



### ALLIANCE FOR A JUST REBUILDING COMMENTS ON NYC CDBG-DR ACTION PLAN

April 4, 2013

The Alliance for a Just Rebuilding writes to comment on the New York City Action Plan for Community Development Block Grant Program Disaster Recovery. This plan is ambitious and forwards important recovery initiatives that we highlight here. We also see a number of deficiencies that should be addressed in order for the plan to serve the recovery needs of New Yorkers most in need, and comply with federal requirements.

The Alliance for a Just Rebuilding is a coalition of labor unions, workers centers and community, faith-based, environmental justice and policy organizations working together to address immediate relief and long-term rebuilding issues in the wake of Hurricane Sandy.

We are committed to a just, equitable and sustainable recovery and rebuilding process that makes infrastructure and regulation more equitable, prioritizes transparency and community inclusion, creates new economic opportunity for ALL New Yorkers – particularly low-income communities and communities of color – and includes a commitment to long-term climate sustainability and the elimination of environmental disparities across communities.

We have carefully reviewed the City's plan and have the following comments to offer.

We recognize that the Action Plan allocates a limited pool of resources that does not meet the full cost of a recovery that moves New York City toward resilience. We intend our comments to support the City's planning of the resources available so that post-Sandy programs are effective and equitable, avoid exacerbating existing problems, and leverage the important benefits of bringing communities into planning for their own recovery.

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**<http://www.rebuildajustny.org>**

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*The Alliance for a Just Rebuilding is a coalition of labor unions, workers centers and community, faith-based, environmental justice and policy organizations including: 350.org, ALIGN, CAAAV: Organizing Asian Communities, Center for Popular Democracy, Center for Social Inclusion, The Community Development Project at the Urban Justice Center, Community Voices Heard, Consortium for Worker Education, Families United for Racial and Economic Equality (FUREE), Good Jobs New York, Greater New York Labor-Religion Coalition, Hunger Action Network of NY State, LiUNA Local 10, LiUNA Local 78, Long Island Civic Engagement Table, Long Island Jobs with Justice, Make the Road NY, Mutual Aid Housing Association of NY (MAHNY), National Domestic Workers Alliance, NEDAP, New York Committee for Occupational Safety and Health (NYCOSH), New York Communities for Change, New Yorkers for Fiscal Fairness, New York State Nurses Association, Occupy Sandy, Participatory Budgeting Project, Physicians for a National Health Program-NY Metro, Pratt Center for Community Development, Queens Congregations United for Action, RWDSU, SEIU 32BJ, TWU Local 100, and VOCAL-NY.*

## Overview

HUD's criteria for Sandy CDBG allocations require an Action Plan that assesses the impacts of the disaster on affected communities, identifies unmet needs for recovery and resiliency in a way that accounts for disparate access to resources like income and insurance coverage, and presents a plan that specifically "encourage[s] the provision of housing for all income groups that is disaster-resistant" including, among other groups mentioned, people with incomes below 30% AMI. "At a minimum," HUD's rules say, "the needs assessment must evaluate three core aspects of recovery—housing, infrastructure, and the economy."<sup>1</sup>

We are concerned that NYC's Action Plan does not meet HUD's requirements for accountable and equitable planning of post-Sandy funding. It falls short of fully assessing the needs of communities affected, and does not adequately account for how post-disaster spending will meet the housing needs of people at different income levels and avoid displacing people of color and immigrants. We are also concerned that the Action Plan does not address the "urgent relief and recovery needs" for which this federal funding is intended, while straying into long-term planning.<sup>2</sup>

Of immediate concern is that the plan severely undercounts housing units lost. It does not account for the informal/unregistered units that are a significant portion of New York City's affordable housing, and were even more prevalent in flood zones than elsewhere in the city; and it ignores the potential for the loss of thousands more affordable homes to foreclosure. These housing issues are detailed below. The plan makes few provisions for renters, despite the finding that 90% of units impacted were rentals.<sup>3</sup> It does not explicitly account for the needs of

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<sup>1</sup> US Department of Housing and Urban Development. *Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy*, Federal Register, March 5, 2013. (78 FR 14329)  
<https://www.federalregister.gov/articles/2013/03/05/2013-05170/allocations-common-application-waivers-and-alternative-requirements-for-grantees-receiving-community>

<sup>2</sup> From US Department of Housing and Urban Development. *Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy*:

"The Action Plan must contain... (7)A description of how the grantee will encourage the provision of housing for all income groups that is disaster-resistant, including a description of the activities it plans to undertake to address: (a) The transitional housing, permanent supportive housing, and permanent housing needs of individuals and families (including subpopulations) that are homeless and at-risk of homelessness; (b) the prevention of low-income individuals and families with children (especially those with incomes below 30 percent of the area median) from becoming homeless, and (c) the special needs of persons who are not homeless but require supportive housing (*e.g.*, elderly, persons with disabilities, persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents, as identified in 24 CFR 91.315(e) or 91.215(e) as applicable). Grantees must also assess how planning decisions may affect racial, ethnic, and low-income concentrations, and ways to promote the availability of affordable housing in low-poverty, non-minority areas where appropriate and in response to disaster-related impacts."

<sup>3</sup> NYU Furman Center for Real Estate and Urban Policy, March 2013. *Sandy's Effects on Housing in New York City*. (<http://furmancenter.org/files/publications/SandysEffectsOnHousingInNYC.pdf>)

undocumented immigrants, so it is unclear if they may access the important programs described in the plan. It does not address the immediate needs of small businesses that were impacted more than large ones; instead, it appears to box communities out of post-disaster redevelopment decisions by stressing start-up and race-to-the-top style competitions.

Transparency in executing the Action Plan is also a concern that is not well addressed in the plan itself. While the plan describes an extensive list of auditing procedures, it is unclear how or if two New York City authorities will be held accountable. In recent years, both the New York City Housing Authority (NYCHA) and the New York City Economic Development Corporation (NYCEDC) have been scolded in the media and by various officials for conducting their business with questionable benefit to the public and accountability measures.<sup>4</sup>

Finally, in laying the groundwork for its plan the City presents confusing and incomplete accounts of what occurred during and after Storm Sandy. These accounts must be made more frank and more complete in order to support equitable recovery. Without question, first responders, MTA workers, other City employees and disaster relief agencies worked tirelessly before, during and after the storm. Without question, they saved lives and helped countless New Yorkers. Yet, there were serious gaps that must be acknowledged.

In fact, the City's coordinated response was patchy and delayed. In many of the neighborhoods where our organizations work – where power went out, transportation stopped, and food and water were inaccessible – relief in the first days or even weeks came overwhelmingly from the social fabric of communities. People hardest hit by the storm, including the elderly, low-income people and people who lacked the resources to leave, were located, fed, clothed and/or housed by neighbors and volunteers from community-based organizations and congregations.<sup>5</sup> Even after storm subsided, many neighborhoods still lacked basics like food and water; and the City was reaching out to residents through television, radio and websites that were inaccessible to hundreds of thousands of people without electricity. Local organizations filled in critical public functions.

For example, in the Rockaways, the majority of distribution centers were churches and were run by church volunteers and volunteers who came through the Occupy Sandy network or the networks of congregations throughout the city. In Gowanus Houses in Brooklyn, FUREE led the sole relief efforts for the residents in 5 buildings that lost power and services for over 10 days, coordinating volunteers and residents with support from the offices of the local Councilmember. Apart from a one-day visit from the National Guard, there was little relief support from official sources. These stories typify the experience of many more neighborhoods, and are extensively documented in media and accounts recorded by communities themselves.

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<sup>4</sup> Examples include these: "Battle erupts over City contract costs." New York Times 3/2/11 ([http://www.nytimes.com/2011/03/03/nyregion/03turner.html?\\_r=0](http://www.nytimes.com/2011/03/03/nyregion/03turner.html?_r=0)) and "City agency admits illegal lobby effort." Wall Street Journal 7/2/12 (<http://online.wsj.com/article/SB10001424052702304211804577503270562394712.html>)

<sup>5</sup> For several examples, see New York Foundation website, "Grantees respond to Hurricane Sandy" Blog entry 11/6/12 (<http://nyf.org/blog/2012/11/grantees-respond-to-hurricane-sandy-tuesday-november-6th/>)

While FEMA and state authorities shared responsibility for meeting storm-struck communities' needs, the City's assessment of its own disaster response must acknowledge these turns of events. They are essential to understanding what happened during the storm, what needs were met or unmet by the City, and what local resources are in place on which to build recovery and resilience.

More broadly, HUD's criteria call on New York City to generate a plan that asks the basic question answered by any accountable city plan: what do we want Sandy-impacted neighborhoods to look like when we're done, and how does this urgent relief and recovery plan move us in that direction?

