

FIRST AMENDMENT

to the

MEMORANDUM OF UNDERSTANDING

relating to the

HURRICANE SANDY DISASTER NATIONAL EMERGENCY GRANT

between the

NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES

and the

NYC DEPARTMENT OF PARKS AND RECREATION

for the

JAMAICA BAY RESTORATION CORPS (JBRC) PROJECT

This **FIRST AMENDMENT** (“**First Amendment**”) dated August 20, 2013 to the **HURRICANE SANDY NATIONAL EMERGENCY GRANT (JBRC PROJECT) MEMORANDUM OF UNDERSTANDING (“MOU”)** dated March 4th, 2013 is made by and between the **New York City Department of Small Business Services (“SBS”)**, and the **NYC Department of Parks and Recreation (“DPR”)**, (each, a “**Party**” and collectively, the “**Parties**”).

WITNESSETH:

WHEREAS, SBS and DPR heretofore entered into an MOU for DPR to use the Grant funding to cover costs incurred by DPR in connection with the *JBRC Project* and the hiring of temporary workers to clear streets and parks located in the Jamaica Bay area of fallen trees and debris and perform related services due to damage caused by Hurricane Sandy (“**NEG-funded Participant Services**” or “**Services**”); and

WHEREAS, SBS and DPR desire to amend the MOU to reflect the full budget amount, eliminate the need to amend this MOU when additional incremental funding is released by NYSDOL, incorporate the Project Proposal into the MOU, eliminate the bi-weekly report submission requirement and incorporate language requiring the prior approval of SBS to change or add worksite locations or worksite staff.

NOW, THEREFORE, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Article 2 of the MOU is deleted in its entirety and substituted therefore with the following:

ARTICLE 2
SCOPE OF SERVICES

- A. **Scope of Services.** During the Term, DPR shall use the Grant funding to administer the *JBRC Project* set forth in the “**Project Proposal**” (attached hereto as Exhibit C), initially approved by NYSDOL in the January 7th, 2013 NOA (Exhibit B). Unless otherwise approved by SBS in advance, DPR’s use of the Grant Funding to administer the *JBRC Project* identified in the Project Proposal shall be limited to: (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 costs; (5) paying for supervisory costs, transportation costs and

costs related to employee uniforms and trailers; and (6) providing training classes and lectures for *JBRC Members* (collectively, “**Services**” or “**Project Services**”). During the Term, DPR shall provide all Project Services in accordance with the applicable NOAs, Project Proposal, and the Project Budget described in Article 3 below. In addition, DPR’s provision of Project Services pursuant to this MOU and the Grant shall comply with all applicable Federal, state and city rules, regulations, guidelines and policies, including the *General Terms and Conditions Applicable to Disaster Grants* and NYSDOL’s *Disaster NEG Desk Guide*.

- B. **Eligibility Criteria for Disaster NEG Supported Workers.** SBS shall ensure that all “Disaster NEG Supported Workers” meet the eligibility criteria established by NYSDOL under the Grant before they perform any work under the NYSDOL-approved *JBRC Project*.

II. PAYMENT

- A. **Article 3 of the MOU is deleted in its entirety and substituted therefore with the following:**

ARTICLE 3
PAYMENT

- A. **Maximum Funding Level.** During the Term, the maximum funding approved by NYSDOL for the designated *JBRC Project* shall not exceed Four Million Eight Hundred Sixty Four Thousand Eighty One Dollars and Seventy Two Cents (\$4,864,081.72) (“**Maximum Funding Level**”). Unless otherwise approved by SBS in advance, the “NYSDOL-Approved Project Budget” and “NYSDOL-Approved LWIA Administrative Budget,” which comprises of the Maximum Funding Level, shall not exceed the values set forth in Table 1 below.
- B. **Maximum Reimbursable Amount.** The maximum reimbursable amount for Project Services provided by DPR during the Term and pursuant to this MOU shall not exceed Four Million Eight Hundred Fifteen Thousand Four Hundred Forty One Dollars (\$4,815,441) (“**Maximum Reimbursable Amount**”) as set forth in the “Project Budget,” attached hereto as Exhibit A. Unless otherwise approved by SBS in advance, the “Total *JBRC Project Costs*” which comprise of the Maximum Reimbursable Amount, shall not exceed the values set forth in Table 1 below. All payments shall be made in accordance with the “Cost Reimbursement” provisions set forth in Section C of this Article 3 below.

Table 1	
Summary of Maximum Funding Level and Maximum Reimbursable Amount	
MOU Cost Category	Value (\$)
Maximum Funding Level	\$4,864,081.72
<i>NYSDOL-Approved Project Budget</i>	<i>\$4,523,596</i>
<i>NYSDOL-Approved LWIA Administrative Budget</i>	<i>\$340,485.72*</i>
Maximum Reimbursable Amount under MOU	\$4,815,441.00
<i>Total JBRC Project Costs</i>	<i>\$4,523,596</i>
<i>Total DPR Admin Costs</i>	<i>\$291,845.00**</i>

* This figure represents 7% of the Maximum Funding Level; No more than 7% the Maximum Funding Level for the NYSDOL-approved *JBRC Project* may be charged to LWIA Administration during the Term.
 **This figure represents 6% of the Maximum Funding Level; No more than 6% of the Maximum Funding Level for the NYSDOL-approved *JBRC Project* may be charged by DPR to LWIA Administration costs during the term

- C. **Cost Reimbursement for Eligible Expenses.** During the Term of this MOU, SBS shall approve DPR vouchers and invoices (“**Invoices**”) in an aggregate amount not to exceed the “NOA new level” value identified in the most recent NOA issued by NYSDOL for the *JBRC*

Project less 7%.¹ Under no circumstances shall SBS reimburse DPR in an aggregate amount that exceeds the Maximum Reimbursable Amount during the Term of this MOU.

