

**VILLAGE OF WILMETTE
RAINREADY GRANT PROGRAM
HOMEOWNER PARTICIPATION AGREEMENT
(Submit in Duplicate)**

THIS AGREEMENT made on this _____ day of _____, 2019 between the VILLAGE OF WILMETTE, 1200 Wilmette Avenue, Wilmette, Illinois (hereinafter referred to as "Village") and _____ (name) and _____ (name) at _____ (address) in Wilmette, Illinois (hereinafter referred to collectively as "Homeowner").

WITNESSETH:

WHEREAS, the Village has adopted a RainReady Grant Program ("Program") to assist residents in their efforts to protect their homes from non-sewer backup flooding. This Program provides a grant to Homeowners for certain costs for installing flood mitigation measures in order to protect homes and property from damage as a result of flooding; and

WHEREAS, the Village has contracted with the Center for Neighborhood Technology ("CNT") to perform certain services for the Homeowner and CNT requires that the Homeowner execute CNT's "Rain Ready Terms and Conditions," attached hereto and incorporated herein; and

WHEREAS, Homeowner is the owner and occupant of the residence indicated above which has been the subject of occasional flooding not associated with sewer backup; and

WHEREAS, the Homeowner has applied to participate in this Program and the Village has determined Homeowner to be eligible to participate.

NOW, THEREFORE, in consideration of the above and the terms and conditions set forth below, the parties hereto agree as follows:

Section 1: The findings set forth above are expressly made a part of this Agreement as if fully set forth in this Section 1.

Section 2: Definitions. The following terms shall have the following meanings when used in this Agreement unless the context clearly indicates a contrary meaning.

"Contractor" shall mean a licensed contractor who is registered to do work in the Village of Wilmette and who has obtained the necessary licenses and permits from the Village to do work under this Program.

"Permit" is a Village permit which the Homeowner or Contractor must obtain, if a Village permit is required, before any improvements can be installed by a Contractor.

"Program" is the Village's RainReady Grant Program, operated in accordance with the Program Guidelines adopted by the Board of Trustees of the Village of Wilmette.

"Proposal" shall mean a Contractor's detailed bid for equipment, material and labor, with quantities itemized.

Section 3: Village Approval. The Homeowner shall submit all documentation required under the Program to the Village prior to the installation of any flood mitigation improvements, including the specific plans, Proposal, and an application for the necessary permits. No work shall begin until the Village approves the plans, the Homeowner pays the permit fee (if applicable) and the Village issues a building permit (if applicable). If any work is performed without a Village permit, the Homeowner shall not be entitled to reimbursement for said work.

Section 4: Installation. Homeowner shall install the approved flood mitigation improvements in accordance with the Program within 6 months of application approval. The time may be extended upon written request of the Homeowner and written permission by the Village if the work is delayed because of weather, unavailability of a Contractor or other factors beyond the Homeowner's control where Homeowner has exercised reasonable diligence to timely complete the installation of the improvements.

Section 5: Contract for Work. The Homeowner's contract for the work shall be based upon a proposal approved by the Village. That proposal shall be attached to this Agreement and made part hereof as **Exhibit B.** The contract for the installation shall be between the Contractor and the Homeowner. The Village shall not be a party to such contract and shall have no liability whatsoever for a breach of contract or damages as a result of any work improperly performed or other matter related to the work. The Village assumes no duty to the Homeowner or the Contractor for the performance of the work, the quality of the work or the condition of Homeowner's property. The Village's only responsibility shall be to make payment when Homeowner has strictly complied with the Program and this Agreement.

Section 6: Permit May be Required. The installation of the flood mitigation improvements may require a permit issued by the Village.

Section 7: Inspections. The Homeowner must notify the Village to schedule an inspection of the plumbing and electric work as required.

Section 8: Reimbursement. The Village shall reimburse the Homeowner for 50% of those items which are considered eligible costs at their actual cost. The maximum amount of reimbursement is \$1,300.00 per property. The Village shall reimburse Homeowner for eligible items at approved amounts when all work is completed, inspected and approved by the Village. To receive reimbursement, the Homeowner must follow all requirements of the Program and this Agreement and submit a claim pursuant to the Village's Request for Reimbursement Form, incorporated herein by reference.