For this purpose, it is important that the City recognize, in both its assessment and its planning, that the community groups who filled in critical post-disaster functions were contending with economic and infrastructure crises long before the storm. Those burdens have been compounded as post-disaster relief and recovery needs have persisted over the several months since the storm.<sup>6</sup> In order to provide real relief and recovery, the City's plan must extend to addressing those burdens, even when they touch on pre-storm issues.

For many Sandy-affected communities, current lack of resilience is a symptom, in large part, of a decade of city policies that would not meet the criteria that HUD is applying to this Action Plan: lack of construction or creation of housing to meet the needs of people at various income levels; displacement of people of color and immigrants through development that is not committed to the preservation of existing communities; the displacement of longtime small businesses through land use actions and major city-supported development projects benefitting private developers who create low-wage, non-advancing jobs while pumping up the value of neighborhood land and space beyond the reach of community residents and most businesses. Prominent examples include the displacement of small businesses by the Bloomberg administration for the development of large retail chains at the former Bronx Terminal Market and the Albee Square Mall in Downtown Brooklyn.

Relief and recovery must build toward resiliency, particularly when focused on the areas of greatest need, as HUD requires of this Action Plan. New York Governor Cuomo's New York State 2100 Commission report<sup>7</sup> emphasized local communities' strength – built over time through access to transportation, jobs, housing and other infrastructure – as a crucial factor in resilience. The communities hardest hit by Storm Sandy are still deep in crisis nearly six months after the storm, and any planning for their recovery must address them.

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<sup>6</sup> For example: City Limits, "Undocumented Immigrants Still In Post-Storm Limbo" 2/11/13 (<http://www.citylimits.org/news/articles/4738/undocumented-immigrants-still-in-post-storm-limbo#.UV3rZavuV28>); and ABC News "Still no heat in parts of Rockaways after Sandy" 1/21/13 ([http://abclocal.go.com/wabc/story?section=news/local/new\\_york&id=8962656](http://abclocal.go.com/wabc/story?section=news/local/new_york&id=8962656))

<sup>7</sup> [www.governor.ny.gov/assets/documents/NYS2100.pdf](http://www.governor.ny.gov/assets/documents/NYS2100.pdf)

We call on the City to provide such a plan.

### **Undercounting – or not counting – community impacts and need**

The City's impact assessment describes the storm-affected areas as slightly less poor than the city overall: "[w]ithin the Inundation Area, poverty is slightly less pronounced than New York City as a whole, but nonetheless significant: approximately 17% of persons within the area are below the poverty line, and 4.7% are considered near poor." In fact, research from the NYU Furman Center for Real Estate establishes that 55% of people affected by the storm have an average annual income of \$18,000.<sup>8</sup>

The Furman Center reports that the overwhelming majority of people affected were renters, meaning 1) they are more likely to be permanently displaced if their homes were damaged, and 2) they are unlikely to find comparable rental housing at comparable cost, since New York has a serious affordable housing shortage, and units are even more scarce since the storm. In practice, then, the economic situation of Sandy-affected people is much worse than is conveyed simply by poverty statistics.

The City also gives statistics about the racial makeup of affected boroughs, repeating that no one racial group is a majority. However, it does not account for differences in income, housing tenure and access to supports like insurance that make people of color whose homes were damaged less likely to be able to find alternative housing that is affordable anywhere in the city, much less in their own neighborhoods.

The ongoing needs of the homeless population, including those affected by the storm, are not dealt with the Action Plan as "urgent needs", but instead are handed off to the City's "Strategic Initiative for Rebuilding and Resilience" (SIRR) plan. HUD's Sandy allocation rules require the city to create an immediate plan that addresses the needs of homeless people and people at risk of homelessness.<sup>9</sup>

This assessment does not account for unregistered apartments, such as basement apartments which were not only disproportionately flooded during the storm, but were disproportionately inhabited by vulnerable populations such undocumented immigrants and very low income families.<sup>10</sup>

The assessment also does not account for the number of displaced residents who are currently living with other friends or family members. Nor does it account for low-income families who are still living in unrepaired housing, and who may need to leave if repairs are not made.

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<sup>8</sup> NYU Furman Center for Real Estate and Urban Policy, *Sandy's Effects on Housing in New York City*.

<sup>9</sup> US Department of Housing and Urban Development. *Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy*.

<sup>10</sup> New York's Housing Underground: A Refuge and Resource, March 2008, Joint report by Pratt Center for Community Development and Chhaya CDC

Given these incomplete assessments of need, the City Plans are built on premises that will disadvantage the most vulnerable New Yorkers. This is strictly prohibited under HUD regulations.

## **Housing**

HUD requires “a description of how the grantee will encourage the provision of housing for all income groups that is disaster-resistant, including a description of the activities it plans to undertake to address: (a) The transitional housing, permanent supportive housing, and permanent housing needs of individuals and families (including subpopulations) that are homeless and at-risk of homelessness; (b) the prevention of low-income individuals and families with children (especially those with incomes below 30 percent of the area median) from becoming homeless, and (c) the special needs of persons who are not homeless but require supportive housing.”

The Alliance for a Just Rebuilding shares these priorities and calls on the City to amend their plan in the following ways to ensure a housing recovery that meets these standards.

### ***Undercounting displacement and housing need***

A strong housing recovery must begin with a more comprehensive understanding of the extent of the need in Sandy affected areas. We call on the city in particular to evaluate these needs and integrate the findings into their plan:

- Number of unregistered apartments that were affected by the storm;
- Number of undocumented immigrants who were affected by the storm;
- Number of displaced people who are not living in shelters or hotels, i.e. that are living with family or friends;
- The ongoing needs of the homeless population.

Further the City cannot merely push difficult questions onto the SIRR plan. We call on the city to create a short-term plan to deal with immediate needs, while at the same time committing to a long-term plan that includes every New Yorker.

These can be difficult questions to answer. However, that cannot be an excuse to not include these populations in planning. Our recommendations below focus in particular on measures that would bring vulnerable populations into a recovery that builds back stronger for all New Yorkers.

### ***Rental assistance***

Rental assistance for extremely low-income households as described in the City’s Action plan includes some important characteristics. It is modeled closely on a Section 8 voucher and has families pay 30 percent of their income towards rent – HUD’s standard definition of

affordability.<sup>11</sup> And it includes assistance for first and last month's rent, which is often a hurdle, especially for low-income families to moving into new housing. It also acts as a bridge to the Disaster Housing Assistance Program (DHAP), allowing families to move out of hotels and into housing more quickly and does not require eligibility for FEMA rental assistance or DHAP as a prerequisite. Most importantly, it is targeted to the lowest-income households (those below 50% and 30% of AMI.) According to the NYC Department of Housing Preservation & Development (HPD) portal, 1000 families still in hotels are at or below 30% AMI. HPD and advocates agree that another 1000 families in need, at or below 30% AMI, have likely not yet applied for the portal.

While these specified characteristics are positive, additional questions remain. First, it is unclear how many families would be helped by this assistance. Currently, about 800 families remain in City-funded hotels and close to 500 families remain in FEMA-funded hotels. So far the City has allocated only 550 public housing apartments and existing Section 8 vouchers for these families, leaving roughly 750 families still in dire need.<sup>12</sup> An additional unknown number of families are still living with family and friends and could also be in need of rental assistance. The city must identify a reasonable estimate and include them in the plans for these vouchers.

Second, there is no specified timeline for when this rental assistance program may start to become available to evacuee households. The Plan indicates that a waiver from HUD is necessary to create the proposed program, but not how long it may take to receive this waiver. Once obtained, it is likely to take additional time to set up administration procedures for the program. During this uncertain timeline, it is imperative that temporary shelter remains available to all families.

Third, the most pressing issue of interim shelter remains. At the same time as the City released its Action Plan, it also announced an end to hotel assistance for all evacuee families on April 30<sup>th</sup>, long before proposed permanent housing resources can be fully implemented. This end date must be withdrawn immediately, and the City should commit to providing all evacuee households with temporary shelter until they can be permanently housed. Families should not be forced to live under the threat of homelessness while medium- and long-term solutions are pending.