1. All reimbursement requests and 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.
 2. 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 SBS to validate expenses.
 3. SBS shall review each Invoice submitted by DPR in accordance with the Project Proposal, Project Budget, applicable NYSDOL-issued NOA(s) and all other applicable rules, guidelines and procedures pertaining to reimbursements and payments under the Grant. Once the Invoice is approved by SBS (either in whole or in part), the approved reimbursement amount shall be paid to DPR through an electronic interagency transfer of funds. SBS may disallow for payment any expenses or charges which were not authorized or documented in accordance with the terms of this MOU (including the Project Proposal and Project Budget), applicable NOA(s), the NYSDOL *Disaster NEG Desk Guide* and the *General Terms and Conditions Applicable to Disaster Grants*.
- D. **Additional Payment Provisions.** The Parties expressly acknowledge and understand that the Maximum Funding Level and Maximum Reimbursable Amount does not represent a commitment by NYSDOL to release to SBS the full amounts set forth in Table 1 above. Furthermore, the Parties expressly acknowledge and understand that SBS is serving solely as distributor of funds provided under the Workforce Investment Act ("WIA") for this Grant and that SBS is not obligated to disburse monies from general funds or otherwise to make payments described herein to DPR, and further, that this distribution is contingent upon the receipt of WIA Grant funds by NYSDOL.

III. RECORDKEEPING, REPORTING REQUIREMENTS & PROJECT MONITORING

A. **Article 5 of the MOU is deleted in its entirety and substituted therefore with the following:**

ARTICLE 5

RECORDKEEPING, REPORTING REQUIREMENTS & PROJECT MONITORING

- 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 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. Monthly Report Submissions. The Records and related information provided by DPR to SBS for the completion and submission of NYSDOL-required Monthly Reports 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.

¹ 1% of the each incremental funding allocation identified in the "NOA new level" column for the *JBRC Project* and a total of up to \$48,640.72 (1% of the Maximum Funding Level) is being withheld by SBS for LWIA administrative costs.

- 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.
- C. **NEG Project Monitoring.** During the Term, SBS shall perform the NEG monitoring activities set forth in the *Hurricane Sandy NEG Monitoring Guide; Local Government Agency, Non-profit or Public Education Entity Receiving Grant*.

IV. MISCELLANEOUS

A. Article 4, Section C of the MOU is deleted in its entirety and substituted therefore with the following:

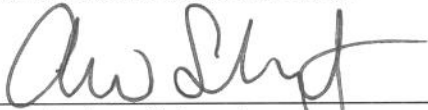
- C. Neither Party will assign, transfer or delegate any rights, obligations or duties under this MOU without the prior written consent of the other Party. Such prior written approval will not be unreasonably withheld, delayed, or conditioned. In addition, DPR is prohibited from undertaking any of the following actions without the prior approval of SBS: (1) Changing worksite locations; (2) transferring workers to different worksite locations; and/or (3) transferring the management of these worksite locations, including management of the workers and the Project in general, to another agency or entity.

V. RATIFICATION

Except as previously provided above, all terms, covenants, and conditions in the MOU shall remain unchanged and in full force and effect and are ratified and confirmed in all respects. All recitations contained herein, and all exhibits and appendices attached hereto, are incorporated in the MOU.

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

**NEW YORK CITY DEPARTMENT OF
SMALL BUSINESS SERVICES**



Name: Andrew Schwartz
Title: First Deputy Commissioner

8-20-17

Date

**NYC DEPARTMENT OF PARKS AND
RECREATION**



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

8/16/13

Date

ACKNOWLEDGMENTS

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

On this 20th day of August, 2013, 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, State of New York
Registration #02ST6172505
Qualified in New York County
Commission Expires Dec.14, 2015



Notary Public

State of)
) SS.:
County of)

On this 16th day of August, 2013, before me personally came Robert Garafola, to me known, and known to me to be the Director and City Chief Procurement Officer of the New York City Department of Parks and Recreation, who executed the foregoing agreement and who acknowledged to me the execution thereof for the purposes therein mentioned.



Notary Public

Sharmila Rampersaud, Esq.
Notary Public: New York State
No. 02RA6063174
Qualified in Queens County
Commission Expires: 9-30-2013



City of New York
Parks & Recreation

The Arsenal
Central Park
New York, New York 10065

Veronica White
Commissioner

August 19, 2013

To: Christian Stover
From: Dan Dougherty
Subject: MOU Amendment

Mr. Stover,

Enclosed please find two copies of the JBRC MOU Amendment. When they have been signed by First Deputy Commissioner Andrew Schwartz, please return one copy to:

Daniel Dougherty
The Arsenal, Room 301
830 5th Avenue
New York, NY 10065

Also enclosed is the letter that confirms the time-only extension for the JBRC NEG project.

Let me know if you have any questions.

Thanks,

Dan
212-360-1301