

## RFA #18-LWRP-10

**New York State  
Department of State  
Office of Planning and Development  
Environmental Protection Fund  
Local Waterfront Revitalization Program  
2018 – 2019 REQUEST FOR APPLICATIONS**

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### Key Dates:

- RFA Release Date:** May 1, 2018. 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 June 22, 2018. Questions regarding this grant program should be submitted by e-mail to [opd@dos.ny.gov](mailto:opd@dos.ny.gov) or in writing to the address below. When corresponding by e-mail, clearly indicate the subject as: "18-LWRP-10 RFA Questions". To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers. Questions received by June 22<sup>nd</sup> 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 July 6, 2018.
- 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 27, 2018, and must be submitted through the web-based Consolidated Funding Application, as noted below.
- Contact:** NYS Department of State  
Office of Planning and Development  
Attn: LWRP RFA Questions  
99 Washington Avenue, Suite 1010  
Albany, NY 12231  
[opd@dos.ny.gov](mailto:opd@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 2018 – 2019 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, and cities, and counties (with the consent and acting 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 Updating a Local Waterfront Revitalization Program (LWRP)
- Preparing an LWRP Component, including a Watershed Management Plan
- Updating an LWRP to Mitigate Future Physical Climate Risks
- Implementing a Local Waterfront Revitalization Program or a completed LWRP Component
- Celebrating the Bicentennial of the Erie Canal - Improving Public Waterfront Access for Canal Communities

Within these grant categories, proposed projects that are part of the following initiatives will be looked upon favorably:

#### Downtown Revitalization Initiative

Priority consideration will be given to proposals which demonstrate they will advance downtown revitalization through transformative housing, economic development, transportation and community projects that will attract and retain residents, visitors and businesses - creating dynamic neighborhoods where tomorrow's workforce will want to live, work, and raise a family.

#### Opportunity Agenda Related Projects

Each REDC may develop region-wide strategies, or may focus its efforts by designating one or more chronically distressed community as an "Opportunity Area." Projects seeking to apply CFA funds for the purpose of eliminating barriers to skilled employment by poor people in your region, as identified by the Opportunity Agenda and Strategic Plan, should provide evidence of such in their application.

#### Veterans' Related Projects

New York State is home to more than 900,000 veterans, 72 percent of whom served in combat. In 2014, the REDCs were asked to create a Veterans Work Group to promote participation by Veterans in the CFA, and develop strategies to encourage other potential CFA applicants to include workforce goals related to Veteran's employment. This is part of a comprehensive approach to improving services to the veterans and military families in New York. Applicants should provide any information that links their project proposals to the Veteran's Initiative strategies identified by the REDCs.

The EPF LWRP is a reimbursement program. State assistance awarded and paid shall not exceed 75% of the total eligible project costs set forth in the application and as approved by the Department, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible project costs set forth in the application and as approved by

the Department. Applicants must identify the amount, type and source of eligible local match, and demonstrate that it has been secured; failure to do so will result in a reduced award amount for qualifying applications.

Applicants are required to demonstrate that projects are ready to move forward. A contract period will not exceed five 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 five 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/>.

## **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 as designated pursuant to Executive Law, Article 42. The list of coastal waterbodies and designated inland waterways is available at <http://www.dos.ny.gov/funding/>. Applicants may also partner with counties or 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 counties or 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, or city, or a county with the consent and acting on behalf of one or more villages, towns, cities) will be awarded a contract.

- For general planning needed to advance any of the eligible activities listed below in Section V, 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 acting on behalf of one or more villages, towns or cities currently preparing an LWRP or LWRP Component or with an approved LWRP or LWRP Component. The proposed project must be located within the LWRP or LWRP Component boundary.
- For construction of projects needed to advance eligible activities, an applicant must be a village, town, city with an approved or substantially completed LWRP or relevant LWRP Component, or a county with the consent and acting on behalf of one or more eligible villages, towns, or cities with an approved or substantially completed LWRP or relevant LWRP Component. The proposed project must be located within the LWRP or LWRP Component boundary.

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.

### **III. FUNDING OPPORTUNITY:**

The Department is making approximately \$15 million available to fund applications for the Local Waterfront Revitalization Program grants, with up to \$2 million for updates to existing LWRPs to mitigate future physical climate risks. Approximately \$9 million will be awarded 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 maximum State assistance request per grant application is \$2 million. There is no minimum State assistance request amount.