Fourth, there are a significant number of undocumented households who were displaced by Sandy. Under the current plan it seems these families would not qualify for rental assistance, placing them risk of homelessness. The Stafford Act authorizes FEMA to provide temporary housing assistance to individuals and households in federally-declared disaster areas.<sup>13</sup> DHAP and other FEMA housing assistance programs constitute "federal public benefits" under the Personal Responsibility and Work Opportunities Act (PRWORA.) PRWORA does impose

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<sup>11</sup> US Department of Housing and Urban Development, "Affordable Housing" (<http://www.hud.gov/offices/cpd/affordablehousing>)

<sup>12</sup> "City Will End the Post-Sandy Hotel Program", Wall Street Journal 3/22/13, (<http://online.wsj.com/article/SB10001424127887324557804578376852731563268.html>)

<sup>13</sup> 42 U.S.C. §5174(c).

restrictions on the distribution of “federal public benefits” to immigrants who are not “qualified aliens.”<sup>14</sup> PRWORA defines “qualified aliens” as (1) lawful permanent residents; (2) refugees, asylees, persons granted withholding of deportation/removal, conditional entry, or paroled into the U.S. for at least one year; (3) Cuban/Haitian entrants; and (4) certain battered immigrant spouses and children.<sup>15</sup> Importantly, however, PRWORA exempts certain federal public benefits from these immigration restrictions. “Unqualified aliens” are eligible for “short-term, no-cash, in kind emergency disaster relief.”<sup>16</sup> We believe therefore that these vouchers are legal open to undocumented immigrants and encourage the City to use this interpretation and include undocumented immigrants in this much-needed source of assistance.

Fifth, If and when the program does get off the ground, identification of available housing units will be key to its success. With many families looking for housing at the same time, there may be difficulties identifying available units. The Action Plan does not specify if the City would take an active role in reaching out to landlords and brokers throughout the City who would be able to assist with the location of housing. Such a process would be helpful and important for assuring all families are able to identify available housing.

### ***Undercounting the loss of affordable housing***

The storm surge disproportionately affected low-income and affordable housing, and those impacts are deeply undercounted in the city’s Action Plan. According to the Furman report, the storm surge hit nearly 9% of the city’s total housing, and 20% of NYCHA units. 41% of affected units affected were low-income, subsidized, rent-stabilized or Mitchell-Lama housing – in other words, affordable housing.<sup>17</sup>

Additionally, the City’s assessment of the number of rental units damaged likely undercounts those units by tens of thousands.<sup>18</sup> Accessory dwellings – rental units in owner-occupied homes that were unregistered – account for a significant, urgently-needed bloc of affordable rental units and an important source of income for their owners. Failing to recognize these units means that recovery planning will not restore these housing units, nor support owners to recover the stabilizing income they generate.

The storm may have an even greater impact on affordable housing may arise as we recover, if some of the 40,000 rent-stabilized units in 800 affected buildings are not restored.

The City’s Action Plan does not account for the loss of accessory units, nor for the potential loss of rent-stabilized or foreclosed units in the near future. Given the pre-storm lack of affordable

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<sup>14</sup> Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 8 U.S.C. § 16118 U.S.C. § 1611

<sup>15</sup> PRWORA at 8 U.S.C. § 1641

<sup>16</sup> 8 U.S.C. § 1611(b).

<sup>17</sup> NYU Furman Center for Real Estate and Urban Policy, *Sandy’s Effects on Housing in New York City*.

<sup>18</sup> <http://www.hud.gov/offices/cpd/affordablehousing/>



housing particularly for families below 50% and 30% AMI<sup>19</sup>, the city should plan to restore affordable units to their true pre-storm levels. That means committing resources to restore accessory units and provide owners with the supports needed to register them; and committing to replace affordable units lost with new construction or new subsidies that can be used for existing apartments. This task cannot be handed off to the SIRR. Rather, the City must commit now to addressing the affordable housing crisis that has been exacerbated by Hurricane Sandy.

Additionally, several thousand storm-impacted homeowners reside in NYC communities that already have high rates of foreclosures and mortgage distress, meaning homeowners are anywhere from 30 to 90 days behind in mortgage payments. In Staten Island, for example, more than 1,750 households that received pre-foreclosure notices between 2010 and September 2012 were located in areas flooded by Sandy. Homeowners are struggling to cover repair and other storm expenses while falling behind mortgage payments, water/sewage payments and property taxes.

Delayed tax payments will also result in spikes of foreclosures--the City is currently preparing to sell in early May the accrued water and tax lien debt from thousands of homeowners in Sandy-impacted communities--in Queens Council Districts 31 and 32, which include the Rockaways, more than 1,000 homeowners could potentially face unaffordable payment penalties and, ultimately, foreclosure, due to unpaid taxes alone. For these and other Sandy homeowners, the relief offered by lenders--forbearances for principal mortgages, with no relief on interest and the accrued payments due whole at the close of the forbearance period, which is usually just a few months--will only create additional liabilities, destabilizing Sandy communities even further.

Finally, the bulk of these communities are neighborhoods that have long histories of being targeted by predatory lenders and mortgage scammers, resulting in loans with abusive payment structures.

The City must take a holistic approach to the homeowner communities affected by Sandy and extend the terms for debt sales and tax collection while investing in supportive resources to ensure these communities are not further victimized by foreclosures. If the City plans to take such action, it should specify that fact in this Action Plan. If not, it must account for the impending affordable housing needs of foreclosed families.

### **Housing repair**

Housing repair plans must account for the extent to which repair or lack of repair effectively displaces community residents at different income levels, and minority residents.

Ideally, housing repair programming should build on existing community networks, so residents can take each others' plans into account when deciding how to proceed, share information in

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<sup>19</sup> <http://www.anhd.org/wp-content/uploads/2011/07/Real-Affordability-Evaluation-of-the-Bloomberg-Housing-Program2.pdf> p. 22

a complex arena of programs and contractors, and collaborate to make the most effective use of programs and funds. We believe that the most efficient and thorough way to address problems like mold, which are likely to be occurring in a similar way in homes throughout a flooded neighborhood, is a systematic block-by-block approach. Given the vast scope of work needed, the proximity of the homes needing repair, and the potentially high barriers for individual residents seeking to navigate their options, it would make sense for the City to bring Sandy-affected communities together to coordinate repairs. The City should also commit to not working with contractors that have a history of labor violations such as wage theft or health and safety violations.

Additionally, housing repair represents a major opportunity to create jobs for Sandy-impacted communities and low-income New Yorkers. High-road contractors and unions have expressed their willingness to train and deploy community members on Sandy recovery work. The City should make specific plans to seize those opportunities, and advance economic engagement of the populations most vulnerable to disasters.

***Conflicting data, and over-focus on homeowners vs. renters***

While the City writes that 34.4% of units were owner-occupied units, Furman data also show that only about 10% of affected units were single-family homes, and that the 90% of affected units were rentals. The data and potential discrepancies are somewhat confusing because the definitions of single-family homes and owner-occupied units overlap. Regardless, the City's use of owner-occupied units to define the affected housing stock appears to skew its focus toward owners rather than renters.

The Furman Report points out that rentals are not the focus of most of FEMA's assistance, either. The City's plan does not assess the resulting needs gap, nor propose a plan to fill it. It also fails to make the required distinction between recovery needs that will be covered by insurance and needs that will not. In that calculation, renters' needs demand a much greater share of resources than the City's plan accords them.

***Insufficient data on homeowner repair needs and the racial impact of supports (Supporting the true needs of low- and moderate-income owners)***

According to the Furman report, nearly 25,000 units of housing had flooding of at least 1 foot, meaning 1) they may require more than the FEMA limit of \$31,900 to recover and 2) without adequate outside funding, their owners may not be able to restore them and they may be lost. The City proposes supporting 9,300 homeowners with supplemental assistance, and proposes prioritizing homeowners with the greatest damage and in greatest need with its limited assistance. It does not provide the required accounting of how many homes can expect to need support because damage is not covered by insurance, nor an assessment of how much support will be needed to fully repair homes where damage is not covered by insurance. This information gap poses the real risk that homeowners who are eligible for the program will not be able to get *enough* funding to make their homes habitable, and will therefore not be able to use the program to get back to habitability.

We ask that the City's plan account for the number of homeowners who actually need the program: how many lack alternative resources, and how many will completely lack housing alternatives if they cannot restore their properties, etc. We also ask that the City propose how to assess how its assistance is preserving affordability and home ownership for low-income people and minorities in areas from which they would otherwise be displaced. The City must fill this information gap to ensure an equitable recovery.

We also ask that the City account for how it will conduct outreach to ensure that the most vulnerable families are able to register for these programs; and that it resolve the funding gaps acknowledged in the plan which will certainly leave some people out. The city must create an outreach plan that does not marginalize vulnerable populations such as the elderly, immigrants and low income families. If such a plan is not developed not these families will be the last to know about the assistance and funding may run out before it has a chance to reach them. The city should fund door-to-door outreach to ensure that it reaches vulnerable populations

The plan's proposal to provide assistance to homeowners using a case management approach that will match homeowner needs with packages of available assistance, and provide an actual person as an ongoing point of contact, is promising. Similar services should be made available to renters; intake centers must be sited at easily accessible locations within impacted areas, be available during evening and weekend hours, and ideally should be co-located with other city and community services residents will need during the recovery period.

The examples of documentation residents are likely to need to access housing assistance is a red flag – people whose homes have been damaged or destroyed may have difficulty obtaining replacements of deeds, tax documents, etc. The case management process should take this very common situation into account and provide resources to help applicants replace or provide substitute documents.

