

## RFA #15-LWRP-6

**New York State  
Department of State  
Office of Planning and Development  
Environmental Protection Fund  
Local Waterfront Revitalization Program  
2015 – 2016 REQUEST FOR APPLICATIONS**

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### Key Dates:

**RFA Release Date:** May 1, 2015. This Request for Applications (RFA) has been posted on the Department of State's (Department) public website at <http://www.dos.ny.gov/funding>.

**RFA Updates/Questions:** Any updates and/or modifications to this RFA will be posted on the Department's website at <http://www.dos.ny.gov/funding>.

Written questions will be accepted until May 29, 2015. Questions on this grant program should be directed by e-mail or in writing to Kenneth Smith, as shown below. When corresponding by e-mail, clearly indicate the subject as: "15-LWRP-6 RFA Questions". To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers. Questions received by the above noted due date will be posted with answers on the Department's website at: <http://www.dos.ny.gov/funding>. This section will be updated during the solicitation period to remain current, with final responses posted by June 12, 2015.

**Workshop Dates:** Pre-application workshops will be held at several locations around the State. The workshop schedule and further information are available at <http://regionalcouncils.ny.gov/>. All those who would like to have the application process explained or have process-related questions are encouraged to attend.

**Applications Due:** Applications are due by 4:00 PM, July 31, 2015, and must be submitted through the web-based Consolidated Funding Application, as noted below.

**Contact:** Kenneth Smith  
NYS Department of State  
Office of Planning and Development  
99 Washington Avenue, Suite 1010  
Albany, NY 12231  
(518) 474-6000  
[Kenneth.Smith@dos.ny.gov](mailto:Kenneth.Smith@dos.ny.gov)

**Application Submission:** To apply, or to access related Consolidated Funding Application materials, go to <http://regionalcouncils.ny.gov/>

## **Local Waterfront Revitalization Program 2015 – 2016 REQUEST FOR APPLICATIONS**

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### **I. INTRODUCTION:**

The Department of State (Department) is soliciting applications through the New York State Consolidated Funding Application (CFA) under Title 11 of the Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) from eligible villages, towns, cities, and counties (with the consent and on behalf of one or more villages, towns, cities) located along New York's coasts or designated inland waterways to advance the preparation or implementation of strategies for community and waterfront revitalization through the following grant categories:

- Preparing or Implementing a Local Waterfront Revitalization Program (LWRP)
- Redeveloping Hamlets, Downtowns and Urban Waterfronts
- Planning or Constructing Land and Water-based Trails
- Preparing or Implementing a Lakewide or Watershed Revitalization Plan
- Preparing or Implementing a Community Resilience Strategy or Updating an LWRP to Incorporate Resilience Strategy
- Preparing or Implementing a Clean Transportation Strategy

Within these grant categories, priority consideration will be given to proposals which demonstrate they will advance NY Rising Community Reconstruction Plans, regional strategies developed by the ten Regional Economic Development Councils, including Opportunity Agenda strategies, Global NY, or Veterans Initiatives.

This is a reimbursement program. State assistance awarded and paid shall not exceed 50% of the total eligible project costs set forth in the application and as approved by the Department. Failure to explicitly specify, in the application (including the budget), the amount, type and source of eligible local match and that it has been secured, may result in a reduced award amount or in the disqualification of the application.

Applicants are required to demonstrate that projects are ready to move forward quickly. Contracts will not exceed three years. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis, and only if significant progress has been demonstrated. Only applications for discrete phases of a project (e.g. planning, design, construction) that can be completed within three years will be considered. Applicants will be required to prepare and submit a project work schedule and timeline that includes major tasks and milestones with completion dates for each.

This Request for Applications is available on the Department's website: <http://www.dos.ny.gov/funding/>.

For general questions on this grant program, please contact Kenneth Smith, New York State Department of State, Office of Planning and Development, 99 Washington Avenue, Suite 1010, Albany, New York 12231, call (518) 474-6000, email [Kenneth.Smith@dos.ny.gov](mailto:Kenneth.Smith@dos.ny.gov).

## **II. ELIGIBLE APPLICANTS:**

Eligible applicants are villages, towns, or cities, and counties (with the consent and on behalf of one or more villages, towns, or cities) which are located along New York's coasts or inland waterways designated pursuant to Executive Law, Article 42. A list of coastal waterbodies and designated inland waterways is available at <http://www.dos.ny.gov/funding/>. Applicants may also partner with other organizations; however, only applications from eligible applicants will be evaluated for funding. If successful, all applicable procurement requirements must be met for such partnerships. Applications submitted by not-for-profit organizations (including, but not limited to, community-based organizations, and neighborhood groups) and for-profit organizations are ineligible and will not be scored.

Eligible applicants working in partnership with neighboring municipalities to address regional land use, waterfront revitalization, community development, and resource and/or environmental issues or opportunities are encouraged to apply. Only the municipality identified as the applicant (one village, town, city, or county) will be awarded a contract.

- For general planning needed to advance any of the eligible activities listed below, an applicant must be a village, town, city, or county with the consent and on behalf of one or more villages, towns or cities located along New York's coast or a designated inland waterway.
- For project-specific planning, feasibility, design, and/or marketing needed to advance eligible activities, an applicant must be a village, town, city, or county with the consent and on behalf of one or more villages, towns or cities, currently preparing a LWRP or component, or with an approved LWRP or component.
- For construction of projects needed to advance eligible activities, an applicant must be a village, town, city with an approved LWRP or the relevant LWRP component substantially completed, or a county with the consent and on behalf of one or more eligible village, town, or city with an approved LWRP or relevant LWRP component substantially completed.

Applicants that have been awarded Department grants in the past should have demonstrated responsible contracting with the Department to be eligible for an award from this procurement.

Amendments cannot be made to the original contracted scope of work, for example, applicants that receive funding for general planning or for project-specific planning, feasibility, design, and/or marketing projects may use this funding for these purposes only.

## **III. FUNDING OPPORTUNITY:**

The Department is making approximately \$17 million available to fund applications for the Local Waterfront Revitalization Program grants. Approximately \$8,750,000 will be spent for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

- densely-populated and have sustained physical deterioration, decay, neglect, or disinvestment, or
- where a substantial proportion of the residential population is of low income, or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities

#### **IV. NEW YORK STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT**

Awards made through this grant program shall be consistent with the State’s Smart Growth Public Infrastructure Policy Act (Environmental Conservation Law, Article 6), where applicable.

#### **V. ELIGIBLE ACTIVITIES:**

Successful revitalization strategies result from cooperation between multiple levels of government and the private sector focusing on key actions needed to improve a region’s communities and waterfronts and related resources. Revitalization strategies can provide a regional framework to cooperatively address revitalization issues and to advance ongoing and emerging state initiatives, including but not limited to regional economic development, community sustainability, smart growth, public health outcomes and environmental justice.

Applicants may prepare and/or implement a full LWRP or component strategies that are the framework for developing LWRPs, such as: strategies for redeveloping hamlets, downtowns and urban waterfronts; land and water based trails; lakewide or watershed revitalization; community resilience; and clean transportation.

##### ***Preparing or Implementing a Local Waterfront Revitalization Program***

An LWRP is a comprehensive land and water use program that expresses a vision for the waterfront and refines state coastal policy to reflect local or regional needs. LWRPs play a significant role in addressing relevant issues for a given region or place, bringing to bear the resources and authorities of local governments and engaging the public in the management of coastal and waterfront resources and their use. LWRPs can also be prepared as a series of components, advancing completion of a program in stages by addressing the most significant issues first.

##### Planning

Applicants may apply for funding to prepare or complete an LWRP or component, including:

- developing public consensus on a vision for the future of a region or a community through community visioning, public meetings, focus groups, charettes, etc.
- identifying regional and local assets, opportunities and issues
- creating plans for implementation of projects of local or regional significance
- developing sustainable organizational capacity for project management, administration, and coordination to advance projects and support regional capacity building
- developing strategies or plans for one or more of the following: economic development; community resilience; reuse of abandoned buildings and sites; tourism promotion and development; scenic byways; heritage areas; historic preservation; harbor management; public access; open space; natural resource protection/restoration; flooding and erosion management; dredged material management; local law development; coastal education; energy efficiency measures, renewable energy, and reduction in transportation emissions
- preparing a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) contained in an existing LWRP, or one under preparation.

##### Implementation

Applicants with an approved LWRP, or relevant component substantially completed, may apply for implementation funding, including:

- project-specific planning, feasibility, design, or marketing needed to implement an approved LWRP, or substantially completed component (Design projects should be completed to a construction-ready stage, with permits in place and bid documentation prepared)
- constructing projects necessary to implement an approved LWRP, or a substantially-completed component of a LWRP under preparation
- developing systems for defining and measuring progress and success in community and waterfront revitalization
- developing regional, intermunicipal, or local Geographic Information Systems to improve management of coastal areas and resources

### ***Redeveloping Hamlets, Downtowns and Urban Waterfronts***

Community and waterfront revitalization often focuses on specific areas of concentrated development within a community, notably hamlets, downtowns, and formerly developed urban waterfronts. Redevelopment of these areas is essential for successful communities, encouraging consumers and investors to live, work, shop, recreate, and invest in the community and to improve their physical and economic characteristics, in the context of the regional setting. The Department, working with other state agencies, provides both financial and technical assistance to prepare and implement revitalization strategies for hamlets, downtowns, and urban waterfronts, with an emphasis on: spurring appropriate economic activity in previously-developed hamlet, downtown, and waterfront areas; catalyzing appropriate economic activity through development of water-dependent and water-enhanced uses and activities; redeveloping underutilized abandoned buildings and brownfield sites; improving the recreational, cultural, environmental, and economic value and quality of waterfronts; linking downtowns and hamlets with nearby waterfronts; or creating a positive image of a hamlet center, downtown commercial district, and/or waterfront.

