) in consideration for all Services to be performed pursuant to the NEG Disaster WIA Grant and in connection with the *New York City Direct Hire Program* (as more fully described herein). SBS will establish an intra-city modification in the amount of Seven Million Four Hundred Fifty Five Thousand Eight Hundred Dollars (\$7,455,800) to effectuate the transfer of funds pursuant to this MOU. In addition, SBS shall compensate DPR-eligible WIA Grant funding expenses incurred during the Term in accordance with the following:
 1. **Start-up Costs (for Eligible WIA Grant Funded Expenses).** Upon execution of this MOU, SBS shall pay to DPR a maximum amount of Nine Hundred Twenty Six Thousand One Hundred Eighty-Eight Dollars (\$926,188) for eligible start-up costs incurred by DPR in connection with the Services to be provided pursuant to this MOU, provided that all identified start-up costs are determined to be eligible expenses under the NEG Disaster WIA Grant as set forth above and in the NOA (Exhibit B). DPR shall submit an invoice to SBS within a reasonable time following execution of this MOU accounting for the above-referenced Start-Up Costs. The invoice shall include an itemization of actual expenditures and shall be accompanied by appropriate supporting documentation and any other information deemed necessary by the SBS
 2. **Cost Reimbursement for Eligible WIA Grant Funded Expenses.** During the Term of this MOU, SBS shall approve DPR vouchers in an amount not to exceed the difference between the Start-Up Costs and the not-to-exceed amount of \$7,455,800. Such payments shall be made in accordance with the following process: Invoices shall be submitted by DPR to SBS by the tenth (10th) business day of each month to cover the previous month’s expenses. The invoices shall include an itemization of actual expenditures incurred, and shall be accompanied by appropriate supporting documentation and any other information deemed necessary by the SBS. Upon receipt and approval of an invoice, SBS shall process each DPR voucher in accordance with the approved “Budget” attached hereto and incorporated herein as Exhibit A and the NOA (Exhibit B). SBS may disallow for payment any expenses or charges which were not

¹ No more than 7% of the initial \$7,500,000 NYSDOL funding allocation (or \$525,000) can be charged to administration/administrative expenditures. This cap includes Grant funding expenditures incurred and subsequently charged by both SBS and DPR to administration.

authorized or documented in accord with the terms of this MOU, the NOA, the NYSDOL *Disaster NEG Desk Guide* as well as the general terms and conditions applicable to the NYSDOL Hurricane Sandy Disaster NEG WIA Grant

ARTICLE 4. MODIFICATION

- A. **MODIFICATION.** This MOU may only be amended by the written consent of both SBS and DPR.
- B. **TERMINATION.** Both SBS and DPR shall have the right to terminate this MOU without cause upon thirty (30) days written notice to the other Party.

ARTICLE 5. RECORDKEEPING & REPORTING REQUIREMENTS

- A. **Maintenance of Records.** DPR agrees to maintain any and all books, records, documentation, justifications and other evidence which sufficiently and properly reflect all costs expended in connection with this MOU as well as any other documents or information deemed necessary by SBS for SBS to comply with certain NYSDOL reporting requirement related to the NEG Disaster WIA Grant including, but not limited to the following (collectively, "Records"):
 - 1. **Case Management System.** The recording and timely entering of NEG-Funded Participant Services in NYSDOL's case management system; and
 - 2. **Bi-Weekly and Monthly Report Submissions.** The Records and related information provided by DPR to SBS for the completion and submission of NYSDOL-required Bi-Weekly (to be submitted for the first 3 months of the Term) and Monthly Reports (to be submitted every month of the Term following the first three) shall include sufficient information and supporting documentation for SBS to address the following areas:
 - a. Summarize the activities conducted;
 - b. Identify new worksite initiated;
 - c. Identify temporary workers hired/assigned to worksites;
 - d. Summarize local monitoring conducted; and
 - e. Identify accrued expenditures.
- B. **Retention and Availability of Records for Inspection.** DPR agrees to retain all Records for a period of six (6) years after the expiration or termination of this MOU, or for a period otherwise prescribed by Law, whichever is later ("Retention Period"). Additionally, during the Term or Retention Period and upon reasonable notice to DPR, DPR shall make available to SBS as well as applicable City, State and federal agencies and auditors all Records maintained or retained by DPR in connection with this MOU.