The use of standardized models for replacement homes can help to ensure quality standards and accountability, but many of the impacted areas are characterized by small lot sizes, non-standard street and utility conditions, and other features that are likely to make a standardized approach infeasible. The city should enable residents of such areas to access the design and financial advice they will need to develop site-specific solutions that will allow them to remain in their neighborhoods affordably.

***Ensuring that housing repair reaches renters and brings affordable apartments back to pre-storm levels (and beyond)***

The City plans to “rehabilitate and enhance the resiliency of approximately 13,000 units” for low-, moderate- and middle-income people. The City has not adequately assessed the number of affordable multifamily units lost in the storm, but it seems clear that restoring 13,000 units will not return affordable housing to pre-storm levels.

As such, the City has an obligation to account for the racial, ethnic and economic makeup of the

populations who will be displaced by the shortage.

We are also concerned that the city does not present any plans to protect incumbent tenants. The City must set deadlines for landlords to access the program (rather than allowing them to push tenants out by deferring repairs) and require participating landlords to guarantee their tenants' right to return, and pledge to enforce that requirement.

### ***Home buyouts***

While the City does not now plan to allocate CDBG funds for home buyouts, the impacts of targeted buyouts on the affordability of housing in impacted neighborhoods must still be considered. City officials have stated elsewhere that property bought out under the city program will be available for redevelopment (in contrast to the state program, which requires that bought-out property may only be used for open space.

Key considerations for an equitable City buyout program include the following:

- 1) Since buyouts will be strategically targeted to vacate entire areas rather than single properties, affected residents must have support (including financial counseling, and the opportunity to consider alternatives for achieving resiliency) in reaching collective decisions, especially since residents of a given area may have very disparate re-housing needs and resources.
  
- 2) Since redeveloping highly vulnerable areas for housing or other uses will be costly, the City should commit to the inclusion of units affordable, at minimum, to residents of the surrounding areas. Where direct city subsidies or increased FAR are provided to make private developer projects feasible, deeper levels of affordability should be required.

### ***Mold***

The City must recognize and address major problems with post-Sandy repair program roll-out in general, and mold remediation efforts in particular.

After floods receded, the City launched the Rapid Repairs program, intended to restore electricity and heat to homes so that families could "shelter in home." Rapid Repairs got an extremely slow start: just a few hundred homes out of thousands of homes in need had work initiated on their homes in November and early December.<sup>20</sup> The program picked up pace in

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<sup>20</sup> Slow pace of flood repairs a concern in NYC, Wall Street Journal, December 14, 2012, (<http://online.wsj.com/article/AP8ef0fc9a9573401eb9e1bc455351ff68.html>.) "The program has been building steam lately, but with seven weeks elapsed since the Oct. 29 storm, there is still so much work left to do, prompting some to call on FEMA to bring in temporary housing...As of Friday, 60 percent of the more than 13,600 New Yorkers who had applied for help from the repair program were still waiting for the work on their homes to begin. Work has been completed on 2,625 homes. Repairs were in progress on another 2,800, according to the city. Those numbers represented a big improvement from the first week in December, when only around 400 projects had been completed."

mid-December and began providing more timely work. Despite repeated demands by community-based organizations, mold remediation was never officially incorporated into the program, and has been an ongoing obstacle to “sheltering in home.”<sup>21</sup>

In January, the Mayors Office of Community Affairs and the Mayors's Fund for the City of NY partnered with LISC and private funders to create slots for mold remediation to 2,000 homes in the “Neighborhood Revitalization NYC” program. This is not a city program, although organized with the City’s involvement, and lacks some important accountability. Poor outreach and hotline access have led to underutilization of this program to date: although the need is enormous, just over half the slots have been filled. More importantly, the Neighborhood Revitalization NYC program only tackles a fraction of the potential problem. According to the Mayor’s own estimate – about 70,000 to 80,000 homes were damaged by water<sup>22</sup> and therefore are at risk for hazardous mold infestation.

Community-based organizations have been conducting canvasses in flooded areas that show the limited outcomes of the City’s efforts. For instance, in Queens Congregations United in Action/Faith in New York’s approximately 200 surveys in the Rockaways within the last two weeks, more than half of the houses reached reported mold, and a quarter of those reported respiratory issues following the storm that were likely related to mold. But fewer than 3% were aware that the City had a mold remediation program.

Moreover, potentially dangerous mold remediation work is being carried out by volunteers and workers with little training or protection. Poor workmanship by untrained or unscrupulous contractors can leave behind traces of mold, requiring work to be done again. Homeowners, renters and follow-on contractors are left uncertain about the extent to which mold has been removed, suppressed or simply slowed. The result is a recovery environment in which work could be unsafe, projects are done several times over, home restoration is delayed by weeks or months, and trust is obliterated.

The course of events since the storm clearly shows some critical needs: first, a far greater investment in mold remediation; the extension of privately-funded, privately-organized mold remediation with federal dollars and public accountability; and the adoption of standards to ensure that mold is reliably abated. Second, an approach is needed to outreach and repair that engages communities in planning and solving bureaucratic problems, so that programs are effective in reaching communities also operate efficiently, making the most out of contractors’

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<sup>21</sup> Hurricane Sandy’s sad legacy in Far Rockaway: destruction remains and toxic mold is spreading, New York Daily News, December 19, 2012 (<http://www.nydailynews.com/new-york/storm-ravaged-rockaways-mold-remediation-article-1.1222956#ixzz2FVtuWXVe>)

<sup>22</sup> NY1, City Organizes Day of Service to Help Sandy Recovery, ([http://www.ny1.com/content/top\\_stories/172118/city-organizes-day-of-service-to-help-sandy-recovery](http://www.ny1.com/content/top_stories/172118/city-organizes-day-of-service-to-help-sandy-recovery).) “The mayor estimated about 1,000 one and two-family houses were destroyed by the storm. He says between 70,000 and 80,000 suffered water damage.”

presence in a particular neighborhood.

We call on the City to build funding into its Action Plan to address the need for mold remediation. Mold remediation should be funded publicly, rather than private money, to ensure that it is accountable to the public.

We further call on the City to adopt the Back Home Back to Work (BHBW) mold remediation proposal. This is an innovative labor-community initiative to provide safe and effective mold assessment and remediation by tapping into hundreds of qualified expert contractors and hundreds of union workers with the training, skills and protections to properly remove mold from homes and businesses. BHBW proposes to handle mold remediation in a systematic and cost-effective way that goes block by block rather than one business or house at a time. It also would create hundreds of family sustaining jobs for non-union workers through providing safety and skills training to local residents and other hard-to-hire populations and placing them into union jobs for the recovery period.

We call on the City to place responsibility for mold remediation into public hands and give an appropriate city agency, accountable to the public, with a firm directive to implement Back Home, Back to Work.

Finally, we call on the City specify in the Action Plan that it will create general standards and regulations for mold remediation similar to those in the Lead & Asbestos industry, to protect home/building owners and workers.

### **NYCHA**

The proposed repair of NYCHA properties rightly focuses on building resiliency by restoring community centers and storm-proofing the power supply to NYCHA buildings, and “implement[ing] sustainable designs.] But the proposals miss important opportunities to build the resiliency and storm-readiness of NYCHA communities, and to avoid the horrific scenes of freezing darkness, hunger, lack of access to medical care, isolation and administrative neglect that tens of thousands of residents in dozens of NYCHA developments experienced in the weeks following Storm Sandy.

Further, repair and resiliency strategies must not stop at the borders of Zone A. Although the City’s warnings and evacuation efforts targeted Zone A, many NYCHA developments in Zone B were also hard-hit. Gowanus Houses, for instance, lost power and services for over 10 days. Almost the entire relief effort at Gowanus following the storm was led by a single community group, FUREE, and the offices of the local councilmember. Apart from a one-day visit from the National Guard, there was little effective relief from official sources. Many other developments experienced similar crises of infrastructure and emergency support. The Action Plan should recognize the fact that strong resident communities are the first line of defense against disaster, and ensure that they are supported by the recovery of physical spaces, and by ongoing planning engagement.

### ***Community centers and community spaces***

Community Centers in NYCHA developments are physical spaces that serve a critical role in building social capital that residents activate in critical moments, and that is central to community resiliency. In the aftermath of Storm Sandy, areas where NYCHA residents had denser structures of community engagement were more likely to activate and be able to serve as first responders in the days and weeks before FEMA, the National Guard or city officials arrived.

Many NYCHA Community Centers are not up and running since they were damaged by the storm, and many more were closed even before the storm. The Action Plan indicates that 90 Community Centers in Zone A will be brought back online. But making all of NYCHA's Community Centers operational should be a priority. Minimally, this early Action Plan should focus on Community Centers in Zone B as well as Zone A, to meet the need clearly demonstrated during Storm Sandy.