### **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:**

New York State's approach to managing waterfront areas recognizes that while State government can promote development and provide protection for critical resources and environments, municipalities are in the best position to determine their own waterfront objectives and to adapt statewide approaches to specific local needs. Accordingly, the Department of State, pursuant to the State Waterfront Revitalization and Coastal Resources Act, has encouraged waterfront communities to prepare Local Waterfront Revitalization Programs (LWRPs).

An LWRP is a comprehensive land and water use plan that expresses a vision for a community's waterfront area, refines State Coastal Policy to reflect local or regional needs, and outlines the organizational structure, local laws, and projects necessary to implement the plan. The State Coastal Policies, set forth in the State of New York Coastal Management Program and Final Environmental Impact Statement, include enforceable coastal policies for managing the State's coastal resources by preserving and using coastal resources in a manner that balances natural resource protection and the need to accommodate economic development. By preparing an LWRP, community stakeholders have the opportunity to evaluate local waterfront resources, develop goals and a comprehensive strategy for the best use of those resources, propose future projects, and adopt a local program that will guide appropriate development. Development of LWRPs can also provide a regional framework to cooperatively address revitalization issues and advance ongoing and emerging state initiatives including, but not limited to, regional economic development, community sustainability, smart growth, public health outcomes and environmental justice.

The benefits of preparing, and implementing an LWRP include development of a consensus-driven, unified vision for the community; technical assistance from the Department of State; increased chances for obtaining financial assistance from public and private funding sources; and, coordinated review between federal, State, and local agencies as appropriate for proposed projects and government actions within the LWRP boundary.

### ***Preparing or Updating a Local Waterfront Revitalization Program (LWRP)***

An LWRP is a comprehensive land and water use program that expresses a vision for the waterfront and refines State coastal policies to reflect local or regional needs and objectives and allow them to be enforced at the local level. Preparation of an LWRP is a principal means of implementing the State's Coastal Management Program and plays 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 and use of resources having an ecological, physical, social, visual, or economic relationship to the waterfront. The State coastal policies are available at: <https://www.dos.ny.gov/opd/programs/pdfs/CoastalPolicies.pdf> and the LWRP generic workplan for reference is available at: <https://www.dos.ny.gov/funding/>

Communities with an approved LWRP are encouraged to regularly update their LWRP to reflect changes in local conditions and community goals. An LWRP update can include a revision of all LWRP sections; focus on a specific section or issue; amend the LWRP boundary; reflect changes in land use; or identify new project proposals. An update to the LWRP will ensure the plan is current and well-connected to short and long-range community objectives.

Eligible communities with shared interests or resources are encouraged to prepare joint LWRPs and to develop a common regional program.

Applicants may apply for funding to prepare, complete, or update an LWRP, using the LWRP Preparation Guidance, which may include:

- developing public consensus on a vision for the future of a region or a community through community visioning, public meetings and workshops, focus groups, charrettes, etc.
- identifying regional and local assets, potential risks, opportunities, and issues within the defined waterfront area with regard to: development and infrastructure; fish and wildlife habitats and resources; flooding and erosion hazards; resiliency; public access and recreation; historic and scenic resources; agricultural lands; energy and ice management; wetlands, water and air resources; and other social, cultural, economic and environmental interests
- developing goals that strike a balance between economic development and preservation to advance State coastal policies
- addressing and incorporating all applicable State coastal policies commensurate with local conditions and circumstances into a new or existing waterfront revitalization strategy or plan
- determining appropriate land and water uses to implement community goals and objectives for the waterfront
- recommending public and private projects to implement the LWRP
- providing the local organizational and legal structure, including the adoption of necessary zoning and local laws to implement the LWRP
- incorporating a NY Rising Community Reconstruction Plan or NY Rising Countywide Resiliency Plan, Long Term Community Recovery Plan or other resiliency plan

## ***Preparing a Local Waterfront Revitalization Program Component***

Preparation of an LWRP is a principal means of implementing the State's Coastal Management Program at the local level. While we encourage communities to complete a full LWRP inclusive of the consideration of all enforceable State coastal policies and local waterfront geographical areas, for some communities it may be appropriate to advance toward a complete LWRP in stages to address the most time sensitive and geographically significant priorities and policies.

LWRP Components will provide local governments with increased flexibility to better manage their coastal resources, help to develop local and regional capacity to effectively address revitalization issues through the LWRP process, and will further strengthen the Coastal Management Program's ability to work in partnership with local governments.