ARTICLE 6. MISCELLANEOUS

- A. All notices required by this MOU shall be delivered to the other Party at the following addresses:

To DPR:

The Arsenal
830 Fifth Avenue
New York, New York 10065
Attn: Robert Garafola, Deputy Commissioner of Management and Budget

To SBS:

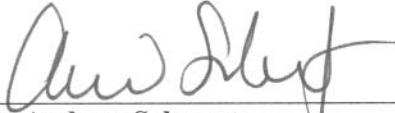
110 William Street, 7th Floor
New York, New York 10038
Attn: Andrew Schwartz, First Deputy Commissioner

- B. If any provision contained in this MOU is held to be unenforceable by a court of law or equity, this MOU will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this MOU unenforceable.
- C. The Services provided under this MOU shall be performed in accordance with all applicable provisions of Federal, State, and Local Laws.

- D. This written MOU contains all the terms and conditions agreed upon by the Parties, and no other agreement, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind either of the Parties, nor to vary any of its terms.
- E. Neither Party will be deemed to be in violation of this MOU if it is prevented from performing any of its obligations hereunder due to emergencies or weather conditions, strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the MOU after the intervening cause ceases.
- F. Neither Party will assign, transfer or delegate any rights, obligations or duties under this MOU without the prior written consent of the other Party. Such prior written approval will not be unreasonably withheld, delayed, or conditioned.
- G. The Parties hereto represent and warrant that the person executing this MOU on behalf of each party has full power and authority to enter into this MOU and that the Parties are authorized by law to perform the Services set forth in the MOU.

IN WITNESS WHEREOF, both Parties have duly executed this MOU on the date herein written.

NEW YORK CITY DEPARTMENT OF
SMALL BUSINESS SERVICES



Name: Andrew Schwartz
Title: First Deputy Commissioner

November 27, 2012

Date

NEW YORK CITY DEPARTMENT
OF PARKS AND RECREATION



Name: Robert Garafola
Title: Deputy Commissioner of
Management and Budget

Nov 26, 2012

Date

ACKNOWLEDGMENTS

State of New York)
) SS.:
County of New York)

On this 27th day of NOVEMBER, 2012, before me personally came Andrew Schwartz, to me known, and known to me to be the First Deputy Commissioner of the New York City Department of Small Business Services, who executed the foregoing agreement and who acknowledged to me the execution thereof for the purposes therein mentioned.

Christian Stover
Notary Public

CHRISTIAN STOVER
Notary Public, State of New York
Registration #02ST8172505
Qualified in New York County
Commission Expires Dec.14, 2015

State of NY)
) SS.:
County of NY)

On this 26th day of NOV, 2012, before me personally came Robert Garafola, to me known, and known to me to be the Dep. Comm'vr of NYC Parks + Recreation, who executed the foregoing agreement and who acknowledged to me the execution thereof for the purposes therein mentioned.

Nancy S. Harvey
Notary Public

Nancy S. Harvey
Notary Public, State of New York
No. 02HA6017929
Qualified in Kings County
Commission Expires Dec. 21, 2014

X _____

EXHIBIT A
BUDGET

DPR-SBS BUDGET FOR HURRICANE SANDY DISASTER NATIONAL EMERGENCY GRANT						
DPR Personnel	Number	DOL Cap	Rate-Annual	Rate-Hourly	Rate-Daily	Total
CSA/CPW	790	\$12,000	\$26,234	\$12.56	\$100.51	\$3,885,962
Maintenance Workers	30	\$12,000	\$52,000	\$24.90	\$199.23	\$292,500
Crew Chiefs*	40	\$22,026	\$44,051	\$21.10	\$168.78	\$330,383
Fringe	-	-	42.6%	-	-	\$1,920,768
Crew Chief Overtime	-	-	-	-	-	\$100,000
<i>Sub-Total (DPR Personnel)</i>						\$6,529,612
Other than Personnel Services (OTPS)						
Uniforms, supplies, equipment and other misc. (10% PS)	-	-	-	-	-	\$926,188
<i>Sub-Total (OTPS)</i>						\$926,188
TOTAL BUDGET (DPR PERSONNEL + OTPS)						\$7,455,800**

* Crew Chiefs are existing staff (1CC: 10 CPW+CSA); cap is estimated at 6-months salary (\$44,051 per year = \$22,026 for six months)

** The Parties acknowledge that the Total Budget for the MOU between SBS and DPR (\$7,455,800) reflects a \$44,200 reduction from the initial \$7,500,000 funding allocation identified in the NYSDOL NOA dated November 13, 2012 (attached hereto as Exhibit B). Furthermore, the Parties acknowledge that the \$44,200 retained by SBS will be used to cover certain administrative expenses incurred in connection with the NEG Disaster WIA Grant and the NOA.