#### Planning

Applicants may apply for funding for planning activities for hamlets, downtowns, and urban waterfronts, including:

- preparation of a comprehensive redevelopment program
- development of public consensus for the future through surveys, public meetings, focus groups, data collection, charettes, and concept preparation
- inventory and analysis of existing resources and assets
- market analysis of the potential demand for residential, commercial/retail and support services that best serves residents, attracts visitors, and encourages investors
- identification of linkages to the waterfront, tourism and recreation facilities, and neighborhoods
- identification of projects or actions to strengthen or recruit businesses and encourage economic uses
- identification of potential funding sources and partners to implement projects and other actions
- examination and development of institutional tools needed to support revitalization, such as retail management organizations, business improvement districts, public-private partnerships, financial strategies and organizational structures
- development of local laws and land use regulations to foster a desired development strategy
- preparing a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) in an existing hamlet, downtown or urban waterfront plan, or one under preparation
- preparing a renewable energy ordinance, developing energy efficiency guidelines, or creating green building codes

### Implementation

Applicants with an approved LWRP, or relevant component substantially completed, may apply for implementation funding, including:

- site-specific community and waterfront redevelopment projects, including design, construction and/or implementation activities related to identified projects in a comprehensive redevelopment program:
  - o existing conditions analysis
  - o preparation of concept plans and site redevelopment strategies
  - o project-specific design, cost estimating, construction and permitting documentation
  - o site preparation and construction of public amenities and infrastructure
  - o creation, expansion or improvement of public open spaces
  - o mixed-use/mixed-income redevelopment
  - o adaptive reuse of underutilized and abandoned buildings
  - o development of design guidelines and standards
  - o marketing, promotion and economic feasibility studies, including marketing campaigns, brochures website design, and RFP for developers
  - o establishment of cultural, historic, arts and entertainment districts
  - o acquisition due diligence (e.g., title work, appraisals, surveys)
  - o streetscape and gateway improvements, including but not limited to: pedestrian walkways, sidewalks, and trails; crosswalks and other pedestrian safety enhancements
- development of systems for defining and measuring progress and success in hamlet, downtown, and urban waterfront redevelopment
- adopting a renewable energy ordinance, developing energy efficiency guidelines, establishing green building codes

### ***Planning or Constructing Land and Water-based Trails***

Planning or constructing land and water-based trails as part of an LWRP effort can create physical linkages between community centers, waterways, parks, open spaces, and historic, scenic and cultural sites. Trails provide recreational opportunities, enhance the economy, provide alternative means of transportation, enhance public access to waterfronts, and promote human health, community character, and quality of life. Trails are linear corridors on land or water which link two or more points or can be a looped system with the same start and end point. Trails can be a stand-alone entity or part of a broader regional greenway network. Trails promote and preserve recreational, scenic, natural, cultural, historic, and agricultural resources and contribute to community revitalization by attracting users and promoting economic activity which supports local businesses and complements tourism development. Blueways are small boat and paddling routes that combine water-based recreation and environmental awareness and allow users to travel between designated stops that link New York's heritage sites, trails, greenways, historic resources, scenic byways, and revitalized community centers. Blueways contribute to regional economies. Individual blueway projects can be catalysts for local economic development and promote environmental preservation and stewardship by connecting communities to nearby waterways. Applicants should demonstrate how their proposal complements, builds on, or fills gaps in existing corridor or regional plans, or how their proposal creates a regionally-integrated land and water-based revitalization and development strategy.

### Planning

Applicants may apply for grant funding to undertake the planning and design of local or regional land and water based trails (greenways and blueways), including:

- route identification and assessment of facilities and infrastructure

- identification of regional and local assets and attractions
- conceptual planning for launch sites, parking, and trail infrastructure
- plans to ensure sustainable organizational capacity for project management, administration, coordination to advance land and water-based trail projects, and regional capacity building
- development of systems to track implementation and measure success
- providing walking and biking opportunities as alternatives to motor vehicle use to reduce emissions and promote physical activity
- preparing a Health Impact Assessment to identify and evaluate public health outcomes of the trail

### Implementation

Applicants with an approved LWRP or relevant component substantially completed may apply for grant funding to construct land and water based trails, including:

- design/construction of trails, launch sites, and directly related infrastructure and improvements
- greenway or blueway trail marketing and promotion

### ***Preparing or Implementing a Lakewide or Watershed Revitalization Plan***

Local business, recreation, tourism, agriculture, industry, and economic development are dependent on high-quality water resources. Often, for communities surrounding a lake or embayment, or those bordering a river or stream, good water quality significantly contributes to their economy. Regions are similarly dependent on their natural assets. Guiding activities to protect and promote natural and economic assets on an intermunicipal, lakewide or watershed basis can be an effective way to make the most of human and financial resources, to address concerns and to achieve shared goals.

Preparing lakewide or watershed revitalization plans and advancing on-the-ground projects on a cooperative basis with significant public engagement have been shown to be effective ways to achieve local, regional, and statewide goals to protect and sustain natural resources and advance economic development. Networking with experienced local governments, agencies, and organizations leads to efficiencies that minimize the costs of protecting and restoring natural assets. The Department's guidebooks on waterfront revitalization and watershed planning are available at <http://www.dos.ny.gov/opd/publications.html>

Funds are being made available for the preparation and implementation of intermunicipal plans that identify and assess key assets, problems, threats, and municipal land use development controls and practices, emphasizing the connection between water quality protection and economic health. Projects funded under this category are expected to have significant regional benefits. A community that already has a local waterfront revitalization program or a watershed plan, or both, may apply to integrate such programs and plans into a more holistic lakewide or watershed revitalization plan.

### Planning

Applicants may apply for grant funding to prepare or update a lakewide or watershed plan, including:

- visioning to identify the connections between water quality protection, waterfront revitalization, climate change mitigation and adaptation, and economic health
- conducting public participation to develop consensus on issues and actions needed to advance revitalization and water quality goals
- developing sustainable municipal or intermunicipal organizational capacity for project management, administration, coordination and technical assistance

- inventory, analyze and characterize the lakewide area or watershed, including land cover, land and water uses, and infrastructure
- identifying and assessing of key natural, cultural and economic assets
- identifying problems, impairments and threats and assessment of their causes
- assessing land and water use controls (laws, programs and practices) to protect water quality and guide appropriate development
- quantifying the benefits of high water quality to local areas and the regional economy
- identifying issues and opportunities
- preparing strategies to protect water quality and promote sustainable economic development and community revitalization
- identifying local, state and other technical and financial resources needed for implementation of proposed projects and actions
- planning for the protection and promotion of natural assets on an intermunicipal, lakewide or watershed basis
- prioritizing projects and actions on an intermunicipal basis to revitalize a lakewide, or watershed area
- developing systems to track implementation and measure and report on success
- preparing of a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) contained in an existing Lakewide or Watershed Revitalization Plan or one under preparation

#### Implementation

Applicants with an approved or substantially completed LWRP or lakewide or watershed plan may apply for grant funding to implement such a program or plan, including but not limited to:

- implementation of priority actions to revitalize waterfronts and protect and restore water resources and water dependent uses
- amendment or adoption of local land and water use controls to provide coordinated lakewide or watershed management for revitalizing waterfronts and protecting water quality
- development of education, outreach/training materials and programs to reduce causes of impairments and threats to water quality, and to promote waterfront revitalization
- advancement of projects that preserve or restore natural landscapes, that protect water quality and catalyze waterfront revitalization
- feasibility or market analysis, design or construction, water quality and waterfront revitalization projects

#### ***Preparing or Implementing a Community Resilience Strategy or Updating an LWRP to Incorporate Resilience Strategies***

Climate change, sea level rise, increased frequency and intensity of storms and the resultant flooding from these weather related changes, challenge communities and impact services on which residents and tourists depend. The health of communities rests on their ability to reduce or avoid harm and bounce back from storm impacts when they occur. Communities can move forward successfully only when they are prepared to respond quickly and strategically to changing conditions. An emphasis should be placed on regional strategy development or implementation.

Eligible applicants may apply for grant funding to advance projects and strategies in an approved NY Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan, to integrate their

NYRCR Plans or NY Rising Countywide Resiliency Plan with existing LWRPs or components of an LWRP, or to prepare a resilience strategy consistent with the NYRCR Program.

Planning or implementation projects should fall into, and be informed by, one of the six Recovery Support Functions created within the National Disaster Recovery Framework by the Federal Emergency Management Agency (<http://www.fema.gov/recovery-support-functions>). These are: Community Planning and Capacity Building; Economic Development; Public Health and Social Services; Housing; Infrastructure; and Natural and Cultural Resources. Strategies should consider issues such as risk assessment, combined benefits, critical facilities, value to the community, public health outcomes, and coordination of timing with other improvements within a regional context.

The Department strongly encourages the integration of resilience strategies in an LWRP or component.

### Planning

Eligible applicants with an approved NY Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan may apply for grant funding to integrate their Plan with existing LWRPs or component. Applicants may also apply for grant funding to prepare a resilience strategy consistent with the NYRCR Program as shown in the guidance that can be found at:

[http://stormrecovery.ny.gov/sites/default/files/documents/Guidance\\_for\\_Community\\_Reconstruction\\_Plans.pdf](http://stormrecovery.ny.gov/sites/default/files/documents/Guidance_for_Community_Reconstruction_Plans.pdf).

Additionally, grants may be awarded to eligible communities for planning activities such as:

- assessment of risks associated with coastal/riverine flooding and erosion, including impacts to wetlands, habitats, and other natural resources
- assessment of risks to critical infrastructure and systems such as water supply, sewage treatment plants, combined sewer overflows, electric utilities, transmission lines, dams, shoreline stabilization infrastructure and other in-water structures, and transportation systems
- assessment of potential impacts to economic sectors, including recreation, tourism and agriculture
- assessment of relevant landscape attributes, such as impervious surface area, vegetated stream buffers, flood storage capacity and forested land cover, to improve resilience
- identification of strategies related to climate change/sea level rise adaptation that can be implemented through both public and private actions
- identification of storm mitigation measures to reduce the risk of doing business in the community
- identification of strategies to make health and social services more resilient
- identification of strategies/projects that will reduce the vulnerability of infrastructure to storms
- identification of opportunities for modifying existing or developing new laws, regulations, policies and practices to reduce a community's vulnerability to climate change and sea level rise impacts and improve emergency preparedness, pre-storm management or response protocols
- creation of development tools to optimize land use patterns to meet the needs of vulnerable populations and future growth demands
- development of local or intermunicipal Geographic Information Systems to improve impact prediction and assessment, and mitigation and adaptation planning
- identification of public education efforts concerning potential long term effects from storm damage, such as mold and contaminated soils
- incorporation of climate resilience vision, goals and strategies into local plans and projects

- preparation of a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) contained in an existing Community Resilience Strategy or one under preparation

### Implementation

Eligible applicants with an approved LWRP, or relevant component substantially completed, may apply for grant funding to advance projects in an approved NY Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan, related to building or improving community resilience that advance LWRP policies. Grants may be awarded for projects such as:

- implementation of priority actions to improve community resilience and reduce risks associated with coastal/riverine flooding, erosion and storm events
- amendment or adoption of local land and water use controls to improve community resilience to storm events
- incorporate climate resilience vision, goals and strategies into local plans and projects
- development of education, outreach/training materials and programs to improve community resilience to storm events and potential impacts
- engineering, design, and/or construction of projects to make public facilities more resilient to potential storm impacts
- projects for the conservation, restoration, and enhancement of natural protective features and processes such as flood plains, wetlands, vegetated buffers, living shorelines, dunes and sediment transport
- green infrastructure projects that address water quality and stormwater management

### ***Preparing or Implementing a Clean Transportation Strategy***

Community and waterfront revitalization often focuses on specific areas of concentrated development within a community, notably hamlets, downtowns, and formerly developed urban waterfronts. Energy-efficient and multi-modal transportation systems can help communities become more sustainable, attract recreation and tourism, improve community character, provide low-cost transportation for both residents and visitors, lower pollution and reduce the risks of climate change, and plan for infrastructure to support/promote the use of low emission/zero emission vehicles. Clean transportation planning can include transit-oriented development, parking and street redesign, and development of infrastructure for low-emission vehicles. Transit-oriented development, one component of smart growth that specifically targets transportation revitalization, incorporates mixed-use and multiple transportation options, such as public transit and biking, and can be used to lower both greenhouse gas emissions as well as other local air pollutants – providing immediate health benefits. It can also be used to strategically connect neighborhoods to, for example, improve cultural understanding and attract business. The Department, working with other state agencies, provides both financial and technical assistance to prepare and implement revitalization strategies for hamlets, downtowns and urban waterfronts, with an emphasis on identification of linkages to the waterfront, tourism and recreation facilities, and neighborhoods. Eligible applicants are encouraged to work with local Metropolitan Planning Organizations (MPOs) or other partners.