An LWRP Component focuses on one or more topic(s) or section(s) of an LWRP or its waterfront, provided that the program constitutes a discrete and cohesive, yet comprehensive, treatment of the subject or subjects addressed, which may be related to environmental, social, regional growth management, or economic conditions. An LWRP Component may focus on one or more State coastal policies that are relevant to the particular conditions and priorities in the municipality, address a significant geographic portion of the municipality's waterfront, or both.

The State coastal policies are available at: <https://www.dos.ny.gov/opd/programs/pdfs/CoastalPolicies.pdf> and the LWRP generic workplan for reference is available at: <https://www.dos.ny.gov/funding/>

Applicants may apply for funding for planning activities to prepare a component LWRP using the LWRP Preparation Guidance, which may include:

- addressing select State coastal policies commensurate with local conditions and circumstances,
- determining appropriate land and water uses to implement community goals and objectives for the waterfront in support of furthering select State coastal policies
- developing public consensus on a vision for the future of a region or a community through community visioning, public meetings and workshops, focus groups, charrettes, etc.
- identifying regional and local assets and potential risks, and opportunities and issues within the defined waterfront area with regard to one or more of the following, as appropriate: development and infrastructure; fish and wildlife habitats and resources; flooding and erosion hazards; resiliency; public access and recreation; historic and scenic resources; agricultural lands; energy and ice management; wetlands, water and air resources; and other social, cultural, economic and environmental interests that address one or more of the coastal policies
- developing goals that strike a balance between economic development and preservation to advance State coastal policies
- incorporating applicable State coastal policies into an existing waterfront revitalization strategy or plan
- recommending public and private projects to implement the component LWRP, including public access projects and/or environmental protection projects
- providing the local organizational and legal structure, including the adoption of zoning and local laws to implement the component LWRP and advance the feasibility of future completion of an LWRP

### ***Updating an LWRP to Mitigate Future Physical Climate Risks***

Climate change, sea level rise, drought, increased frequency and intensity of storms, and the resultant effects 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 rebound from severe weather 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.

Applicants with an adopted and approved, or partially completed, LWRP may apply for grant funding to update their LWRP, which may include updating coastal policies and projects, to mitigate future physical climate risks. As part of updating an existing LWRP, an eligible community may consider planning activities including but not limited to the examples below:

- incorporation of an NY Rising Community Reconstruction Plan or NY Rising Countywide Resiliency Plan, Long Term Community Recovery Plan or other resiliency plan;
- 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, water storage capacity, and forested land cover to improve resilience
- identification of strategies related to climate change/drought/sea level rise adaptation that can be implemented through both public and private actions
- identification of severe weather mitigation measures to reduce economic risk associated with or attributable to inaction
- identification of strategies to make health and social services more resilient on a daily basis and responsive during an emergency event
- identification of strategies/projects that will reduce the vulnerability of infrastructure to severe weather events
- identification of opportunities for modifying existing or developing new laws, regulations, policies and practices to reduce a community's vulnerability to climate change, drought, and sea level rise impacts and improve emergency preparedness, pre-weather event management or response protocols
- creation of development tools that optimize land use patterns to meet the needs of vulnerable populations and future growth demands
- identification of public education efforts concerning potential long term effects from severe weather event damage such as mold, desiccation, contaminated soils and aquifer impacts
- incorporating New York State sea level rise projections into local plans and projects
- 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

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

Applicants with approved or substantially complete LWRPs or LWRP Components may apply for implementation funding for activities including but not limited to:

- project-specific planning, feasibility, design, marketing or education needed to implement an approved or substantially complete LWRP or LWRP Component (Scope of work for design projects should include completion of final design, permitting and bid documents.)
- constructing projects necessary to implement an approved LWRP or LWRP Component
- developing regional, intermunicipal, or local Geographic Information Systems to improve management of coastal areas and resources, and improve impact prediction and assessment and mitigation and adaptation planning
- site-specific community and waterfront redevelopment projects including design, construction and/or implementation activities related to identified projects in a comprehensive redevelopment program:
  - existing conditions analysis;
  - preparation of concept plans and site redevelopment strategies;
  - project-specific design, cost estimating, construction and permitting documentation;
  - site preparation and construction of public amenities and infrastructure; trails, launch sites and directly related infrastructure and improvements;
  - creation, expansion, or improvement of accessible parks, public gathering spaces and entertainment amenities;
  - mixed-use/mixed-income redevelopment;
  - adaptive reuse of underutilized and abandoned buildings;
  - acquisition due diligence (e.g., title work, appraisals, surveys);
  - development of design guidelines and standards;
  - streetscape and gateway improvements, including but not limited to: pedestrian walkways, sidewalks, bike lanes and multi-use trails; crosswalks and other pedestrian safety enhancements, directional, informational signage; lighting, street trees, benches, planters, bicycle racks, trash receptacles, landscaping, and building facades;
  - installing or ensuring access to secure bike or car parking near transit hubs or shuttle services;
- marketing, promotion, and economic feasibility studies including marketing campaigns, brochures, website design, and RFP for developers;
- establishment of cultural, historic, arts, and entertainment districts
- implementation of priority actions to improve community resilience and reduce risks associated with sea level rise, erosion, storm surge and flooding
- amendment or adoption of local land and water use controls to improve community resilience to storm events and sea level rise
- incorporate climate resilience vision, goals and strategies into local plans and projects
- development of educational outreach/training materials and programs to improve community resilience to severe weather and sea level rise impacts
- engineering, design, and/or construction of projects to make public facilities more resilient to potential severe weather and sea level rise 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
- advancement of 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.