Note: Staff will be assigned to evacuated zones and inundation areas including, but not limited to Zone A, that were affected by the storm in Brooklyn, Queens, and Staten Island including Coney Island, Red Hook, and the Rockaways.

EXHIBIT B
**NOTICE OF OBLIGATIONAL AUTHORITY (NOA) FOR LOCAL WORKFORCE INVESTMENT AREA
(LWIA)-NEW YORK CITY**

[ATTACHED AS SEPARATE DOCUMENT]

EXHIBIT B



New York State Department of Labor
Andrew M. Cuomo, Governor
Peter M. Rivera, Commissioner

November 13, 2012

The Honorable Michael R. Bloomberg
Mayor
City of New York
City Hall
New York, New York 10007

Dear Mayor Bloomberg:

Attached is Notice of Obligational Authority (NOA) for Local Workforce Investment Area (LWIA)- New York City for the amount of \$7,500,000.00. This NOA identifies an initial allocation of funding to your LWIA under the Department's Hurricane Sandy disaster National Emergency Grant (NEG). This funding is for the New York City direct hire project. By issuance of this NOA, the Department has approved your recently submitted project operating plan and budget.

Disaster NEG supported workers must meet the eligibility criteria as established under this grant. Funds can only be used to hire temporary workers and to purchase disaster-related supplies. Available funds may be used to provide humanitarian assistance, clean-up, demolition, repair and renovation related to public facilities, structures and lands. Up to 7% of your total expenditures may be charged to administration. All charges against this program must be reported monthly to PeopleSoft to Program 187 as follows:

<i>NEG Hurricane expense</i>	<i>Peoplesoft Account/Description</i>
LWIA Administration	516000 Administration
Participant Wages	516100 Wages
Participant Fringe Benefits	516101 Fringe
Supplies and Transportation	516107 Other
Supervisor Wages, Fringe, Prgm Oper Admin	511000 General


NEG funded participant services must be properly recorded and entered timely into our case management system. The Department created a Disaster NEG desk guide which is located on the internet at: <http://labor.ny.gov/workforcenypartners/osos-desk-guide-neg-disaster.pdf>.

Attached are required worksite assurances and certifications, as well as general terms and conditions that are applicable to this Disaster NEG. A list of commonly asked questions and answers are also included as part of the general terms and conditions for your reference.

A bi weekly report summarizing activities conducted, new worksites initiated, temporary workers hired/assigned to worksites, local monitoring conducted and accrued expenditures will be required for the first three months of this project. Subsequent to that time monthly summary reports will be required.

Any questions concerning this information should be directed to Mr. Jeffrey Martin, State Representative at 212-775-3352.

Sincerely,



Karen A. Coleman
Deputy Commissioner
for Workforce Development

Attachment

cc: Mr. Ismail Mohamed
Ms. Michelle Light
Mr. Jeffrey Martin
Mr. Yona Tapuchi
Ms. Delores Caruso

NOTICE OF OBLIGATIONAL AUTHORITY LWIA# 67

NOA #PY12- 4

LWIA: New York City
Grantee: Michael R. Bloomberg
Mayor, New York City

GRANTOR: The Governor of New York through
the New York State Department
of Labor


This NOA authorizes Program Year 2012 funding for the period (07/01/12
through 6/30/14), except Youth (04/01/12 through 6/30/14)
NEG Disaster (10/30/12 - 9/30/13)

NYSDOL Contacts: Jeff Martin

TELEPHONE: (212) 775-3352

WIA GRANT	PRIOR LEVEL	CHANGE THIS NOA	NEW LEVEL
CFDA# 17.259 T-1B Youth	\$18,999,810.90	\$0.00	\$18,999,810.90
CFDA# 17.258,17.259,17.278 T-1B Admin	\$5,997,330.00	\$0.00	\$5,997,330.00
CFDA# 17.258 T-1B Adult	\$20,450,578.50	\$0.00	\$20,450,578.50
CFDA# 17.278 T-1B Dislocated Worker	\$14,525,580.60	\$0.00	\$14,525,580.60
CFDA# 17.277 T-1B NEG Disaster	\$0.00	\$7,500,000.00	\$7,500,000.00

Approved by:


Karen A. Coleman
Deputy Commissioner for Workforce Development

11/13/12