### Planning

Eligible applicants may apply for funding for planning activities that will reduce emissions from transportation, including:

- developing a comprehensive clean infrastructure strategy such as transit-oriented development plan or electric vehicle development plan

- developing strategies or plans for one or more of the following: enhancing utilization of public transportation, bicycles, or pedestrian walkways; establishing electric vehicle charging stations and promote electric vehicle charging use; incorporating electric vehicles into public fleets; encouraging walking parks or scenic areas
- conducting feasibility studies and preparing designs to implement clean transportation strategies, such as studies for electric vehicle charging infrastructure in public parking lots, commercial areas, or workplaces

### Implementation

Eligible applicants with an approved LWRP, or relevant component substantially completed, may apply for implementation funding within the LWRP boundary or component area, including:

- conducting public outreach and education to increase use of public transit, bikes, or pedestrian walkways or electric vehicles
- improving walkways, sidewalks and/or bikeways to transit hubs or shuttle services
- installing or ensuring access to secure bike or car parking near transit hubs or shuttle services
- developing systems for defining and measuring progress and success in showing public use of transit options like buses, bike lanes, and pedestrian walkways; electric vehicle charging utilization
- developing and adopting local laws to advance clean infrastructure strategies

## **VI. FUNDING RESTRICTIONS**

### **Local Match**

State assistance awarded and paid shall not exceed 50% of the total eligible cost for the project, see Part IX. Contract Requirements for additional detail. Match required is 100% the of total grant award, based on total direct project costs. The total eligible cost of the project is the total of costs set forth in the grant application, less any federal assistance and other state assistance from the Environmental Protection Fund. In addition, the Environmental Protection Fund grants provided under this program may not be used as the local match for any federal grants without explicit written permission from the Department. State assistance payments will be made to grant recipients based on actual expenditures for eligible costs up to the amount of the grant awarded.

### **Volunteer Services**

Volunteer services included in the local match are limited to those that significantly contribute to the completion of project tasks. Documented volunteer services (non-professional) may be valued at up to \$28.73 per hour, based on a starting pay rate commensurate with skills offered and services provided. Detailed accurate records must be kept to account for volunteer services to be included as local match.

### **Donated Professional Services**

Professional services donated to the project for the purpose of local match can be valued at a reasonable rate appropriate to the profession in the project location, only when services provided are in direct relation to the profession of the individual providing these services. Donated services that are not directly related to the profession will be considered as local match at the volunteer services rate. In all cases detailed accurate records must be kept to account for services to be included as local match.

### **Construction**

Construction must be on public property, or where a permanent public interest such as conservation easement has been established. Prior to the start of construction, the successful applicant will be required to install a

sign satisfactory to the Department identifying the Department's funding of the project. The project sign will need to remain in place for the useful life of the improvements undertaken.

### **Eligible Costs**

Costs must be adequately justified and directly support the project. Proposed total project costs must be essential to project completion.

Grant funds may be used for the following costs:

**Personal Services** – including direct salaries, wages, fringe benefits for activities related to project work by municipal employees and for grant administration for preparation of reports, vouchers and contract related administration required by the Department. Grant administration may not exceed 15% of the award amount or \$50,000, whichever is less.

**Non-Personal Services** – including supplies and materials, travel, equipment, consultant/contractual services for direct project related costs and limited grant administration, and other goods and services. Grant administration may not exceed 15% of the award amount or \$50,000, whichever is less.

**Note: Land acquisition** – land acquired within three years prior to the contract start date or within the executed contract term may be used as local share only for construction projects and may not to exceed 50% of the total cost of the project.

### **Ineligible Costs**

The following costs will neither be accepted as the required local match nor reimbursed with grant funds:

**Indirect or overhead costs of the municipality**, such as rent, telephone service, general administrative support, computers, office equipment, general office supplies, general operations costs, membership fees, subscription costs.

**Salaries and other expenses of elected officials**, whether incurred for purposes of project direction, execution, or legislation. However, volunteer services contributed by these officials to the project may be used as local match, provided that such services are outside the performance of their official duties.

**Fund raising events/expenses**

**Federal assistance**

**Other Environmental Protection Fund awards**

**Land acquisition (except as noted above)**

**Taxes, insurance, fines, deficit funding**

**Bond interest and associated fees.** The interest associated with a Bond or Bond Anticipation Note (BAN) cannot be calculated into project cost, whether for reimbursement or local match.

**Contingency costs**

**Lobbying expenses****Cost incurred prior to the contract start date****Costs that are not adequately justified or that do not directly support the project**

Ineligible costs will be eliminated from the total project costs in the grant application.

**Sub-contracts**

Sub-contracts should be competitively procured based on the applicable provisions of New York State General Municipal Law. Bids should be inclusive of all costs related to the project, or portion thereof. Bids can be structured as deliverable based or line item (reimbursement) costs. Bid formats cannot be a mixed format.

**VII. AWARD METHOD**

A total score of 100 points is possible for any application, of which up to 80 percent will be derived from program criteria and up to 20 percent from Regional Economic Development Council (REDC) endorsement.

An unadjusted maximum score of 100 points is possible based on programmatic criteria. Averaged scores will be multiplied by 0.8 to arrive at an 80% programmatic score, or up to 80 points. To this programmatic score, up to 20 points will be added based upon the REDC endorsement score. REDC points are based on regional economic priorities and are assigned by the REDCs.

The Department will fund the highest scoring applications until the allocated funds are exhausted. Regional distribution of grant proposals, information from interagency discussion, applicant's performance under previously awarded EPF LWRP grants, and consistency with the Smart Growth Public Infrastructure Policy Act will be factors used in determining successful grant proposals. Up to \$17 million is anticipated for awards for this procurement. Approximately \$8,750,000 will be spent for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

- densely-populated and have sustained physical deterioration, decay, neglect, or disinvestment, or
- where a substantial proportion of the residential population is of low income, or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities

The Department may make an award under the RFA in whole or in part, and may offer partial funding if a particular phase of a project is not ready to move forward, The Department may award no funding to an applicant if its application cannot be fully funded within the funds remaining, in which case funding may be awarded to the next highest-scoring unfunded application. In the event that an awardee fails to satisfactorily negotiate a proper contract within a reasonable amount of time, that funding may be awarded to the next highest-scoring unfunded application.

In the event that another NYS agency fully funds a high scoring project through the CFA process, the awardee will receive funding from only one state agency. The Department will work with other NYS agencies to ensure that duplication in funding does not occur. In the event that an applicant receives full funding from

another agency, the Department reserves the right to award full or partial funding to the next highest scoring unfunded application.

The opportunity to be debriefed will be provided, upon request, to unsuccessful applicants. Requests must be made in writing within 30 days of notification of status of award.

## **VIII. APPLICATION EVALUATION CRITERIA**

Applications will be reviewed according to the specific criteria presented below.

### **Minimum Criteria**

Eligible applicants are villages, towns, or cities, and counties with the consent and on behalf of one or more villages, towns, or cities which are located along New York's coasts or designated inland waterways. Failure to meet this criterion will result in immediate disqualification of the application, which will not be further evaluated.

### **Program Criteria**

Applications will be evaluated to assess the degree to which they meet the elements of each criterion.

The program criteria (with **total available points**) and elements are:

#### **Vision (maximum of 4 points)**

Will result in or advance a vision creating significant opportunities for addressing resolution of problems in the context of:

- a Regional Economic Development Strategy, including Opportunity Agenda strategies, Global NY, or Veterans Initiatives
- a New York Rising Community Reconstruction (NYRCR) Plan or New York Rising Countywide Resiliency Plan
- a regional or local vision for capitalizing on community assets

#### **Process (maximum of 8 points)**

##### **Public Engagement (maximum of 4 points)**

- Describes an effective approach and process that will be followed to ensure ongoing public participation and engagement during project development, including the involvement of partnering municipalities and the general public
- Demonstrates that the public and stakeholders who would be affected by, or who can advance the project, will be engaged in project planning and implementation

##### **Local Commitment and Previous Performance (maximum of 4 points)**

- Demonstrates committed local leadership and provides an ongoing educational component for local officials and/or community residents
- Demonstrates strong support for addressing regional land use, community development, and resource and/or environmental opportunities

- Demonstrated high quality performance under previous EPF LWRP contracts, required contract reports were submitted to the Department in a timely manner, and work was completed within a reasonable amount of time

## **Strategies (maximum of 28 points)**

### **Regional Significance (maximum of 4 points)**

- Improves or protects natural, cultural or economic resources of regional significance
- Ensures an appropriate balance between development, open space and natural resource protection within the regional context
- Advances efforts to resolve shared issues through creative intermunicipal partnerships
- Redevelops and/or revitalizes a regional center
- Provides facility of greater than local importance
- Advances the completion or implementation of a plan or strategy that addresses critical issues and opportunities of regional significance
- Advances a project, action, or strategy in an approved New York Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan
- Advances the strategies and priorities of a REDC, including Opportunity Agenda strategies, Global NY, and Veterans Initiatives
- Advances regional strategies which address carbon reduction/abatement, energy efficiency or renewable energy

### **Local Significance (maximum of 4 points)**

- Creates or implements a plan for community resiliency
- Protects, preserves, enhances or restores archeological, historic and/or cultural resources
- Implements a public amenity that is an identified priority for a community
- Addresses environmental justice issues
- Advances the completion or implementation of a plan or strategy that addresses critical issues and opportunities of local significance

### **Public Value (maximum of 4 points)**

- Promotes or implements strategies that include integration of all income, ethnic and age groups
- Ensures predictability in land use regulations and procedures
- Incorporates and advances pedestrian, bicycle and paddling trails that connect people to parks, nature and public spaces; community landscaping using native species; and accessible neighborhood parks
- Advances the completion of a plan or strategy that enhances the quality and availability of public resources within a community or region
- Promotes positive public health outcomes and/or avoids or mitigates negative public health outcomes

### **Community Livability (maximum of 4 points)**

- Improves or expands visual/physical access to public resources, provides new/enhanced public spaces, or enhances community character/visual environment
- Improves or expands water-dependent recreation opportunities
- Promotes positive public health outcomes and/or avoids or mitigates negative public health outcomes

**Sustainability (*maximum of 4 points*)**

- Ensures that governmental decision-making is based on sound science and considers cumulative effects
- Promotes a mix of land uses and concentrates new development in urban centers where infrastructure and public services are adequate
- Incorporates and advances green infrastructure through preservation and restoration of natural landscapes, or green infrastructure policies that reduce watershed imperviousness and preserve groundwater infiltration
- Provides a framework that encourages development or redevelopment of communities in sustainable locations
- Incorporates and advances carbon reduction/abatement, energy efficiency or renewable energy
- Improves community resiliency to a changing climate, including vulnerable transportation, energy and water treatment infrastructure
- Promotes positive public health outcomes and/or avoids or mitigates negative public health outcomes