Approved LWRPs are listed at: [http://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP\\_status.html](http://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP_status.html).

### ***LWRP Component: Watershed Management Plan (Planning or Implementation)***

A watershed management plan is a type of LWRP Component that produces a comprehensive plan to protect and restore specific waterbodies and their watersheds by identifying and prioritizing land uses and capital projects to reduce point and nonpoint source pollution, and protect or restore water quality, tributary corridors and aquatic habitats. As significant contributing areas surrounding and draining into a waterbody generally lie within more than one municipal jurisdiction, the preparation of cooperative, intermunicipal plans for a specific watershed can be an effective way to achieve local, regional and statewide goals. These plans can form the factual basis for the LWRP inventory and local policies dealing with water quality and water resources.

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, watershed basis can be an effective way to make the most of human and financial resources to address concerns and to achieve shared goals. 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 water quality improvement, protection, and restoration. Projects funded under this category are expected to have significant regional benefits.

### **Planning**

Applicants may apply for grant funding to prepare or update an LWRP Component focusing on watershed management, that includes:

- visioning to identify the connections between water quality protection, waterfront revitalization, and climate change mitigation and adaptation
- conducting public participation to develop consensus on issues and actions needed to advance revitalization and water quality goals
- inventorying, analyzing and characterizing the watershed including land cover, land and water uses, and infrastructure
- identifying and assessing key natural, cultural and economic assets

- identifying problems, impairments, and threats including nonpoint and source water impairments, invasive species, chronic flooding, harmful algal bloom, etc. and assessing 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 watershed basis
- prioritizing projects and actions on an intermunicipal basis to improve and protect water quality
- 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 Watershed Management Plan or one under preparation
- integrating existing LWRP and LWRP Component programs and plans, including those that focus on watershed management, into a more holistic Watershed Management Plan.

### Implementation

Applicants with approved or substantially complete LWRP Components focusing on Watershed Management Plans may apply for implementation funding for activities including but not limited to:

- implementation of priority actions to protect and restore water resources
- amendment or adoption of local land and water use controls to provide coordinated watershed management for protecting water quality
- development of education, outreach/training materials and programs to reduce causes of impairments and threats to water quality including the ecological and financial costs of nonpoint and source water impairments, invasive species, chronic flooding, and harmful algal blooms
- advancement of projects that preserve or restore natural landscapes that protect water quality and catalyze waterfront revitalization including advancing green infrastructure projects that lead to the preservation or restoration of natural landscapes, such as forests, floodplains and wetlands, and/or the reduction of watershed imperviousness and preservation of groundwater infiltration
- feasibility analysis, design or construction water quality projects
- public access projects
- environmental protection projects

## ***Celebrating the Bicentennial of the Erie Canal - Improving Public Waterfront Access for Canal Communities***

From 2017 - 2025, New York State will celebrate the 200th anniversary of the construction of the Erie Canal. While this is a significant event, New York's upstate canal communities continue to experience post-industrial disinvestment resulting in struggling and underserved villages, towns, and cities along this formerly booming corridor. The unique history and culture of canal communities presents an opportunity to attract additional tourism and recreation that can then be leveraged to revitalize local communities. New investments in infrastructure and public access that connect the public to the Canal will help make canal front communities more desirable places to live, work, and recreate - in turn creating increased visitation and the driving the establishment of support businesses. Opportunities exist to transform vacant or underused land into new parks, complete missing trail linkages, and increase boater services and amenities along the waterfront to encourage increased use of the canal system. Additionally, many public access sites - particularly along the Mohawk River - were severely impacted by flooding following Hurricane Irene and Tropical Storm Lee and restoration is needed to reopen them to the public.