For the same reasons, the Action Plan should dedicate funds, or minimally include a placeholder for future funds, to bring back parks and playgrounds on NYCHA property in affected zones. These public spaces are not a luxury, but a critical strategy for community building to support resilience.

### ***Resiliency of heat and power***

The Action Plan cites the need to repair/replace and elevate boilers, and to install permanent backup generators. While there is a clear and urgent need to reduce NYCHA buildings' dependence on a crumbling and storm-vulnerable electrical grid, this plan raises major concerns.

First, moving boilers to higher floors almost certainly means reducing the number of public housing units available for New Yorkers. NYCHA is already oversubscribed, with waiting lists of many years and a need for low-income housing units that vastly outpaces their availability. If the City has an alternative plan that does not involve reducing the number of available units, it should specify that plan.

Second, simply replacing boilers misses a crucial opportunity to install cogeneration (Combined Heat and Power) capacity in NYCHA developments. Cogeneration provides enormous benefits in terms of resiliency, cost efficiency and climate change mitigation. Cogen provides the added potential to draw funding into NYCHA from NYS Public Service Commission-administrated funds and from the NY Power Authority. Although cogen plants may create a potential use-of-space issue in developments where open space is a precious resource, plants can be integrated with existing building footprints or multi-purposed, if planned well in conjunction with resident communities.

### ***Using recovery to generate Section 3 jobs for NYCHA residents***

Missing from the City's Action Plan is discussion of how it will allocate jobs to NYCHA and

community residents in accordance with Section 3 of the Housing and Urban Development Act of 1968. HUD recently reminded NYCHA of the need to follow Section 3 regulations on funding that comes through that agency; that provision applies as well to New York's post-Sandy CDBG funds.

Broadly, the City should be planning to use Sandy recovery funds as a major new source of employment and advancement for low-income New Yorkers. To ensure that potential workers can access jobs and be maximally useful to employers on capital projects, the Action Plan should include a transitional jobs program. The City should also specify its plans for encouraging contractors to access eligible residents, minimally to the level of 30% of new hires; more responsibly, to higher levels that ensure jobs are quality, long-term jobs that develop the economic stability of Sandy-impacted communities.

### ***Emergency operations centers***

Emergency Operations Centers as proposed in the Action Plan may be helpful. Given NYCHA's difficulty in serving the many developments in crisis after the storm, though, there is a clear need to develop capacity for more localized response. The City should contemplate creating an Emergency Operations Center in each of the different Zone A and B areas.

### **Mold in NYCHA units**

NYCHA residents faced mold and other long-standing maintenance issues long before Storm Sandy, and those issues were in many cases worsened by the storm. The City should not stop short at remediating mold in privately-owned units, but include such service for NYCHA residents as well.

### **Transit**

In the days following Storm Sandy, the importance of New York City's public transportation system became evident, as the loss of transit services brought the City's economy to a halt. Working to bring the City back to its feet, transit workers labored diligently to pump water out of the subways, inspect flooded depots and stations, and restore services line by line. Even before taking care of their own family's needs, in many cases, transit workers worked around the clock to get transportation up and running again. Their work has been celebrated as the highlight of New York City's post-disaster response.<sup>23, 24</sup>

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<sup>23</sup> New York Times, "New York subways find magic in speedy hurricane recovery." 9/11/12 ([http://www.nytimes.com/2012/11/09/nyregion/new-york-subways-find-magic-in-speedy-hurricane-recovery.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/11/09/nyregion/new-york-subways-find-magic-in-speedy-hurricane-recovery.html?pagewanted=all&_r=0)) "'Some of what they're doing borders on the edge of magic,' said Gene Russianoff."

<sup>24</sup> [http://www.huffingtonpost.com/2012/11/02/new-york-subways-sandy-recovery\\_n\\_2065937.html](http://www.huffingtonpost.com/2012/11/02/new-york-subways-sandy-recovery_n_2065937.html) "The network of people contributing to the system clean up includes New York City Transit workers and crews from its parent agency, the Metropolitan Transit Authority, state and city Department of Transportation staff and the Army Corps of Engineers. Some MTA workers said they have been forced to carpool or rely on coordinated MTA van pick-up service in order to get from their homes in the Bronx, Brooklyn and Queens, where subway service remains



When most bus and subway services were restored, though, communities in “transit deserts”, such as Red Hook, Coney Island, and the Rockaways, that were already underserved by mass transit continued to be isolated and cut off from the rest of the city.

The City’s Action Plan makes no reference to extending transit into New York City’s transit deserts. Access to transportation is essential to communities’ resilience – and notably, much of the turf of transit deserts is both storm-vulnerable and home to low-income communities. The Action Plan contains numerous placeholders for future planning and resiliency projects, and should minimally include transit among those.

According to a report recently released by the City Council Committee on Transportation, “Early estimates put the costs of [MTA Sandy-related] damages at \$5 billion, which include \$4.6 billion for costs relating to damaged infrastructure and \$268 million in operating losses.”<sup>25</sup> In comparison, damage to City-owned infrastructure and facilities is estimated to be \$3.1 billion. In addition, despite an expected \$1.075 billion of maximum insurance coverage and 75% reimbursement from federal sources, the MTA may still have to borrow nearly \$1 billion to cover its losses, dramatically growing the agency’s debt service costs as follows: \$29 million in 2013, \$48 million in 2014 and 2015 and \$62 million in 2016.<sup>26</sup> An increase in the MTA’s debt will directly remove operating funding intended to provide reliable and affordable subway and bus services for millions of daily riders. The deduction in the MTA’s operating fund may mean more service cuts and fare hikes made on the backs of working families.

Furthermore, the City Council Committee on Transportation notes: “The Authority’s current estimates do not include costs relating to any future plans that it may have to harden its facilities against future storms.”

In light of climate change, we expect more extreme storms to hit our city. The City must ensure that public transportation is included in plans to invest in a sustainable, resilient infrastructure.

We call for the City to include, at minimum, placeholders for projects to extend surface transit into transit deserts; particularly low-lying neighborhoods that face front-line risk in future climate crises.

### **Health care**

During an emergency like Storm Sandy, the health care system should be a cornerstone of relief and recovery efforts, especially for those with urgent health care needs. As such, we are

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limited, to the areas where they work. In Manhattan, most subways are running only as far south as Times Square.”

<sup>25</sup> New York City Council. Committee on Transportation. Hearing on the Fiscal 2014 Preliminary Budget & the Fiscal 2013 Preliminary Mayor’s Management Report: Metropolitan Transportation Authority, by Nathan Toth and Chima Obichere, (New York City: NYC Council Finance Division, 2013), 3.

<sup>26</sup> Metropolitan Transportation Authority. *MTA 2013 Adopted Budget: February Financial Plan 2013-2016* (New York City: Metropolitan Transportation Authority, 2013), 9.

pleased that the Action Plan identifies health care as an infrastructure priority – and sees the value of health care as not only a place for care, but also as economic and community hubs.

However, the plan lacks a clear vision or strategy for bolstering our health care system beyond immediate physical repairs. There should be investment in preparedness so that immediate relief efforts are comprehensive, quick, and coordinated with communities – coupled with investment in long-term planning that protects and strengthens the health care safety-net.

When contemplating health care in the wake of Storm Sandy, we would be remiss to not highlight the incredible efforts by nurses, physicians, and other medical and non-medical health care staff throughout the duration of the storm and the weeks following. The four hospitals forced to evacuate patients were able to transport a staggering 1,200 critical patients with no loss of life during the height of the storm. This just one example is a testament to the incredible professionalism, efficiency, and dedication of health care professionals in our city.

Yet despite the wealth of staffing resources and volunteers, the city failed to coordinate relief efforts that fully met the health care needs of New Yorkers. In the plan, for example, the city cites a one-week door-knocking program launched on November 9, 2012 by the US Department of Health and Human Services (HHS), FEMA, and the National Guard to knock on doors in high-rise buildings in the Rockaways and on Coney Island, in part to identify people with medical needs. Although admirable, an 11-day delay after the height of the storm is too long to wait for these life-saving efforts to begin. To fill the gap, many community organizations and medical volunteers organized independently to knock on doors long before the City launched their efforts. Community knowledge and trust is a critical component to providing effective relief - the Action Plan should designate resources to develop meaningful ways to coordinate relief efforts with community-based organizations, labor unions and volunteers.

The health care infrastructure in New York City was hit hard by Storm Sandy and even now, months later, facilities are still reeling from its impact. The Storm exacerbated the health care disparities already present in our city, making it even harder for low-income New Yorkers to access quality health care in the days and weeks following the storm. In particular, the storm had a disproportionate impact on public hospitals whose thin operating margins make it difficult to adjust to public health emergencies like Storm Sandy. For example, at Kings County Hospital in Brooklyn, nurses reported that the average wait time from arrival until admission rose to an average of about 24 hours – meaning that some patients were forced to wait for 36 or 48 or more hours to get a bed after arriving at the ER.