**Economic Value (*maximum of 4 points*)**

- Generates economic activity, creates immediate and future jobs, offers realistic economic development potential, or contributes to restoration of municipalities' tax bases
- Advances the completion of a plan or strategy that enhances economic vitality in a community or region
- Provides for downtown/hamlet revitalization
- Supports water-dependent commercial and industrial uses, tourism development or agriculture
- Supports renewable energy and clean transportation

**Natural Resource Value (*maximum of 4 points*)**

- Promotes conservation and protection of ecosystem integrity
- Protects, enhances or restores designated significant coastal fish and wildlife habitat, or natural protective features (wetland, floodplain, active river area, beach, dune)
- Protects, enhances or restores a scenic area of statewide significance
- Protects agricultural land as a resource that provides for farmland uses and open space
- Implements New York State's Coastal Nonpoint Pollution Control Program, or otherwise protects groundwater or surface water quality and hydrology
- Advances the completion of a plan or strategy that protects, restores, or enhances natural resources

**Implementation (*maximum of 20 points*)****Scope of Work (*maximum of 4 points*)**

- Clearly defines what is to be done, where and how it will be done, who will do it, and when it will be completed
- Is an integral part of a set of actions that comprehensively addresses an issue or opportunity
- Demonstrates sufficient experience and ability of key project personnel to successfully carry out the project

**Project Phasing (*maximum of 4 points*)**

- Clearly represents/articulates a single phase or distinguishes between phases where applicable

**Time Frame (*maximum of 4 points*)**

- Demonstrates how the project will be completed within a maximum of three years or less
- Presents a clear and realistic schedule and time line that includes major tasks, milestones and completion dates
- Demonstrates that the project is ready to move forward quickly

**Project Readiness (*maximum of 4 points*)**

- Demonstrates that an effective organizational structure exists to advance and complete the project
- Demonstrates preliminary work needed to advance the proposed project phase has been completed (for example, if a construction project, designs have been prepared, permits and/or other approvals obtained, or at least submitted, to facilitate construction)

**Project Deliverables (*maximum of 4 points*)**

- Project deliverables are clearly defined and consistent with program objectives

**Leveraging (maximum of 12 points)****Resources (*maximum of 4 points*)**

- Complements related activities and projects, and leverages funding under the Environmental Protection Fund, other New York State grant programs, federal grant programs, or other sources of public, not-for-profit and private funds
- Makes efficient use of/protects public investment in resources and infrastructure
- Necessary to enable community and/or region to build public/private partnerships or leverage financial resources to make better use of private funds, including programs available through the CFA

**Advancing Plans (*maximum of 4 points*)**

- Advances an approved or substantially completed LWRP, or component
- Advances completion of a new phase of a project previously funded by EPF LWRP
- Advances a Brownfield Opportunity Area (BOA) plan, where there is a completed area-wide analysis (Nomination) and the proposed project advances the stated community vision

**Development of Partnerships (*maximum of 4 points*)**

- Demonstrates a record of developing public/private partnerships
- Creates or advances regional, intermunicipal, intergovernmental, public, private, or not-for-profit partnerships to address development issues
- Creates or advances regional, intermunicipal and intergovernmental partnerships in order to increase efficient, planned, and cost-effective delivery of government services

**Performance Measures (maximum of 8 points)**

- Demonstrates how the project will be monitored and progress recorded to achieve milestones and complete individual products and deliverables according to the project schedule and timeline
- Proposes logical metrics to quantify anticipated benefits of the project

**Evaluation of Budget and Cost (maximum of 20 points)**

Applications will also be evaluated to assess the degree to which they meet the elements of each criterion below.

- Application describes and documents how the budget and cost were determined. Identifies the person(s) responsible for compiling the budget including relevant experience and background of all parties and the method/approach used to arrive at estimates. *(maximum of 5 points)*
- Costs meet eligibility requirements of the program. In addition to documenting eligibility of costs, budget narrative clearly demonstrates what matching local funds will be provided. *(maximum of 5 points)*
- Costs clearly relate to and support activities in the proposed work plan. Budget narrative demonstrates logical justification for all expenses proposed. *(maximum of 5 points)*
- Budget includes adequate detail for all project components involved, is cost-effective, presents necessary and realistic costs, and does not contain extraneous or ineligible expenses. Budget is accurate and thorough. Budget narrative includes an explanation for the estimate of each budget line and clearly supports the applicant's need for financial resources requested to achieve project outcome. Budget narrative describes how the grant recipient will monitor expenditures during the life of the project to ensure that the project stays on schedule and within budget. *(maximum of 5 points)*

Note: Detailed and clear demonstration of local match comprising 50% of the total project cost is required at the time of application. Awards may be reduced or not made if applicant fails to document sufficient, eligible match.

**Regional Economic Development Council Endorsement**

Additional points (up to 20 points) may be given to grant proposals that are determined to advance strategic plans developed by the Regional Economic Development Council for the area where the project is located.

**IX. CONTRACT REQUIREMENTS****New York State Grants Gateway**

Successful grant applicants will be required to register through the New York State Grants Gateway. To register, log on to <http://grantsreform.ny.gov>.

**Standard Cost Reimbursement Contract**

Each successful applicant must enter into a standard cost reimbursement contract with the Department of State which includes this Request for Applications, the successful applicant's proposal, an agreed upon work program, any other attachments or exhibits, and the standard clauses required by the NYS Attorney General for all state contracts including Attachment A along with Article 15-A of the New York Executive Law. All necessary municipal resolutions and certifications must be received prior to entering into contracts. The contract will be: 1) subject to approval by the Attorney General and State Comptroller; 2) required to submit final products in both hard copy and electronic format; 3) subject to payment only upon proper documentation and compliance with reimbursement procedures; and all other contractual requirements. (A copy of a standard contract along with Attachment A and Article 15-A is available from the Department.)

To ensure that funds are awarded to applicants that are ready to move forward, the Department of State reserves the right to rescind an award if the state contract is not signed and returned within a reasonable

amount of time. There will be no contract advance available to grantees. Expenses incurred prior to the start date of the state contract cannot be reimbursed.

### **Compliance with Procurement Requirements**

All contracts by municipalities for service, labor, and construction involving not more than \$35,000 and purchase contracts involving not more than \$20,000 are subject to the requirements of General Municipal Law §104-b, which requires such contracts to comply with the procurement policies and procedures of the municipality involved. All such contracts shall be awarded after and in accordance with such municipal procedures, subject to the Minority or Women-Owned Business Enterprise (MWBE) requirements as set forth below and any additional requirements imposed by the State as set forth in Attachment C of the Master Contract.

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify to the Department of State that applicable public bidding procedures of General Municipal Law §103 were followed for all service, labor, and construction contracts involving more than \$35,000 and all purchase contracts involving more than \$20,000. In the case of contracts by municipalities service, labor, and construction contracts involving not more than \$35,000 and purchase contracts involving not more than \$20,000, the municipal attorney, chief legal officer or financial administrator shall certify that the procedures of the municipality established pursuant to General Municipal Law §104-b were fully complied with, in addition to the MWBE requirements.

The municipal attorney, chief legal officer or financial administrator for the municipality shall certify to the Department of State that alternative proposals and/or quotations for professional services were secured by use of written requests for proposals through a publicly advertised process. This certification will verify that the procurement requirements were met and ensure the prudent and economical use of public funds for professional services of maximum quality at reasonable cost.

### **Record Retention and Audits**

The successful applicant shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract with the Department of State. Payment requests may be subject to periodic reviews. The successful applicant will be required to agree to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable, (ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable, (iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements,

consultant agreements, leases, and cost allocation plans, if applicable, (iv) receipt and deposit of advances and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

### **Minority and Women-Owned Business Enterprise Participation**

Applicants will be required to comply with and certify that the requirements of Article 15-A of the New York State Executive Law. For purposes of this solicitation, the Department has established an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). For full details of requirements see Attachment A-1 Section M. Minority and Women Owned Business Participation.

### **Contract Period**

Subject to the continued availability of funds in the budget, the contract period shall not exceed three years from the start of the project. No extensions are anticipated. The earliest start date of contracts is April 1, 2015. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis.

## **X. SATISFACTORY PROGRESS**

It is imperative that the grant recipient complete the project as set forth in the agreed upon work program and individual monitoring plan. Failure to render proof of satisfactory progress or to complete the project to the satisfaction of the State may be deemed an abandonment of the project and may cause the suspension or termination of any obligation of the State. Satisfactory progress toward implementation includes, but is not limited to, executing contracts and submitting status reports and payment requests in a timely fashion, retaining consultants, written certification of compliance with procurement requirements, completing plans, designs, permit applications, reports, or other tasks identified in the work program within the time allocated for their completion. The Department may recapture awarded funds if satisfactory progress is not being made on the implementation of a grant project. Applicants should not submit applications if they do not expect to initiate the project within a reasonable time period after receiving an executed contract and will not be able to complete the project within the time period cited in the application.

## **XI. OTHER GRANT REQUIREMENTS FOR CONSTRUCTION PROJECTS**

Grant funded work must be done on public property or where there is a permanent public interest established, such as a conservation easement, and the predominant purpose is to provide a public benefit. Property where improvements are made must remain available to the public and provide direct public benefit for the intended useful life of the project. Property sold or transferred prior to the useful life may require that grant funds are returned to the Department.

Projects intended to be open to the public must be open to the general public and not limited to residents of the municipality receiving a grant. Signage to this effect must be provided at these sites.

It is required that project design and construction be undertaken under the supervision of an architect and/or engineer licensed to practice in the State of New York. In addition, proper certification from a licensed architect or engineer, as appropriate to the task, will be required for the preparation of designs and specifications and for the submission of as-built plans upon completion of the project.

Prior to the start of construction, the successful applicant will be required to install a sign satisfactory to the Department identifying the Department's funding of the project. The project sign will need to remain in place for the useful life of the improvements undertaken.

