

FOR CONSIDERATION

January 20, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Statewide – Hurricane Irene - Tropical Storm Lee Flood Mitigation Grant Program – Local Assistance – (Capital Grants for Flood Control Projects)

REQUEST FOR: Authorization to Adopt Guidelines; and Authorization to take related actions

The Directors are requested to authorize the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) to adopt guidelines for the administration of the Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant Program as described in these materials.

I. Program Summary

Grantees: Counties that have proposals for flood prevention projects in creeks, streams and brooks.

ESD Investment:* \$9 million of a \$50 million Hurricane Irene – Tropical Storm Lee Flood Recovery Grant appropriation is to be used to provide local assistance grants (“*Flood Mitigation Grants*”) to counties for flood mitigation or flood control projects in those creeks, streams and brooks impacted by Hurricane Irene and/or Tropical Storm Lee. Funding requests shall not be less than \$300,000 or more than \$500,000, per eligible county.

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

Regional Council: Each of the Regional Councils in the eligible areas has been made aware of this item.

Eligible Costs Date: Award date or GDA execution date

Anticipated
Appropriation

Source: Local Assistance

ESD Project No.: X593 – Flood Mitigation Grant Program

Project Team:	Project Management	Brendan Healey/Beverly Bobb
	Legal	Eunice Jackson
	Affirmative Action	Denise Ross
	Environmental	Soo Kang

II. Program Description

A. Background

Hurricane Irene made landfall in New York on August 28, 2011. Shortly thereafter, Tropical Storm Lee struck New York on September 7, 2011. Both storms caused extensive flooding and substantial damage across New York. Following the aftermath of Hurricane Irene and Tropical Storm Lee, President Barack Obama issued a state of emergency declaration for New York State, which allowed affected New Yorkers access to federal disaster relief funds. In an effort to provide additional flood disaster related relief aid, Governor Andrew M. Cuomo and the legislature, created the Hurricane Irene-Tropical Storm Lee Flood Recovery Grant Program and appropriated \$50 Million for assistance to businesses and communities that suffered losses as a result of these disasters. The enabling legislation for the Program designated \$9 Million of the appropriation to be used for grants to counties for flood mitigation or flood control projects in creeks, streams and brooks, and authorizes and empowers ESD, in consultation with the Department of Environmental Conservation (“NYSDEC”), to establish guidelines and such additional eligibility criteria as it deems necessary to effectuate the administration of this allocation for the benefit of counties included in the federal disaster declaration.

B. Program

Flood Mitigation Grants

The Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant Program (the “Program”) is being made available from a \$9 million state appropriation to ESD designated for Local Assistance to counties for flood mitigation and flood control projects. ESD will administer this grant program, developed in consultation with the NYSDEC. Eligible counties will receive grants

between \$300,000 and \$500,000 for flood mitigation or flood control projects in those creeks, streams and brooks impacted by Hurricane Irene and/or Tropical Storm Lee. ESD shall give preference to applicants that demonstrate the greatest need, based on available flood damage data provided by applicable federal agencies. Priority also may be given to remediation which, if not undertaken, may result in additional flooding. Counties may jointly apply for assistance and the amount for such joint grants may equal the sum of the amounts that would have been separately available to the individual counties making the joint application. Staff will bring each grant award recommendation to the ESD Directors for approval.

III. Program Guidelines

Staff has prepared guidelines for adoption by the Directors for the implementation and administration of the Program. The guidelines set forth the various Program requirements, including submission requirements, necessary documentation and appeal and audit processes. A copy of the guidelines is attached hereto.

Due to the nature of the Program and the relatively short time frame for implementing the same, it is expected that these guidelines may be amended, from time to time, to address specific program needs.

IV. Statutory Basis

The Program was authorized in a special legislative session.

V. Environmental Review

ESD staff has determined that the authorization to adopt guidelines for the Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant Program constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

ESD staff notes that NYSDEC has issued a General Permit for repair of damages resulting from Hurricane Irene and Tropical Storm Lee. The issuance of the General Permit was authorized under an emergency declaration and finding issued by the Commissioner of NYSDEC on September 8, 2011 in order to allow the performance of cleanup and restoration work. The emergency declaration and finding declared that pursuant to 6 NYCRR 617.5(c)(33), such actions taken as a result of the emergency shall be exempt from the requirements of SEQRA. Accordingly, it is expected that projects pursuant to the General Permit will constitute Type II actions. For projects not covered under the General Permit, project sponsors will be responsible for complying with SEQRA, if necessary.

VI. Non-Discrimination

ESD's Non-Discrimination policy will apply. Grantees shall not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status.

VII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

VIII. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

IX. Requested Actions

The Directors are requested to: authorize the Hurricane Irene - Tropical Storm Lee –Flood Mitigation Grant program; adopt guidelines for the program and authorize the President and Chief Executive Officer or his designee, to amend such guidelines from time to time and take related actions.

X. Additional Submissions to Directors

Resolutions
Guidelines

January 20, 2012

Statewide – Hurricane Irene - Tropical Storm Lee Flood Mitigation Grant Program – Local Assistance (Capital Grants) – Adoption of Guidelines; and Authorization to Take Related Actions

RESOLVED, that the Corporation hereby authorizes the Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant Program (the “Program”) as it relates to the \$9 million appropriation for Flood Control and Flood Mitigation projects, described in the materials presented in this meeting, a copy of which has been presented to this meeting and is ordered filed with the records of the Corporation (the “Materials”); and be it further

RESOLVED, that the Corporation hereby adopts the guidelines for the Program, included in the Materials, and authorizes the President and Chief Executive Officer of the Corporation, or his designee(s), to amend, from time to time, such guidelines (such guidelines, as they may from time to time be amended, the “Guidelines”) as he or she deems necessary or appropriate to effectuate the purposes of the Program; and be it further

RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolution.

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