With an influx of patients, many of whom are low-income and turn to the public hospital system as a lifeline, we must make certain that our public hospitals are not dangerously overburdened and that the cost of providing care during an emergency is not detrimental to the facilities themselves.

On the other side of the coin, the Storm wiped out power and forced the evacuation of four hospitals in the city – two of which were HHC facilities. For these public hospitals the reduction

of services means a loss of much needed revenue for their facilities. The Action Plan mentions that a waiver will be sought, “if necessary” to recover losses sustained during the temporary closures – we believe the recovery of these funds is absolutely necessary and that any waiver process should prioritize funding for public hospitals. Additionally, the plan does not go far enough to guarantee that hospitals remain open during emergencies like Storm Sandy. The evacuation of health care facilities left Manhattan without any Level I trauma centers below 57<sup>th</sup> Street, caused major overcrowding at other hospitals, and disrupted the continuity of care for chronically ill patients across the city.

The Action Plan must incorporate measures to ensure that our hospitals, especially our safety net facilities, remain open the next time disaster strikes.

We also recommend that during the recovery process, the city plan to develop a long-term strategy to address the vulnerabilities in our health care safety net exposed by the storm. The inequitable distribution of health care resources in our city – especially in low-income communities and communities of color must be addressed. In the last several years we have seen the shuttering of St. John’s, Mary Immaculate, St. Vincent’s, and Peninsula Hospitals – which served some of the hardest hit areas in downtown Manhattan and Queens. Now is the time to engage a group of diverse stakeholders for meaningful community health planning so that all parts of the city have local health care resources. The Action Plan should recognize this opportunity and incorporate specific plans for such engagement into its strategic planning for recovery.

### **Utilities & Energy**

The City must ensure that investment in the resiliency of energy infrastructure benefits all New Yorkers – not only those who can buy it. To do so, the Action Plan must include a means of making available to low- and moderate-income people the technologies it sources, whether through competitions or other means. Because ideas generated at the community level are often able to leverage very local, specific information about how the community relates to infrastructure, the Action Plan should include support for the development of ideas and tangible projects at the community level to improve the resilience of energy infrastructure, and decrease dependence on the grid.

Building widespread, redundant infrastructure to protect New Yorkers’ access to energy is critical. Storm Sandy’s crisis was exacerbated by the failure of the power grid. The Utility Workers released a report last month detailing the chronically poor state of the Con Ed grid; the utility’s policy of “running till it fails”; the substandard repairs made immediately post-Storm by imported contract workers; and the overwhelming extent to which Con Ed does not have documentation of where substandard fixes were installed, and so cannot remediate them.

The City is not in control of Con Ed’s practice of driving the grid into intense disrepair, but it is responsible for supporting the resilience of New York communities – which means developing ways to *not* depend on Con Ed’s precarious services in times of crisis.

The City's reports that revised flood maps count vulnerable housing units around 71,000 – and here again, it is likely that count is substantially too low, as it leaves out unregistered units. The likely impact of future flooding and related power outages on vulnerable people is enormous.

The Action Plan addresses utility upgrades through a competition that “seeks technologies that improve the resiliency of NYC's buildings and critical networks.” In doing so, the city does not account for how such technologies will reach renters, or low-income homeowners, etc. It does not account for the potential of community-generated initiatives that do not win a competition, but that make communities less dependent on the unstable grid. No funding is available for communities to drive their own needs.

We call on the City to expand its approach to energy planning to include communities, and support them with technical assistance and funding to pursue locally-generated energy resiliency plans.

### **Jobs**

The Action Plan proposes to spend \$1.77 billion and leverage future public and private funds in post-storm initiatives. Using those dollars efficiently, so that recovery work addresses economic vulnerabilities that stand between our city's future, communities and resilience, is an urgent priority. As it stands, the Action Plan proposes to spend those funds without measures to ensure that they intervene in the economic distress of Sandy-impacted communities and industries.

New York City should make a City-level commitment to extend the terms of Section 3 for the purpose of post-Sandy projects funded with Community Development Block Grant dollars requirements as follows:

- 30% of wages should be paid to Section 3-eligible workers, which include NYCHA residents and income-eligible residents of surrounding neighborhoods. To ensure that NYCHA and community residents who begin to earn good wages are not disqualified from being hired multiple times when work is sporadic, income eligibility should be based on the income for the two years prior to the hiring date.
- Information about job opportunities should be consolidated and made public and accessible, through Workforce One Centers in neighborhoods where they exist, and through community-based organizations and/or temporary satellite offices that are set up in communities that have no access to workforce development services locally.
- Where Workforce1 Centers and workforce development CBOs do not exist in the affected zones, the City should establish hubs in core affected communities, to recruit eligible residents and use transparent processes to match residents with work opportunities. Contractors on projects facilitated by CDBG funds should be required to draw workers from the hiring centers if they cannot meet the requirements independently.
- Contractors should be required to have quality state approved apprenticeship programs in all the trades in which they will perform work. A quality apprenticeship program should

be defined as one which has had a record of successful graduates in three out of the past five years.

Additionally, no New York City CDBG funds should be expended on contracts over \$1 million, unless:

- Contractors have been selected in a process that includes representation from labor, advocates and affected communities through a Community RFP Taskforce.
- The city has made a reasonable effort to source contractors from affected communities.
- Contractors have made enforceable agreements to abide by high road standards including local hiring, prevailing wages where applicable and good wages where no wages prevail, and inclusion of low-income units in any housing construction.
- Contracts have been subject to a public hearing process, in which communities are provided with no fewer than 30 days advance notice (or 14 days for agency contracts) to comment on contracts the city intends to execute; relevant documents including applications and cost-benefit analyses are made public at least 12 days in advance; comments are documented and published on the city's website, and the city has responded to them, including providing rationales for decisions that are challenged or questioned in public comments; and five business days have elapsed following the publication of comments and responses prior to any official decision.

### **Business**

The goals of the business programs described in the action plan are unclear about who will benefit and be accountable for "projected accomplishments". The Plan wants to use \$325 million in four programs but only one – Business Loan and Grant Program – have quantifiable job goals.

The Action Plan describes Sandy's tragic impact on the city's economy and loss of approximately 20,000 jobs. Of the 23,400 business impacted directly by the storm, 95% of the companies employ less than 50 people. But it's unclear what input these firms had in developing any of the four proposed programs. The Action Plan reports that there are captains in each of the "Business Recovery Zones" created in December 2012 in the four hardest hit areas. The captains are expected to convene diverse stakeholders and to "help find and implement solutions". It is possible these efforts are underway, but it is not clear what impact, if any at all, they have had in helping define the proposed programs. It seems unlikely that these businesses called for or supported the two "race to the top" style competitions, rather than an accountable grant program to help get small businesses back on their feet and hire back employees.

In fact, the Action Plan cites that NYCEDC, jointly with the Department of Small Business Services compiled a report in November 2012 "Hurricane Sandy: An Assessment of Impacted Commercial Corridors and Recommendations for Revitalization" However, this report has not been made public so it is difficult for members of the public to determine if the City's path, which this plan expands, is a wise investment that supports equitable recovery.

We request that the November 2012 Assessment report be made public and reviewed to ensure it reflects the needs of small businesses before it approves any of the business related programs via NYCEDC.

Adding to concerns about transparency, the city wants to continue a loan and grant program via the New York City Economic Development Corporation that claims it has assisted 550 businesses, and that 79 business have been approved for a sales tax exemption from the New York City Industrial Development Agency. The Action Plan wants to use \$80 million to be allocated to at least 750 more firms and retain approximately 7,500 jobs. Yet, it's unclear the quality of jobs the city expects to retain. There should be an expectation that these funds be leveraged to enhance existing low-wage industries to help speed the recovery in poor neighborhoods.

It will be impossible to determine the success of these programs as NYCEDC has not released any data on the above programs beyond the number of applications received making impossible to comment on whether these programs are worthy of expansion, as it. Considering the magnitude of impacted small businesses the figures provided on program uptake to date seem small. Should HUD permit the expansion of existing business program out of EDC, the City should be specific about how it will expand this program quickly to disconnected, small firms struggling to rebuild.

The City should specify how it deems existing programs it wants to build upon. The Action Plan should include an assessment of how many businesses, particularly small firms, are not well served by federal SBA programs because they have trouble meeting SBA's definition of credit worthiness. To the extent that those businesses' needs are unmet, the City should plan to develop accountable programs that provide grants, rather than loans.