In addition to responsibility for compliance with local regulations, the grant recipient is responsible for complying with applicable State and Federal regulations, including, but not limited to:

- State Environmental Quality Review Act
- State Freshwater and Tidal Wetlands Acts
- US Army Corps of Engineer permits
- Coastal Erosion Hazards Areas Act
- Floodplain Management criteria
- State and Federal laws and regulations for Historic Preservation
- Coastal Zone Management Act (federal)

## **XII. GENERAL SPECIFICATIONS**

1. By signing the "Application Form" each applicant attests to its express authority to sign on behalf of the applicant and to the accuracy of the information contained therein. Applications containing false or inaccurate information may be disqualified upon verification of information by the Department of State (Department).
2. Contractors will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
3. Submission of any application indicates the applicant's acceptance of all conditions and terms contained in this RFA, including the terms and conditions of the contract.
4. Provisions upon default:
  - a. The services to be performed by the applicant shall be at all times subject to the direction and control of the Department as to all matters arising in connection with or relating to the contract resulting from this RFA
  - b. In the event that the applicant, through any cause, fails to perform any of the terms, covenants or promises of any contract resulting from this RFA, the Department acting for and on behalf of the State, shall thereupon have the right to terminate the contract by giving notice of the fact and date of such termination to the applicant
  - c. If, in the judgment of the Department, the applicant acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate any contract resulting from this RFA by giving notice of the fact and date of such termination to the contractor. In such case, the contractor shall receive equitable compensation for such services as shall, in the judgment of the Department, have been satisfactorily performed by the contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work in which the contractor was engaged at the time of such termination, subject to audit by the State Comptroller
5. The Department reserves the right, including but not limited, to:
  - a. Reject any or all applications received in response to this RFA
  - b. Withdraw the RFA at any time, at the agency's sole discretion
  - c. Make an award under the RFA in whole or in part

- d. Disqualify any applicant whose conduct and/or application fails to conform to the requirements of the RFA
- e. Seek clarifications and revisions of applications
- f. Use proposal information obtained through site visits, management interviews and the State's investigation of an applicant's qualifications, experience, ability or financial standing, and any material or information submitted by the applicant in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFA
- g. Prior to the application due date, amend the RFA specifications to correct errors or oversights, or to supply additional information, as it becomes available
- h. Prior to the application due date, direct applicants to submit proposal modifications addressing subsequent RFA amendments
- i. Change any of the scheduled dates
- j. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders
- k. Waive any requirements that are not material
- l. Negotiate with applicants responding to this RFA within the scope of the RFA to serve the best interests of the State
- m. If unsuccessful in negotiating a state contract with the selected applicant within an acceptable time frame, the Department may begin state contract negotiations with the next ranked qualified applicant(s) in order to serve and realize the best interests of the State.
- n. Utilize any and all ideas submitted in the proposals received
- o. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an applicant's proposal and/or to determine an applicant's compliance with the requirements of the solicitation
- p. Waive or modify minor irregularities in applications received
- q. Not to fund an application that fails to submit a clear and concise work plan or budget

**ATTACHMENT A-1**  
**AGENCY AND PROGRAM SPECIFIC TERMS AND CONDITIONS**

I. Agency Specific Clauses (revised 3/18/15)

For the purposes of this Agreement, the terms "State" and "Department" are interchangeable, unless the context requires otherwise. In addition, the terms "Agreement" and "Contract" are interchangeable, unless the context requires otherwise.

A. Project Timetable

The Contractor agrees to proceed expeditiously with the Project and to complete the Project in accordance with any timetable associated therewith as set forth in the Work Plan (Attachment C) as well as with the conditions of any applicable permits, administrative orders, or judicial orders and this Agreement.

B. Budget Modifications

Prior DOS written approval, which requires a detailed breakdown and justification, is required for all requests for budget modifications.

Any proposed modification to a contract that will result in a transfer of funds among program activities or budget cost categories, but does not affect the amount, consideration, scope or other terms of such contracts must be submitted to DOS for submission to the Office of State Comptroller for approval when:

1. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
2. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of more than five million dollars.

C. License to Use and Reproduce Documents, Intellectual Property and Other Works:

By acceptance of this Agreement, Contractor transfers to the Department a perpetual, transferable nonexclusive license to use, reproduce in any medium, and distribute, for any purpose, any intellectual property or other work purchased, developed or prepared for or in connection with the Project using funding provided pursuant to this Contract, including but not limited to reports, maps, designs, plans, analysis, and documents regardless of the medium in which they are originally produced. Contractor warrants to the Department that it has sufficient title or interest in such works to license pursuant to this Agreement, and further agrees and warrants that it shall not enter into any subcontract or other agreement purporting to limit such title or interest in such works in any manner that may compromise Contractor's ability to provide the aforesaid license to the Department. Such warranties shall survive the termination of this agreement. Contractor agrees to provide the original of each such work, or a copy thereof which is acceptable to the Department, to the Department before payments shall be made under this Agreement.

D. Property

The ownership of all property or intellectual property described herein and purchased, developed or prepared under the terms of this Contract shall reside with the Contractor with a reversionary interest in such property or intellectual property held by the Department, unless otherwise authorized or directed in writing by the Department. Except as otherwise provided in Section II.C.3 of the Standard Terms and

Conditions, Contractor shall retain ownership of such property or intellectual property after the term of this Contract so long as such property or intellectual property is used for purposes similar to those contemplated by this Contract. Otherwise, the Contractor shall return such property or intellectual property to the Department at the Contractor's cost and expense, and Contractor's ownership interests, rights and title in such property or intellectual property shall revert to the Department. The ownership of all property purchased with federal funds provided pursuant to this Agreement, however, shall be governed by the terms of applicable federal law and OMB Circulars , including but not limited to 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," as amended.

#### E. Termination

The Department may terminate the Agreement in accordance with the terms and conditions set forth in the Master Grant Contract section of this Agreement. In addition to other reserved rights it has to terminate this Agreement, the Department may terminate or suspend the Agreement under the following circumstances:

1. The Contractor shall complete the project as set forth in this Agreement, and failure to render satisfactory progress or to complete the project to the satisfaction of the State may be deemed an abandonment of the project and may cause the suspension or termination of any obligation of the State. In the event the Contractor should be deemed to have abandoned the project for any reason or cause other than a national emergency or an Act of God, all monies paid to the Contractor by the State and not expended in accordance with this Agreement shall be repaid to the State upon demand. If such monies are not repaid within one year after such demand, the State Comptroller of the State of New York may cause to be withheld from the Contractor any State assistance to which the Contractor would otherwise be entitled in an amount equal to the monies demanded.
2. In the event that the Department has provided written notice to the Contractor directing that the Contractor correct any failure to comply with this Agreement, the Department reserves the right to direct that the Contractor suspend all work during a period of time to be determined by the Department. If the Contractor does not correct such failures during the period provided for in the notice, this Agreement shall be deemed to be terminated after expiration of such time period. During any such suspension, the Contractor agrees not to incur any new obligations after receipt of the notice without approval by the Department.
3. If the Department determines the Contractor has breached a term of the Agreement and if the Department determines the defect can be remedied, it may, in its sole discretion, issue a written notice providing the Contractor with a minimum of 30 days to correct the defect and the notice may include a prospective termination date. If the Contractor fails to correct the defect or fails to make a good faith effort to do so as determined by the Department to the Department's satisfaction, the Department may terminate the Agreement for cause.
4. The Department shall also have the right to postpone or suspend the Agreement or deem it abandoned without this action being a breach of the Agreement. The Department shall provide written notice to the Contractor indicating the Agreement has been postponed, suspended or abandoned. During any postponement, suspension or abandonment the Contractor agrees not to do any work under the Agreement without prior written approval of the Department.
5. In the event the Agreement is postponed, suspended, abandoned or terminated, the Department shall make a settlement with the Contractor upon an equitable basis in good faith and under the general compensation principles and rates established in the Agreement by the Department. This settlement

shall fix the value of the work which was performed by the Contractor to the Department's satisfaction prior to the postponement, suspension, abandonment or termination of the Agreement.

6. Any funds paid to the Contractor by the Department which are not expended under the terms of the Agreement shall be repaid to the Department.

#### F. Subcontracting Requirements

1. Contractor agrees that it shall not enter into any subcontract for the performance of work in furtherance of this Contract with any subcontractor that at the time of contracting: (1) is listed on the New York State Department of Labor's list of companies with which New York State cannot do business (available at <https://dbr.labor.state.ny.us/EDList/searchPage.do>); (2) is listed as an entity debarred from federal contracts (available at: <https://www.sam.gov/portal/public/SAM>); or (3) fails to possess requisite workers compensation and disability insurance coverage (see <http://www.wcb.ny.gov>). In addition, Contractor agrees that it shall immediately suspend or terminate any subcontract entered into for the performance of work in furtherance of this Contract if at any time during the term of such subcontract the subcontractor: (1) is listed on the New York State Department of Labor's list of companies with which New York State cannot do business (available at <https://dbr.labor.state.ny.us/EDList/searchPage.do>); (2) is listed as an entity debarred from federal contracts (list available at: <https://www.sam.gov/portal/public/SAM>); or (3) fails to maintain requisite workers compensation or disability insurance coverage (see <http://www.wcb.ny.gov>). Contractor agrees that any such suspension shall remain in place until the condition giving rise to the suspension is corrected by the subcontractor. The terms of this clause shall be incorporated in any and all subcontracts entered into in furtherance of this Contract.
2. The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the Work in accordance with the Contract. The Contractor shall control and coordinate the Work of its subcontractors.
3. The Contractor shall be responsible for informing its subcontractors of all the terms, conditions and requirements of the Contract Documents including, but not limited to the terms of the Master Grant Contract, any and all Appendices, and any changes made by amendments thereto, and ensuring that any and all subcontracts entered into in furtherance of this Contract conform to and do not conflict with such terms.
4. Contractor shall file each and every subcontract entered into in furtherance of this Contract with the Department of State no later than fifteen (15) calendar days following the signing of the subcontract, unless otherwise authorized or directed by the Department of State.
5. Notwithstanding the requirements of Section IV.B.2 of the Standard Terms and Conditions, the Department reserves the right to require, upon notice to the Contractor, that, commencing from the date of such notice or a date otherwise specified in such notice, Contractor must obtain written approval from the Department prior to entering into any and all subcontracts valued at or below \$100,000 for the performance of any activities covered by this Contract (as provided for in Attachment C). Contractor agrees to require any proposed subcontractors to timely provide to the Department such information as may be requested by the Department as necessary to assess whether the proposed subcontractor is a responsible entity capable of lawfully and satisfactorily performing the work. In the event the Department invokes this right of prior approval and a request for approval is submitted by Contractor and denied by the Department, Contractor agrees that it shall not enter

into the proposed subcontract and that no costs associated with such subcontract shall be allowable under this Contract.

#### G. Compliance with Procurement Requirements

1. All contracts by municipalities for service, labor, and construction involving not more than \$35,000 and purchase contracts involving not more than \$20,000 are subject to the requirements of General Municipal Law §104-b, which requires such contracts to comply with the procurement policies and procedures of the municipality involved. All such contracts shall be awarded after and in accordance with such municipal procedures, subject to the MWBE requirements as set forth in Section M and any additional requirements imposed by the State as set forth in Attachment C hereof.
2. The municipal attorney, chief legal officer or financial administrator of the Contractor shall certify to the Department of State that applicable public bidding procedures of General Municipal Law §103 were followed for all service, labor, and construction contracts involving more than \$35,000 and all purchase contracts involving more than \$20,000. In the case of contracts by municipalities service, labor, and construction contracts involving not more than \$35,000 and purchase contracts involving not more than \$20,000, the municipal attorney, chief legal officer or financial administrator shall certify that the procedures of the municipality established pursuant to General Municipal Law §104-b were fully complied with, in addition to the MWBE requirements as set forth in Section M of this Agreement and any additional requirements imposed by the State as set forth in Attachment C hereof.
3. For non-municipal entities such as community-based organizations, the chief legal officer or financial administrator of the Contractor shall certify to the State that alternative proposals and quotations for professional services were secured by use of written requests for proposals through a publicly advertised process satisfactory to meet the MWBE requirements set forth in Section M of this Agreement and to ensure the prudent and economical use of public funds for professional services of maximum quality at reasonable cost.