Section 9: Deposit. The Homeowner shall deposit with the Village the amount of \$200.00 at the time of execution of this Agreement. Said deposit shall be returned to the Homeowner upon the completion and approval of the work that is the subject of this Agreement.

Section 10: Liability Waiver. The Village its officers and employees, are statutorily immune from liability for a failure to inspect private property and the Village makes no representation regarding the quality of the work performed by Homeowner's contractor. The Village shall have no liability for the performance or non-performance of the work, or the quality of the work performed by contractors, or the condition of private property. The Village is not a party to the agreement between the Homeowner and its selected contractor and therefore shall not be liable for breach of contract or damages caused by the contractor. The

Village assumes no fiduciary or other duty to the Homeowner under the program. by signing this agreement, the Homeowner agrees to waive any claims against the Village, its officials, officers, employees, agents and volunteers (collectively, "the Village") and to indemnify, defend and hold the Village harmless against any and all claims whether in tort, contract or under any other theory of liability for any property damage, personal injury, economic, contractual damages or other damages or loss of any other kind which the Homeowner may acquire as a result of participating in the Program.

Section 12: Disclaimer. The Program is designed to assist homeowners in reducing the risk of basement flooding due to sewer backups. However, there is always a risk of a sewer backup as a result of unexpected sewer collapse, obstruction, power failure, extreme environmental or weather conditions or other unforeseen factors. Homeowner agrees to assume the risk of loss of any future property damage even after installation of these funded improvements. In addition to overhead sewers, the Homeowner shall the property's foundation drains are operated properly to prevent seepage of ground water through walls below grade. Existing foundation drains will not be tested for proper operation. The Homeowner shall be responsible for all testing, inspections and any corrective work that may become necessary. In order for overhead sewers, backflow prevention valves and foundation drains to function properly, the sump/ejector pump(s) must be reliable and function continuously. The Homeowner shall be responsible to check the operation of those pumps regularly. The Homeowner shall be responsible for all testing, inspections and any corrective work that may become necessary.

Section 13 Disconnection of Downspouts. As a requirement of the Program, the Homeowner must disconnect any downspouts from the Village's combined sewer system and must take all corrective action necessary to prevent the discharge of roof drainage into the Village's combined sewer systems, unless an exemption is obtained from the Village.

Section 14: Breach. If the Homeowner fails to comply with all requirements of this Agreement or fails to complete the installation as provided in this Agreement, the Village shall have no obligation to reimburse the Homeowner for any expenses.

IN WITNESS WHEREOF the parties to this Agreement by their signatures acknowledge they have read and understand this agreement and intend to be bound by its terms as of the date first written above.

VILLAGE OF WILMETTE

HOMEOWNER

Timothy Frenzer, Village Manager

Dated: _____

Dated: _____

Dated: _____

Rain Ready Terms & Conditions

AUTHORIZATION

The person or entity named in this application (“Participant”) represents that it is the owner, manager and/or tenant of the building(s) specified in this application (the “Building”). Further, the person who submits this application represents that he or she is authorized to enter into and perform this Agreement on behalf of Participant including, without limitation, to provide the information and access, and perform other duties required for participation in the Rain Ready Program by which Participant may obtain assistance with issues resulting from flooding (the “Program”).

Name (please print)

Date

Signature

Terms & Conditions

AGREEMENT

By submitting this application, you agree that you are entering into a legally binding agreement with the Center for Neighborhood Technology, an Illinois not-for-profit (collectively “we” or “us”), and that you are subject to the terms and conditions set forth in this application (these “Terms”). Any reference to “Participant”, “you” or “your” in these Terms shall mean the Participant named herein and anyone acting on Participant’s behalf including any officer, director, employee, contractor, agent, attorney, representative, heir, executor, administrator, insurer, assign, successor, tenant, licensee, invitee, occupant or any other person or entity. Any reference to “we”, “us” or “our” shall mean the Center for Neighborhood Technology, and the officers, directors, employees, agents, contractors, affiliates, successors and/or assigns of the Center for Neighborhood Technology.