The City's plan also leaves other questions unanswered about what resources will be available to small businesses. In the Business Resiliency Investment Program, the plan specifies \$100 million "for firms to make physical improvements at at-risk commercial office space more resilient." Does "commercial" also include retail and other types of impacted firms? Does the space occupied by retail and other small businesses qualify as "commercial space"? How will the City ensure that very small businesses – and not the much larger "small businesses" who meet the federal SBA definition – are able to access this funding? EDC reserves the right to apply for waivers for larger businesses: how will this impact the availability of funds for small businesses, and will notice of those waivers be made public?

The plan includes very little discussion about holding business programs accountable, though there are compliance efforts for programs that benefit households. The plan includes no discussion about future proposals having a longer, more democratic hearing process than the current, rushed process intended for post-disaster response. And the plan includes no discussion of numerous community-based organizations' work to support community-level economic efforts on the ground. Given that there is little transparency at EDC (a mayor lead

entity), and that its work has generally been centered on large, highly profitable developers, these undefined areas are cause for concern that the programs will not reach businesses or communities who are most in need.

Of the monitoring and reporting of how CDBG funds are to be used, we have these concerns.

- Will there be businesses be subject to income certifications in order to access supports, as are homeowners?
- NYC may enter into sub-recipient agreements with CBOs to facilitate loan and or grant making (“particularly to homeowners”). The city will create monitoring procedures and quarterly progress reports. Where will these reports be made public?

We urge the City to be specific and transparent in its plan about these questions.

Finally, a significant number of New York’s small and medium-sized manufacturers are located in areas inundated by Sandy. Many lost valuable inventory and equipment, and are still struggling to recover. The Action Plan specifically proposes investments in commercial office space and retail areas, but is silent on the need to ensure that manufacturing businesses – which sustain jobs that offer higher wages to members of disadvantaged communities than service and retail businesses - are able to recover and adapt.

The Action Plan should allocate funding to provide technical assistance and grants to help manufacturers with recovery and resilience, and also to ensure that their tenure in industrial areas is secure. Most manufacturers in New York City rent rather than own their spaces, and many are located in areas that were already subject to speculation and conversion to other uses prior to the storm. If landlords whose buildings sustained damage delay making repairs needed to allow manufacturing tenants to return to productivity, the viability of those businesses is in jeopardy, and additional space is left open for speculation.

The City should use CDBG-DR funds to support and expand the work of economic development organizations in the Industrial Business Zones, rather than eliminating them, as the 2014 Executive Budget now provides.

### **Citizen Participation**

We commend the City for making its Action Plan available in Spanish, Chinese, and Russian, and for extending the official comment period to April 4.

HUD’s rules require that the City “adopt[s] a citizen participation plan for disaster recovery...” We strongly agree that community participation is critical to recovery and resiliency. Without a transparent and inclusive process that integrates all of the city’s diverse actors, critical information will be missing, poorly thought out proposals could be forced through, and distrust of government will be the likely result. By contrast, a strong participatory process supports effective infrastructure, a diverse economy, strong social networks, and a responsive government.

We urge the City to recognize this framework for valuing community participation.

*Community-based organizations are critical “first responders.”* Community residents and their associations and organizations played numerous critical roles before, during and after Storm Sandy. CBOs must to be part of the redevelopment process in an active and consistent manner, and with financial and logistical support from the city and other levels of government.

*CBOs possess critical knowledge.* While we greatly appreciate the role of scientists and engineers and technological tools like GIS mapping – and work with such organizations and tools in our own communities – in many cases it is the on-the-ground “amateurs” who possess information about their neighborhoods that is critical for understanding both the threats of climate change and the possibilities for resilience. As was seen in the aftermath of Storm Sandy, too many city agencies, off-site “experts,” and first responders lacked this info and on the ground wherewithal.

*Resilience requires strong social networks and public support for community building.* Involving residents helps to build the capabilities of community members and strengthen connections between government and the public. It builds familiarity and trust, develops residents capabilities and their knowledge base and contributes to the knowledge base of the city and its agencies. It also taps another source of creativity and problem solving skills.

### ***Enacting meaningful participation***

Meaningful “citizen participation” requires a planning process that moves quickly without outrunning the capacity of affected communities to meaningfully participate, and setting high-road standards for all CDBG-funded activity that protect communities’ economic resiliency. These include:

- The transparent elements of a contracting process described on page 21, above.
- Documentation, publication and response to comments on Sandy-related planning and any announced initiative, providing rationale for complying or not complying with public recommendations; and five business days for deliberation before final decisions are made
- A city-managed reporting website that allows communities to track public initiatives, receive notice of hearings and other planning processes, and analyze outcomes of recovery work.
- Outreach and engagement for city programs that is comprehensively available in the languages of displaced/affected communities.

### **Jobs**

The Action Plan proposes to spend \$1.77 billion and leverage future public and private funds in post-storm initiatives. Using those dollars efficiently, so that recovery work addresses economic vulnerabilities that stand between our city’s future, communities and resilience, is an urgent priority. The Action Plan proposes to spend those funds without measures to ensure that they intervene in the economic distress of Sandy-impacted communities and industries.



We urge New York City to make a commitment to extend the terms of Section 3 for the purpose of disaster relief Community Development Block Grants to as follows:

- 30% of wages should be paid to Section 3-eligible workers, which include NYCHA residents and income-eligible residents of surrounding neighborhoods. To ensure that NYCHA and community residents who begin to earn good wages are not disqualified from being hired multiple times when work is sporadic, income eligibility should be based on the income for the two years prior to the hiring date.
- Information about job opportunities should be consolidated and made public and accessible, through Workforce One Centers in neighborhoods where they exist, and through community-based organizations and/or temporary satellite offices that are set up in communities that have no access to workforce development services locally.
- Where Workforce1 Centers and workforce development CBOs do not exist in the affected zones, the City should establish hubs in core affected communities, to recruit eligible residents and use transparent processes to match residents with work opportunities. Contractors on projects facilitated by CDBG funds should be required to draw workers from the hiring centers if they cannot meet the requirements independently.
- Contractors should be required to have quality state approved apprenticeship programs in all the trades in which they will perform work. A quality apprenticeship program should be defined as one which has had a record of successful graduates in three out of the past five years.

Additionally, no New York City CDBG funds should be expended on contracts over \$1 million, unless:

- Contractors have been selected in a process that includes representation from labor, advocates and affected communities through a Community RFP Taskforce.
- The city has made a reasonable effort to source contractors from affected communities.
- Contractors have made enforceable agreements to abide by high road standards including local hiring, prevailing wages where applicable and good wages where no wages prevail, and inclusion of low-income units in any housing construction.
- Contracts have been subject to a public hearing process, in which communities are provided with no fewer than 30 days advance notice (or 14 days for agency contracts) to comment on contracts the city intends to execute; relevant documents including applications and cost-benefit analyses are made public at least 12 days in advance; comments are documented and published on the city's Recovery NYC website, and the city has responded to them, including providing rationales for decisions that are challenged or questioned in public comments; and five business days have elapsed following the publication of comments and responses prior to any official decision.

### **Business**

The goals of the business programs described in the action plan are unclear about who will benefit and be accountable for "projected accomplishments". The Plan wants to use \$325

million in four programs but only one – Business Loan and Grant Program – have quantifiable job goals.

The Action Plan describes Sandy's tragic impact on the city's economy and loss of approximately 20,000 jobs. But it's unclear what input these firms had in developing any of the proposed programs. Of the 23,400 business impacted directly by the storm, 95% of the companies employ less than 50 people. Can the city document that its efforts to assist these firms resulted in the creation of the proposed programs?

The Action Plan reports that there are captains in each of the "Business Recovery Zones" created in December 2012 in the four hardest hit areas. The captains are expected to convene diverse stakeholders and to "help find and implement solutions". It is possible these efforts are underway, but it is not clear what role they had in helping define how these funds should be allocated. It seems unlikely the majority of businesses called for two "race to the top" style competitions, rather than an accountable grant program to help get small businesses back on their feet and rehire employees.

In fact, the Action Plan cites that NYCEDC, jointly with the New York City Department of Small Business Services compiled a report in November 2012 "Hurricane Sandy: An Assessment of Impacted Commercial Corridors and Recommendations for Revitalization" Because this report has not been made public it is impossible for the public to determine if the City's plan to expand existing business subsidy efforts is a wise investment that supports equitable recovery.

We request that the November 2012 Assessment report be made public and reviewed to ensure it reflects the needs of small businesses before HUD approves any of the business related programs via NYCEDC.

Building on concerns about transparency, the loan and grant program proposed for expansion via the New York City Economic Development Corporation, claims it has assisted 550 businesses, and that 79 business have been approved for a sales tax exemption from the New York City Industrial Development Agency. It is cause for concern that the city would expand this program to use an additional \$80 million for at least 750 more firms to retain approximately 7,500 jobs when the success of the current efforts are undetermined. Also it is unclear the quality of jobs the city expects to retain. There should be an expectation that these funds be leveraged to enhance existing low-wage industries to help speed the recovery in poor neighborhoods.