#### H. Vendor Responsibility Determinations

1. A Vendor Responsibility Questionnaire and Certification is required for certain contracts. This Questionnaire is designed to provide information to assist the contracting agency in assessing a CONTRACTOR's responsibility, prior to entering into a contract, and must be completed and submitted electronically or returned with the contract. Contractor is invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <http://www.osc.state.ny.us/vendrep/systeminit.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us). Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact the Department of State or the Office of the State Comptroller's Help Desk for a copy of the paper form.
2. Contractor hereby acknowledges that the Vendor Responsibility Questionnaire (VRQ), as described in Section IV (N) of the Master Grant Contract, as well as any updated or amended version of the VRQ submitted during the term of this contract, or any contractor responsibility information that may be requested by the Department and submitted during the term of this contract, is made a part of

this contract by reference hereto and that any misrepresentation of fact in the information submitted, may result in termination of this contract. During the term of this Contract, any changes in the information provided in the questionnaire shall be disclosed to the Department, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of the contract.

#### I. State Attorney General Charities Registration

In accordance with the Estates, Powers and Trust Law § 8-1.4 (s), the recipient certifies that it is in compliance with the requirements of Estate, Powers and Trusts Law sections 8-1.4 (d), (f), and (g), regarding organizations which administer property for charitable purposes registering and filing periodic reports (together with the appropriate filing fees) with the New York State Attorney General's Charities Bureau. This certification is a material representation of fact upon which reliance was placed by the Department of State in entering into this Agreement with the Contractor.

The Contractor agrees that it will provide immediate written notice to the Department of State if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances.

#### J. Records Access

The Contractor shall make such records available for review by the Department upon request at any time. The Department shall have the right to conduct progress assessments and review books and records as necessary. The Department shall have the right to conduct an on-site review of the Project and/or books and records of the Contractor prior to, and for reasonable time following, issuance of the final payment. The Department shall be entitled to disallow any cost or expense, and/or terminate or suspend this Agreement, if the Contractor has misrepresented any expenditures or Project activities in its application to the Department, or in this Agreement, or in any progress reports or payment requests made pursuant hereto. The Contractor shall maintain such books and records in a manner so that reports can be produced therefrom in accordance with generally accepted accounting principles. The Contractor shall maintain separate financial books and records for all funds received through the Department pursuant to this Agreement.

#### K. Notices

Pursuant to Section J of the Master Grant Contract, notice hereunder shall be addressed as follows:

##### 1. Notice to the State

Name:	Laurissa Garcia
Title:	Contract Administrator
Agency/Division:	Department of State, Office of Planning and Development
Address:	99 Washington Avenue, Suite 1010 Albany, NY 12231
Telephone Number:	518-486-9540
E-Mail Address:	<u><a href="mailto:opdcontracts@dos.ny.gov">opdcontracts@dos.ny.gov</a></u>

2. Notice to the Contractor

Name: «FirstName» «LastName»  
Title: «Title»  
Affiliation: «CTV\_Name»  
Address: «Address1»  
«Address2»  
«City», «St» «Zip»  
Telephone Number: «Phone»  
E-Mail Address: «Email»

L. Limits on Administrative Expenses and Executive Compensation (19 NYCRR Part 144, incorporated herein by reference):

1. If Contractor is a “covered provider” within the meaning of 19 NYCRR § 144.3(d) at any time during the life of this Agreement, then during the period when Contractor is such a “covered provider”:
  - a. Contractor shall comply with the requirements set forth in 19 NYCRR Part 144, as amended; and
  - b. Contractor’s failure to comply with any applicable requirement of 19 NYCRR Part 144, as amended, including but not limited to the restrictions on allowable administrative expenses, the limits on executive compensation, and the reporting requirements, may be deemed a material breach of this Agreement and constitute a sufficient basis for, in the discretion of the Department, termination for cause, suspension for cause, or the reduction of funding provided pursuant to this Agreement.
2. Contractor shall include the following provision in any agreement with a subcontractor or agent receiving State funds or State-authorized payments from the Contractor to provide program or administrative services under this Agreement:

*[Name of subcontractor/agent] acknowledges that, pursuant to this Agreement, it is receiving “State funds” or “State-authorized payments” originating with, passed through, or approved by the New York State Department of State in order to provide program or administrative services on behalf of [Name of CONTRACTOR]. If at any time during the life of this Agreement [Name of subcontractor/agency] is a “covered provider” within the meaning of Section 144.3(d) of DOS regulations, [Name of subcontractor/agent] shall comply with the terms of 19 NYCRR Part 144, as amended. A failure to comply with 19 NYCRR Part 144, where applicable, may be deemed a material breach of this Agreement constituting a sufficient basis for suspension or termination for cause. The terms of 19 NYCRR Part 144, as amended, are incorporated herein by reference.*

M. Minority and Women Owned Business Participation

Article 15-A of the New York State Executive Law, as amended, authorized the creation of a Division of Minority and Women's Business Development to promote employment and business opportunities on state contracts for minorities and women. This law supersedes any other provision in state law authorizing or requiring an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises. Under this statute, State agencies are charged with establishing business participation goals for minorities and women. The Department of State administers a Minority and Women-owned Business Enterprises (MWBE) Program as mandated by Article 15-A.

## 1. General Provisions

- a. The Department of State is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- b. The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department of State (the "Agency"), to fully comply and cooperate with the Agency in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws. Contractor agrees that the terms "MWBE," "MBE" and "WBE" as used herein, shall mean those MBE or WBE firms certified as such by the State pursuant to NY Executive Law Article 15-A and listed in the directory of New York State Certified MWBEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>.
- c. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section M (6) of this Attachment or enforcement proceedings as allowed by the Contract.

## 2. Contract Goals

- a. For purposes of this Contract, the Agency hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).
- b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section 2(a) hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>.
- c. Additionally, Contractor is encouraged to contact the Division of Minority and Women's Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.
- d. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth

in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Agency for liquidated or other appropriate damages, as set forth herein.

3. Equal Employment Opportunity (EEO)

- a. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- b. Contractor shall comply with the following provisions of Article 15-A:
  - 1) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  - 2) The Contractor shall submit an EEO policy statement to the Agency within seventy two (72) hours after the date of the notice by Agency to award the Contract to the Contractor.
  - 3) If Contractor or Subcontractor does not have an existing EEO policy statement, the Agency may provide the Contractor or Subcontractor a model statement (see Form A - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
  - 4) The Contractor's EEO policy statement shall include the following language:
    - a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
    - b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
    - c) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
    - d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection, which provides for relevant provisions of the Human Rights Law, in every

subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

c. Form B - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. If the total expenditure of this contract is in excess of \$250,000, Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

d. Form C - Workforce Employment Utilization Report ("Workforce Report")

- 1) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Agency of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
- 2) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

- 3) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

4. MWBE Utilization Plan

- a. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form D) either prior to, or at the time of, the execution of the contract.
- b. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section M (2)(a) of this Attachment.

- c. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Agency shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

## 5. Waivers

- a. For Waiver Requests Contractor should use Form E - Waiver Request.
- b. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Agency shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- c. If the Agency, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Agency may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

## 6. Liquidated Damages - MWBE Participation

- a. Where Agency determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Agency liquidated damages.
  - b. Such liquidated damages shall be calculated as an amount equaling the difference between:
    - 1) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
    - 2) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
  - c. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Agency, Contractor shall pay such liquidated damages to the Agency within sixty (60) days after they are assessed by the Agency unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Agency.
7. Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form F) to the Agency by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

8. The Agency may require Contractor to use the New York State Contract System (“NYSCS”) to submit utilization plans, record payments to subcontractors and otherwise report compliance with the provisions of Article 15-A of the Executive Law and regulations. Technical assistance can be obtained through the NYSCS website at <https://ny.newnycontracts.com> by clicking on the “Contact Us & Support” link.
9. Questions regarding this program should be directed to the Department's Minority and Women-owned Business Program by calling (518) 473-3401. Potential contractors can access the NYS Directory of Certified Minority and Women-owned Business Enterprises on-line through the Empire State Development website at: <http://www.esd.ny.gov/MWBE.html>. The Department makes no representation with respect to the availability or capability of any business listed in the Directory.

## II. Program Specific Clauses (revised 7/1/14)

### A. This Agreement has been entered into pursuant to the following understandings:

1. Title 11 of the Environmental Protection Fund Act provides for State assistance to municipalities for the State share of the cost of approved local waterfront revitalization projects as defined in the Act.
2. The Department of State (Department) is authorized by such Act to evaluate and determine eligibility of applications for funding of projects.
3. Based upon information, representations and certifications contained in Contractor's application for funding, including the Program Work Plan as set forth in Attachment C, the Department has made a determination of eligibility of funding for Contractor's project under such Act.
4. State funds (Funding Amount set forth on the Face Page) for this Project (Attachment C Program Work Plan) are provided pursuant to a reappropriation of funds originally made by Title 11 of the Environmental Protection Fund Act.
5. The Contractor shall request payment and reimbursement of eligible and supportable costs incurred under this Agreement, on an interim basis, and each such payment request will be processed by the Department in accordance with relevant provisions set forth herein, together with the following terms:
  - a. The Department, upon approving each payment request, shall make an interim payment for eligible and supportable costs incurred by the Contractor.
  - b. The final payment request will not be processed by the Department prior to satisfactory completion of the Project.
  - c. The Department can withhold the final 10% of the total amount that may be funded by the State in accordance with this Agreement, until the satisfactory completion of the Project.
6. No liabilities are to be incurred beyond the contract period and no costs will be reimbursed for such liabilities unless: 1) funds have been reappropriated for the Project in the subsequent State fiscal year, 2) the Department determines that it is in the best interest of the Department and the State to provide additional time to complete the Project and 3) an extension agreement is approved in accordance with Section IA. of the Agreement.
7. Subject to the availability of funds, determination by the Department that it is in the best interest of the State, and upon mutual written consent of the parties, the State may provide a no-cost time extension for up to two contract periods not to exceed twelve months each. The parties shall revise

or complete the appropriate appendix form(s), which may be subject to approval of the Office of the State Comptroller.

8. The Contractor has demonstrated its ability to finance its share of the Project and has agreed to fund its portion of the cost of the Project.
9. The Contractor shall submit with its request for final payment a Final Project Summary Report and a final Project Status Report on forms prescribed by the Department.
10. The Contractor shall submit a Project Status Report, on a form prescribed by the Department, on a semi-annual basis for the periods ending June 30 and December 31. Reports are due no later than 30 days following the end of each reporting period.