PARTICIPANT COOPERATION

You agree that your cooperation in the Program, including providing access to areas and systems of the Building requested by us, in our reasonable discretion, is crucial to the success of the Program. You further agree to cooperate, provide information and access in a timely manner.

YOUR INFORMATION

We need certain information about the Building to ensure that this program works. That information includes flood history of the home and specific details about how the flooding occurred. It also includes the location of any property damaged as a result of flooding, and any insurance in place at the time of flooding. All of this information is known as “Program Data.”

We use Program Data to understand flooding in your neighborhood and what kinds of home improvements may help to limit flooding or flood-related damage. We therefore will ask you directly to provide this information about the Building over the phone, through an online application, and during our in-person meetings.

We use Program Data to provide you with tailored recommendations about home improvements. We also use Program Data to create reports and to develop aggregated statistics about flooding.

We share Program Data with our subconsultants so that they can provide services to you. If Program Data is shared with any other third parties, it is aggregated and/or de-identified so it does not identify you personally.

PROGRAM TERM

We may terminate the Program, or your participation in the Program, at any time upon notice to you. You may terminate your participation in the Program at any time upon written notice to us. The provisions of these Terms that, by their nature, should survive expiration or termination of the Program or your participation in the Program, shall survive including, without limitation, our rights in and to any environmental attributes and to Data obtained prior to the date of expiration or termination.

DISCLAIMER

Participant acknowledges that water and/or cost savings are subject to a number of variables over which we have no control including, without limitation, weather, occupant behavior, maintenance activities and additional factors. We make no representation or warranty of any kind including, without limitation, that your participation in the Program will result in prevention of flooding or any damage or destruction as a result thereof, reduced energy or water consumption, energy or water use savings, reduced building operating costs, any benefit of any kind; of the accuracy or completeness of any information, data, reports or other materials in whatever form or format; or of the continued safety, performance or cost-effectiveness of any information, materials, equipment, product, system, facility, procedure or policy discussed, provided or recommended by us. Use of or reliance on any of the foregoing by Participant is at Participant's sole risk.

LIMITATION OF LIABILITY; INDEMNIFICATION

We will not be liable for injury to or death of any person or damage to any property (including the Building) in connection with the Program or otherwise, except to the extent caused by our sole gross negligence or willful misconduct. You agree to indemnify us and hold us forever harmless from and against any loss, cost, damage or expense, including reasonable attorneys' fees and costs, arising out of or relating to your participation in the Program and/or Participant's acts or omissions. IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES OF ANY KIND.

INSURANCE

You agree that you have and will maintain during the Program term adequate liability insurance in the forms and amounts standard for operation of the Building and sufficient to protect Participant and any party to whom you have an obligation to indemnify under these Terms. Upon request, you will provide to us insurance certificates evidencing such coverage.

INDEPENDENT CONTRACTORS

The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause these Terms to create an agency, partnership, joint venture, employee-employer or principal-agent relationship between the parties.

ENTIRE AGREEMENT; MODIFICATION

These Terms set forth the entire agreement between you and us with respect to the Program. Any prior agreements, whether written, oral or otherwise expressed are superseded by these Terms. From time to time, we may modify these Terms. We will notify you of any material changes by email sent to the email address we have on file for you. Your continued participation in the Program upon any such modification will affirm your agreement to these Terms, as modified. You agree that your participation in the Program will comply with all applicable laws, rules, ordinances and regulations including, without limitation any law and/or regulation regarding operation of the Building. Neither the course of conduct nor trade practice will act to modify these Terms. These Terms do not confer any third-party beneficiary rights.

ASSIGNMENT

You will not assign or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of us. Any purported assignment or delegation by you without our prior written consent will be null and void. We may assign these Terms or any rights hereunder without your consent.

SEVERABILITY

If any provision of these Terms is found by a court of competent jurisdiction to be invalid or otherwise unenforceable, the parties nevertheless agree that such portion will be deemed severable and will not affect the validity and enforceability of the remaining provisions, which will remain in full force and effect.

GOVERNING LAW

The Program, including these Terms shall be in all respects governed by and construed in accordance with the laws of the State of Illinois without regard to the conflict of law provisions thereof.