Considering the magnitude of impacted small businesses the minimal allocationa provided on program uptake to date seem small. Should HUD permit the expansion of existing business programs out of the EDC, the City must be required to explain how it will expand this program quickly to disconnected, small firms struggling to rebuild.

The City should specify how it deems existing programs it wants to build upon. The Action Plan should have included an assessment of how many businesses, particularly small firms, are not

well served by federal SBA programs because they have trouble meeting SBA's definition of credit worthiness. To the extent that those businesses' needs are unmet, the City should plan to develop accountable programs to fill those gaps, possibly by providing grants, rather than loans.

The City's plan also leaves unanswered what resources and investments will benefit small businesses. In the Business Resiliency Investment Program, the plan specifies \$100 million "for firms to make physical improvements at at-risk commercial office space more resilient." Does "commercial" also include retail and other types of impacted firms? Does the space occupied by retail and other small businesses qualify as "commercial space"? How will the City ensure that very small businesses – and not the much larger "small businesses" who meet the federal SBA definition – are able to access this funding?

In light of how CDBG funds were allocated to major financial firms after the attacks of September 11, 2001, we have concerns about EDC reserving the right to apply for waivers for larger businesses: how will this impact the availability of funds for small businesses, and will notice of those waivers be made public? Will small businesses and residents be able to weigh in?

The plan includes very little explanation about compliance efforts for the recipients of the business programs, though there are clear compliance efforts for programs that benefit households (p 135-136). The plan includes no discussion about future proposals incorporating a more democratic hearing process than the current, rushed process intended for post-disaster response. And the plan includes no discussion of numerous community-based organizations' work to support community-level economic efforts on the ground. Given that there is little transparency at EDC (a mayor lead entity), and that to date, its work has generally been centered on large, highly profitable developers, we are concerned these undefined programs will fail to assist businesses or communities who are most in need.

Of the monitoring and reporting of how CDBG funds are to be used, we have these concerns.

- Will businesses be subject to income certifications in order to access supports, as are homeowners?
- NYC may enter into sub-recipient agreements with CBOs to facilitate loan and or grant making ("particularly to homeowners"). The city will create monitoring procedures and quarterly progress reports. Where will these reports be made public?

We urge the City to be specific and transparent in its response to HUD plan about these questions.

Finally, a significant number of New York's small and medium-sized manufacturers are located in areas inundated by Sandy. Many lost valuable inventory and equipment, and are still struggling to recover. The Action Plan specifically proposes investments in commercial office space and retail areas, but is silent on the need to ensure that manufacturing businesses – which sustain jobs that offer higher wages to members of disadvantaged communities than service and retail businesses - are able to recover and adapt.

The Action Plan should allocate funding to provide technical assistance and grants to help manufacturers with recovery and resilience, and also to ensure that their tenure in industrial areas is secure. Most manufacturers in New York City rent rather than own their spaces, and many are located in areas that were already subject to speculation and conversion to other uses prior to the storm. If landlords whose buildings sustained damage delay making repairs needed to allow manufacturing tenants to return to productivity, the viability of those businesses is in jeopardy, and additional space is left open for speculation.

The City should use CDBG-DR funds to support and expand the work of economic development organizations in the industrial Business Zones, rather than eliminating them, as the 2014 Executive Budget now provides.

### **Long-Term Recovery Planning**

#### ***Planning***

The Action Plan describes important initiatives New York City is taking to change its building code and zoning regulations to enable property owners to retrofit or rebuild for resiliency, most specifically to comply with FEMA's new Advisory Base Flood Elevation maps. However, the plan is short on some important details:

- The cost implications of retrofitting or rebuilding are not clearly identified or directly addressed. The emergency suspension of zoning height limitations is cited as enabling homeowners to make immediate decisions about rebuilding – but at the same time, the section acknowledges that owners who require financial assistance in order to rebuild “may” be able to access additional resources in the future.
- Even though as-of-right provisions now allow property owners to rebuild above the new ABFE's, obtaining a building permit involves substantial upfront expense and considerable uncertainty, especially for owners seeking make substantial repairs to existing buildings. Homeowners in several SIRR workshops have pointed out that the level of structural alterations they need to make in order to comply with the new ABFEs has the effect of forcing them to comply as well with more stringent fire code requirements than those that were applicable to pre-existing “grandfathered” conditions.
- Section VII, Housing, provides more vision of alternative “paths” for housing rebuilding than the Planning section, and describes a homeowner intake and case management approach that could help homeowners to navigate the challenges of code compliance and accessing assistance; policies laid out in the Housing section need to be more fully developed and coordinated with the Planning section.

#### ***Need for a comprehensive planning approach***

The entire section on planning discusses zoning and code initiatives that are applicable to individual properties. There is inadequate attention to the need for more comprehensive

planning in impacted or at-risk communities. The plan lacks any specific reference to the need for coordination of public realm recovery and resilience investments with private rebuilding.

Areas where the City should provide greater detail in order to present a specific plan that accounts for equitable outcomes for communities include the following:

- Many impacted areas will require rebuilding of water and sewer infrastructure, private utilities (electric, gas, and telecommunications), as well as streets, sidewalks, and public spaces. It is clear that coordinating the efforts of city agencies, utility companies, and property owners is imperative to achieve an expeditious and cost-effective recovery. But the section on Planning makes no mention of how such coordination can be achieved.
- There is no reference to the need for long-term revitalization of severely impacted areas, and of areas whose economic and community assets needed strengthening prior to Sandy. If disparities of income, quality of life, and access to opportunity are not intentionally addressed in New York's recovery plan, rebuilding will inevitably deepen those disparities.
- New York City now lacks a mechanism for proactive planning at the community level. Communities are ordinarily presented with major City- or developer-led projects only when those projects are fully baked. Lacking the opportunity to shape development, communities most often resort to obstruction of proposed development as the only channel that will enable them to secure concessions from the City or from developers. The status quo process will not well serve impacted communities, public agencies charged with overseeing their recovery, or even private developers. The City must create specific paths for community engagement in all phases of planning, including the development of ideas.

To meet these needs, we see an opportunity to model a more comprehensive, proactive, and inclusive approach to planning and development. Co-locating the City agencies with major responsibilities for planning, implementing, and providing financial assistance for rebuilding in local hubs, with an oversight mechanism that ensures that they will collaborate to solve problems and make redevelopment decisions transparent and responsive, would expedite rebuilding and enable substantive community engagement.

CDBG funds should be used to establish and staff these local hubs. Participating agencies would include: Department of Buildings; Department of City Planning; Department of Environmental Protection; Department of Transportation; Department of Parks; Department of Housing Preservation and Development, and potentially others.

### **The City's SIRR Process**

While these comments are focused on the Action Plan, the Action Plan defers a great deal of planning to the SIRR. Accordingly, we note here our concerns about the SIRR's impact on the accounting and citizen participation that HUD requires of this Action Plan.

The Action Plan cites the major, unprecedented climate change risks to which NYC as a whole is exposed: sea level rise, more frequent and intense coastal storms, as well as heat waves, high winds, increased precipitation. It then defers planning for the \$327 million dedicated to these activities to the SIRR process, which focuses on resiliency of systems (transportation, utilities, gas and oil supply, water and sewage facilities, food supply, telecommunications, etc.) rather than communities.

The SIRR process to date has not been transparent, accountable, or open to substantive participation by impacted communities, CBOs, or advocates.

SIRR was announced in December 2012; as of late March 2013, there is still no SIRR website. There is also no public website for tracking commitments and expenditures of disaster funding from any of the federal agencies.

Most SIRR meetings have been by invitation only; workshops open to the public have been poorly publicized; their content and facilitation have not been designed to elicit comprehensive input from communities about their concerns or about their ideas and visions for recovery. NYC-SIRR meeting materials and presentations have not been translated.

In discussions, with some of our member groups, SIRR's leadership has expressed some willingness to open up its process, but has also emphasized its own constraints of time and staffing.

We are pleased that HUD's funding requirements include "maintain[ing] a comprehensive Web sites regarding all disaster recovery activities assisted with these funds" and are pleased to see the city launch its "NYC Recovery" website (<http://www.nyc.gov/html/cdbg/html/home/home.shtml>.) However, as the Special Initiative for Rebuilding and Resiliency (SIRR) seems to be the public face of a post-Sandy New York, details of its efforts and meetings should also be made public on the website.

SIRR comes at a crucial stage in a planning process that must make incredibly difficult choices about when and where to commence with commercial and residential reconstruction, where to place (or move) critical infrastructure, and, in turn, set the stage for patterns of development that will define NYC for decades to come.

Going forward, if there is significant opportunity for communities and advocates to shape the recommendations that will constitute NYC-SIRR's final report in May, we can have some confidence that the \$327 million earmarked in this section will be invested in projects that protect New York's most vulnerable communities.