#### B. Additional Requirements for Construction Projects

1. Project design, including preparation of final plans and specifications, and supervision of construction shall be undertaken by a qualified architect and/or engineer licensed to practice in the State of New York. The Contractor shall submit final plans and specifications to the Department for its acceptance before initiating construction work or, if the Contractor intends to subcontract for construction work, before the work is advertised for bidding. No change to project plans may be made without the prior written approval of the Department. The Contractor shall also be responsible for erecting a project sign satisfactory to the Department identifying the Project. The project sign shall remain in place for the useful life of the improvements undertaken pursuant to this Agreement. Upon completion of the Project, the Contractor shall submit to the Department a proper certification from a licensed architect or engineer.
2. The State shall make periodic inspections of the project both during its implementation and after its completion to ensure compliance with this Agreement. The Contractor shall allow the State unrestricted access to work during the preparation and progress of the work, and provide for such access and inspection by the State in all construction contracts relating to the project.
3. The Contractor shall be responsible for ensuring that the project is designed and constructed in conformance with the Uniform Federal Accessibility Standards (UFAS - Appendix A to 41 CFR part 101-19.6), the Americans with Disabilities Act Accessibility Guidelines (ADAAG - Appendix A of Title 9 NYCRR). Where there are discrepancies among the sets of standards with regard to a particular design/construction requirement, the one providing for the greatest degree of accommodation for the disabled shall apply.

#### C. Reports, Documents and Maps

The Contractor shall, where appropriate, identify documents, reports, and maps produced in whole or in part under this Agreement by endorsing on said documents, reports, and maps the following:

*"This (document, report, map, etc.) was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund."*

## Contractors Insurance Requirements

1. Prior to the commencement of the work, the Contractor shall file with the Department of State, Certificates of Insurance evidencing compliance with all requirements contained in this Agreement. Such certificate shall be of form and substance acceptable to the Department.
2. Acceptance and/or approval by the Department does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Agreement.
3. All insurance required by the Agreement shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State; shall be primary and non-contributing to any insurance or self insurance maintained by the Department; shall be endorsed to provide written notice be given to the Department, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail which shall be sent to New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231-0001; and shall name the People of the State of New York and their directors officers, agents, and employees as additional insured thereunder.
4. The Contractor shall be solely responsible for the payment of all deductibles to which such policies are subject.
5. Each insurance carrier must be rated at least "A" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the Department and rated at least "A" Class "VII" in the most recently published Best's Insurance Report.
6. The Contractor shall cause all insurance to be in full force and effect as of the date of this Agreement and to remain in full force and effect throughout the term of this Agreement and as further required by this Agreement. The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.
7. Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply the Department updated replacement Certificates of Insurance, and amendatory endorsements.
8. Unless the Contractor is self-insured, Contractor shall, throughout the term of the Agreement or as otherwise required by this Agreement, obtain and maintain in full force and effect the following insurance with limits not less than those described below and as required by the terms of this Agreement, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies). Where Contractor is self-insured, the Contractor shall provide suitable evidence of such to the Department relating to the risks and coverage amounts as provided hereunder.
  - a. Comprehensive Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such liability shall be written on the Insurance Service Office's (ISO) occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, owners & contractors protective, cross liability

coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.

- 1) If such insurance contains an aggregate limit, it shall apply separately to this location.
  - 2) Products and Completed Operations coverage shall include a provision that coverage will extend for a period of at least twelve (12) months from the date of final completion and acceptance by the owner of all of contractors work.
- b. Where the Project described in Attachment C includes the construction of any structure or building, a Builder's Risk Policy until the Project is completed and accepted in the amount of the total project cost.
  - c. Workers Compensation, Employers Liability, and Disability Benefits as required by New York State. Workers Compensation Policy shall include the U.S. Longshore & Harbor Workers' Compensation Act endorsement.
  - d. Comprehensive Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non owned automobiles.
  - e. Commercial Property Insurance covering at a minimum, the perils insured under the ISO Special Clauses of Loss Form (CP 10 30), or a substitute form providing equivalent coverages, for loss or damage to any owned, borrowed, leased or rented capital equipment, tools, including tools of their agents and employees, staging towers and forms, and property of the Department held in their care, custody and/or control.
  - f. An Owner's Protective Liability Policy with limits no less than \$1,000,000 in the name of the Contractor.
9. Professional consultants retained by the Contractor in connection with the Project shall show evidence of professional liability insurance with limits no less than \$1,000,000.

#### D. Contractor Property Interest

Contractor warrants that it has fee simple or such other estate or interest in the site of the Project, where the Project is undertaken at a site, including easements and /or rights-of-way sufficient to assure undisturbed use and possession for the purposes of construction and operation for the estimated life of the Project. Contractor further acknowledges that where such project is undertaken on or involves the use of lands for active or passive recreational use, it is a material term of this Agreement that such lands shall be available for such recreational use by the People of the State of New York. Additionally, Contractor shall not limit access or discriminate on the operation of the facilities against any person on the basis of place of residence, race, creed, color, national origin, sex, age, disability or marital status.

#### E. Date/Time Warranty

1. Contractor warrants that product(s) furnished pursuant to this contract shall, when used in accordance with the product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year

calculations. Where a Contractor proposes or an acquisition requires that specific products must perform as a package or system, this warranty shall apply to the products as a system.

2. Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g. billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting there from, including but not limited to the failure or untimely performance of such services.
3. This Date/Time Warranty shall survive beyond termination or expiration of this Contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

#### F. Fees

The Contractor may charge a reasonable fee for the use of any facility which is part of the project.

1. Except for the imposition of a differential fee schedule for non-residents of the municipality in which the project is located, the establishment of any preferential user fee for any person or entity is prohibited. Fees charged to non-residents shall not exceed twice those charged to residents.
2. Where there is no charge for residents but a fee is charged to non-residents, non-resident fees cannot exceed fees charged for residents at comparable State or local public facilities.
3. Reservation, membership or annual permit systems available to residents must also be available to non-residents and the period of availability must be the same for both residents and non-residents.

#### G. Alienation

Where the project is undertaken on or involves parklands or public waterfront land, the following additional provisions apply:

1. The Contractor shall not at any time sell or convey any facility or any portion of the project acquired or developed pursuant to this Agreement or convert such facility or any portion of the project to other than public park or public waterfront purposes without the express authority of an act of the Legislature, which shall provide for the substitution of other lands of equal fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by State.
2. The Contractor agrees to own a property interest sufficient to maintain and operate the project in perpetuity. The Contractor shall not authorize the operation of the project, or any portion thereof, by any other person, entity, or organization pursuant to any management agreement, lease or other arrangement without first obtaining the written approval of the State.

## H. Requirements for Contract GIS Products (1/17/13)

1. GENERAL MAP PRODUCT REQUIREMENTS -- The following general cartographic requirements must be adhered to by the Contractor:
  - a. Map Products and Supporting Data -- The Department requires delivery of digital map products, including all associated GIS and/or CAD digital files. Such materials must meet the specifications outlined in this GENERAL MAP PRODUCT REQUIREMENTS section and the ADDITIONAL DIGITAL CARTOGRAPHIC FILE REQUIREMENTS section. Additionally, finished maps should also be provided in a format suitable for viewing and printing (e.g. PDF). If analog map products are required by the contract, they must meet specifications outlined in this GENERAL MAP PRODUCT REQUIREMENTS section and the ADDITIONAL DIGITAL-READY MAP PRODUCT REQUIREMENTS section.
  - b. Deliverable Format -- All digital map and attribute table files must be provided in ESRI Shapefile or Geodatabase file format including all associated metadata on Recordable CD or DVD, external hard drive, via email attachment (preferably in a WinZIP file) or downloadable from an ftp site on the Internet. Alternatively, the digital products may be provided as ArcInfo/GIS coverages or CAD files on the same media types upon approval of the Department. All other digital formats require prior approval of the Department. Coordination with the Department prior to submission of digital media is required to ensure compatibility of the delivered materials.
  - c. Documentation -- A data dictionary must be included along with the map files describing file contents and file names, as well as metadata for each file including map projection, horizontal and vertical datums used, coordinate system, RMS accuracy and log sheet, information sources and dates, the map maker and date of preparation, and creation methodology. Data provided under federal funds must be provided in a manner which meets Digital Geospatial Federal Geographic Data Committee Metadata Standard as executed by Executive Order 12906, April 11, 1994, "Coordinating Geographic Data Acquisition and Access: the National Spatial Data Infrastructure".
  - d. Map Accuracy -- All deliverable map products must conform to National Map Accuracy Standards for horizontal and vertical accuracy as established by the United States Bureau of the Budget, June 10, 1941, revised June 17, 1947. For example, for maps at 1:20,000 or smaller, not more than 10% of the well-defined map points tested must be more than 1/50 inch (0.508 mm) out of correct position. At 1:24,000, this tolerance translates to a required horizontal accuracy of 40 feet. If by prior agreement with the Department the map product does not conform to National Map Accuracy Standards, then a statement of actual map accuracy should be included in the Documentation above. Furthermore, hydrographic surveys and maps should conform to recommended accuracy standard proposed in the joint USGS, NOS, Coastal Mapping Handbook, 1978, Melvin Ellis editor, U.S. Government Printing Office, Appendix 6.
  - e. Datums and Coordinate Systems-- All map products should be referenced to the North American Horizontal Datum of 1983 (NAD83) and the National Geodetic Vertical Datum of 1988 (NGVD88). Unless otherwise specified in the RFP, UTM Zone 18 shall be used for data at scales smaller than 1:10,000 and State Plan shall be used for data at 1:10,000 scale and larger.
2. ADDITIONAL DIGITAL CARTOGRAPHIC FILE REQUIREMENTS -- The following cartographic construction requirements must be adhered to by the Contractor:

- a. Edge-matching -- All map sheets must be both visually and coordinate edge-matched with adjacent map sheets. No edge-match tolerance will be allowed. Attributes for splittable features must also be identical.
  - b. Common Boundaries -- All features that share a common boundary, regardless of map layer, must have exactly the same coordinate position of that feature in all common layers.
  - c. Point Duplication -- No duplication of points that occur within a data string is permitted.
  - d. Connectivity -- Where graphic elements visually meet, they must also digitally meet. All confluences of line and polygon data must be exact; "overshoots", "undershoots", "slivers", or "offshoots" are NOT permitted.
  - e. Line Quality -- A high quality cartographic appearance must be achieved. Transitions from straight lines to curvilinear elements must be smooth, with angular inflections at the point of intersection. The digital representation must not contain extraneous data at a non visible level. There should be no jags, hooks, or zero length segments. Any lines that are straight, or should be straight, should be digitized using only two points that represent the beginning and ending points of the line.
  - f. Polygon Closure -- For area features being digitized, the last coordinate pair must be exactly (mathematically) equal to the first coordinate pair. No line or polygon must cross itself except to join at an actual confluence. All digitized features across map boundaries must be edited to effect smooth and continuous lines.
  - g. Graphic Precision -- Positional coordinates for all digital graphic elements should not be reported to a level of precision greater than one thousandth (.001) of a foot.
  - h. Digitizer Accuracy -- The required RMS error for digitizer accuracy must be 0.003 or better for digital map registration.
3. DIGITAL-READY MAP PRODUCT REQUIREMENTS -- The following requirements for large scale, non-digital map products must be followed to facilitate the future conversion of the maps to digital map products. All large format, non-digital map products must be provided on stable base material at a scale. The map products must include an index map to all map sheets and thorough descriptions of all the cartographic elements portrayed on the maps.
- a. Base Map Media -- All maps must be created on mylar or other stable base material.
  - b. Map Scale -- All maps of a similar series should be created using the same base scale. Unless otherwise stated by the Department, all maps should be compiled at 1:24,000. If other map scales are approved by the Department, where possible they will conform to standard map scales such as 1:9600; 1:50,000; 1:75,000; or 1:100,000.
  - c. Map Registration -- The maps must provide a minimum of four (4) corner and four (4) interior ticks tied to USGS/NYS DOT quadrangle Lat/Long or NYTM coordinates. The maps must be geometrically correct and should register when overlaid on the appropriate USGS/NYS DOT quadrangle control ticks.

- d. Map Title and Legend -- The maps must provide a title and legend block describing the information contained on the maps, and including the Documentation and Datums information requested in the GENERAL MAP PRODUCT REQUIREMENTS above and the map scale.
- e. Cartographic Quality -- The quality of all map line work and symbolization must conform to items 1 - 6 in the map criteria set forth in the ADDITIONAL DIGITAL CARTOGRAPHIC FILE REQUIREMENTS section outlined above.

#### 4. CONTRACT DATABASE STANDARDS

- a. Delivery Media -- All database and tabular files must be provided on digital media as specified above in Deliverable Format.
- b. Software Format -- Database and tabular files can be provided in Oracle, Microsoft Excel or Microsoft Access format. Other formats that are convertible to one of the aforementioned formats may be used with prior approval of the Department.
- c. Geographic Attributes -- Database and tabular files that contain elements with a geographic reference must provide a corresponding data field and a geographic coordinate pair for each feature location.

#### I. Notice of Public Proceedings

The Contractor agrees to provide the Department with prompt and timely written notice at least two weeks in advance of all public proceedings, including, but not limited to; public meetings or hearings, relating to the Project.

#### J. Submission of all correspondence and documentation

1. Unless otherwise stated in Attachment C, the Contractor agrees to provide the Department with the required products in the following formats. All products and shall include the NYS contract number as indicated on the Face Page of this Agreement and where applicable, reflect the task number it relates to in Attachment C.
  - a. Draft products: two paper copies of each product must be submitted.
  - b. Final products: two paper copies of each product must be submitted. In addition all final products (including reports, designs, maps, drawings, and plans) must be submitted as an electronic copy (in Adobe® Acrobat® Portable Document Format - PDF), created using 300 dpi scanning resolution, and be submitted on a labeled CD-R type CD. The CD must be labeled with the contractor name, contract number, and project title.
  - c. Pictures and photographs must be dated and captioned with the location and a brief description of the activity being documented.
2. Contractor agrees to provide the Department with original payment request documentation as described in Attachment D.

## L. Environmental Review

1. Contractor agrees to provide the Department, in a timely manner, with all documentation, including but not limited to, permit applications, environmental assessments, designs, plans, studies, environmental impact statements, findings, and determinations, relating to the Project.
2. Contractor acknowledges that compliance with the State Environmental Quality Review Act is a material term and condition of this Agreement. In no event shall any payments be made under this Agreement until Contractor has provided the Department with appropriate documentation that Contractor has met any requirements imposed on Contractor by the State Environmental Quality Review Act.

## FORM B

### STAFFING PLAN

Submit with Bid or Proposal – Instructions on page 2

Complete this form only for the anticipated work force to be utilized on the State contract.

<b>Solicitation No.:</b>	<b>Reporting Entity:</b>	<b>Report includes Contractor's/Subcontractor's:</b> <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
<b>Offeror's Name:</b>		<input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor <b>Subcontractor's name</b> _____
<b>Offeror's Address:</b>		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran			
		Total Male (M)	Total Female (F)	White (M)	White (F)	Black (M)	Black (F)	Hispanic (M)	Hispanic (F)	Asian (M)	Asian (F)	Native American (M)	Native American (F)	(M)	(F)	(M)	(F)
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary /Apprentices																	
Totals																	

<b>PREPARED BY (Signature):</b>	<b>TELEPHONE NO.:</b>	<b>DATE:</b>
	<b>EMAIL ADDRESS:</b>	
<b>NAME AND TITLE OF PREPARER (Print or Type):</b>		<b>Submit completed with bid or proposal</b>

**General instructions:** All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (FORM B) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

**Instructions for completing:**

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the DOS Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**OTHER CATEGORIES**

- **DISABLED INDIVIDUAL** any person who: - has a physical or mental impairment that substantially limits one or more major life activity(ies)  
- has a record of such an impairment; or  
- is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

## FORM D M/WBE UTILIZATION PLAN

**INSTRUCTIONS:** This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Offeror's Name:  
 Address:  
 City, State, Zip Code:  
 Telephone No.:  
 Region/Location of Work:

Federal Identification No.:  
 Project/Contract No.:

M/WBE Goals in the Contract: MBE 15% WBE 15%

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM E.

PREPARED BY (Signature): DATE:  NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; border-bottom: 1px solid black;">TELEPHONE NO.:</td> <td style="width: 80%; border-bottom: 1px solid black;">EMAIL ADDRESS:</td> </tr> <tr> <td colspan="2" style="text-align: center; border-bottom: 1px solid black;"><b>FOR M/WBE USE ONLY</b></td> </tr> <tr> <td style="border-bottom: 1px solid black;">REVIEWED BY:</td> <td style="border-bottom: 1px solid black;">DATE:</td> </tr> </table> <p>UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____                  Contract No.: _____ Project No. (if applicable): _____</p> <p>Contract Award Date:                  Estimated Date of Completion:                  Amount Obligated Under the Contract:                  Description of Work:                  NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____                   NOTICE OF ACCEPTANCE ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____</p>	TELEPHONE NO.:	EMAIL ADDRESS:	<b>FOR M/WBE USE ONLY</b>		REVIEWED BY:	DATE:
TELEPHONE NO.:	EMAIL ADDRESS:						
<b>FOR M/WBE USE ONLY</b>							
REVIEWED BY:	DATE:						
<p><b>NOTE FROM DOS OPD TO DOS MWBE OFFICE:</b> The MWBE firms listed on this form have not necessarily been contracted with. The firms have been identified by the contractor as MWBE firms that they expect to reach out to with an RFP for contract-related services.</p>							

**REQUEST FOR WAIVER FORM E**

**INSTRUCTIONS: THE REQUEST FOR WAIVER MUST INCLUDE DETAILED “GOOD FAITH EFFORT” JUSTIFICATION/DOCUMENTATION, AS DEFINED IN THE REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS (NEXT PAGE). *INCOMPLETE REQUESTS WILL BE RETURNED UNPROCESSED***

Offeror/Contractor Name:	Federal Identification No.:
Address:	Solicitation/Contract No.:
	Contact Name & Phone No.:
City, State, Zip Code:	M/WBE Goals: MBE      %      WBE      %

By submitting this form and the required information, the offeror/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.

Contractor is requesting a:

1.  MBE Waiver – A waiver of the MBE Goal for this procurement is requested.  Total  Partial
2.  WBE Waiver – A waiver of the WBE Goal for this procurement is requested.  Total  Partial
3.  Waiver Pending ESD Certification – (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with Empire State Development.)      Date of such filing with Empire State Development: \_\_\_\_\_

PREPARED BY (Signature): \_\_\_\_\_

Date: \_\_\_\_\_

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

Name and Title of Preparer (Printed or Typed):	Telephone Number:	Email Address:
***** FOR DMWBD USE ONLY *****		
	REVIEWED BY:	DATE:
<p><b><u>Please submit the Request for Waiver to the Program administering the Grant.</u></b></p> <p><b>(DOS PROGRAM ENTER NAME/CONTACT/ADDRESS)</b></p>	Waiver Granted: <input type="checkbox"/> YES <input type="checkbox"/> NO MBE: <input type="checkbox"/> WBE: <input type="checkbox"/>	
	<input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver <input type="checkbox"/> ESD Certification Waiver <input type="checkbox"/> *Conditional <input type="checkbox"/> Notice of Deficiency Issued	
*Comments: _____		

## MWBE REQUEST FOR WAIVER: REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

**When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver must be accompanied by the applicable documentation for items 1 – 11, as listed below. If box # 3 has been checked above, please submit item 11. Copies of the following information and all relevant supporting documentation must be submitted along with the request:**

1. A DETAILED statement with the project description (any special characteristics, needs, specifications, etc.), and an explanation setting forth your basis and justification for requesting a partial or total waiver of the MWBE goals.
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals related to this contract.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation, if an identical solicitation was made to all certified M/WBEs.
6. Provide copies of responses to your solicitations received by you from certified M/WBEs.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of offeror/contractor's representative authorized to discuss and negotiate this waiver request.
11. Copy of notice of application receipt issued by Empire State Development (ESD).

**Note:**

**Unless a Total Waiver has been granted, the Offeror/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract, as deemed appropriate by NYS Department of State, to determine M/WBE compliance.**

**M/WBE 104 Instructions (1/15)**

Revised: January 2015

### M/WBE Quarterly Report (Form F)

Is this a final report? Check One  
 Yes \_\_\_\_\_ No \_\_\_\_\_

**NYS AGENCY Contract No.** \_\_\_\_\_ **Project No.** \_\_\_\_\_

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor on this project. The payments as shown made are in compliance with contract documents for the above referenced project.

<b>Contractors Name, Address/Phone</b>		<b>Federal ID#</b>		<b>Goals/\$ Amt.</b> MBE _____%=_____ WBE _____%=_____		<b>Contract Type</b> _____				
		<b>Project Completion Date</b>		<b>Work Location</b>		<b>Paid to Contractor This Quarter</b> _____				
										<b>Total Paid to Contractor To Date</b> _____
		CERTIFIED M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount					Payments this Quarter
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name: FED ID#		___ Active ___ Inactive ___ Complete								
Name: FED ID#		___ Active ___ Inactive ___ Complete								
Name: FED ID#		___ Active ___ Inactive ___ Complete								
Name: FED ID#		___ Active ___ Inactive ___ Complete								
<b>Total</b>										

\*See Page 2 of 2 for Product Codes

Date \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_ Signature \_\_\_\_\_  
 Phone Number \_\_\_\_\_

**PRODUCT KEY CODE**

A	=	Agriculture/ Landscaping (e.g., all forms of landscaping services)
B	=	Mining (e.g., geological investigations)
C	=	Construction
C15	=	Building Construction – General Contractors
C16	=	Heavy Construction (e.g., highway, pipe laying)
C17	=	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
D	=	Manufacturing
E	=	Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
F/G	=	Wholesale/Retail Goods (e.g. hospital supplies and equipment, food stores, computer stores, office supplies)
G52	=	Construction Materials (e.g., lumber, paint, law supplies)
H	=	Financial, Insurance and Real Estate Services
I	=	Services
I73	=	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
I81	=	Legal Services
I82	=	Education Services (e.g., AIDS education, automobile safety, tutoring, public speaking)
I83	=	Social Services (Counselors, vocational training, child care)
I87	=	Engineering, architectural, accounting, research, management and related services