The New York State Canal System includes four canals (Erie, Oswego, Cayuga-Seneca, and Champlain) and eight harbor centers (Whitehall, Waterford, Little Falls, Oswego, Syracuse, Seneca Falls, Rochester and the Tonawandas). The Canal and the Canalway Trail, which parallels much of the New York State Canal Systems 524 miles, connects 180 canal-front communities and parts of seven Regional Economic Development Councils (REDCs) (Western New York, Finger Lakes, Southern Tier, Central New York, Mohawk Valley, North Country, and the Capital Region).

Eligible applicants with an approved or substantially completed LWRP may apply for grant funding to advance projects which create new waterfront public access sites or improve and/or expand existing sites along the New York State Canal System. Grants may be awarded for projects that will be located within the boundaries of an LWRP or LWRP Component such as:

- improving public access to and along the Canal including, but not limited to, land and water based trails, boat launches, boat docks, boater facilities, and amenities
- contributing to regional and local economies by filling gaps in the existing Canalway Trail
- providing linkages between the Canal and downtowns, neighborhoods, parks, open spaces, and historic, scenic, and cultural sites
- marketing materials and campaigns to promote canal activities to strengthen and extend the tourism season

## **VI. FUNDING AND BUDGET GUIDANCE**

### **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, and fringe benefits for activities related to project work by municipal employees, including project management, capacity building, and grant

administration. Fringe benefits must be outlined in the application and include the organizations' documented rate.

**Non-Personal Services** – including supplies and materials, travel, equipment, consultant/contractual services for direct project related costs, project management, capacity building, limited grant administration, and other goods and services.

Project management activities may include, but are not limited to, oversight and coordination of tasks needed to produce contract deliverables, coordination of Project Advisory Committee activities, consultant procurement and oversight, public outreach and providing technical assistance.

Capacity building may include: investment in existing staff, such as training, purchasing equipment or automating systems that will improve a community's ability to carry out projects and/or deliver programs funded under this RFA; or developing sustainable organizational capacity, such as through creating and recruiting new positions or enlisting external professional assistance to oversee revitalization efforts. Allowable activities under capacity building shall be within the scope of the RFA and undertaken in direct furtherance of the purpose of the grant application.

Grant administration activities may include, but are not limited to, preparation of reports, vouchers, contract related administration and compliance with grant record keeping and reporting requirements. Grant administration may not exceed 15% of the award amount or \$50,000, whichever is less.

Land acquisition – land acquired (e.g., purchase or donation) may only be used as local match for construction projects. Land acquired must directly support the project and be acquired within three years prior to the contract start date or within the executed contract term. A map identifying the property, current appraisal report and copy of the recorded deed conveying title will be required to document property value and ownership.

### **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 funding**

**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**

Failure to adequately justify direct project costs will deem costs ineligible. Ineligible costs will be eliminated from the total project costs in the grant application.

**Local Match**

State assistance awarded and paid shall not exceed 75% of the total eligible cost for the project, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible cost for project. 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. Local match must be outlined in the application for consideration. 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** included in the local match are limited to those that are required to complete project tasks. Volunteer services must be listed in the application. Documented volunteer services (non-professional or administrative) may be valued at up to \$15.00 per hour. Credit for project related volunteer services requires submission of detailed accurate records using Department approved forms to account for volunteer services to be included as local match. Failure to do so will result in non-approval of accrued volunteer hours for documented match.

**Paid and unpaid donated professional services** included in the local match are limited to those that are required to complete project tasks and only when services provided are in direct relation to the profession of the individual providing these services. Donated professional services must be listed in the application. Professional or technical services, such as engineering, legal, design, planning, and project management services will be valued at a rate of \$60.00 per hour. Construction and other labor services will be valued at the prevailing wage rate set for the locality where the work is performed. Applicants must provide a description of the work to be undertaken by each individual and the reason for using a donated professional services rate rather than the volunteer services rate in the grant application.

Donated services that are not directly related to a profession will be considered as local match at the volunteer services rate. In all cases, detailed accurate records must be kept using Department approved forms to account for services to be included as local match.

## **Environmental Justice**

NYS Environmental Conservation Law § 54-1101 and NYS Executive Law § 42-918 dictate the local match requirements for the Department of State's Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) grants. These laws stipulate that state assistance awarded and paid shall not exceed 75% of the total eligible project costs set forth in the application and as approved by the Department, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible project costs set forth in the application and as approved by the Department.

Environmental justice efforts focus on improving the environment in communities, specifically minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities. As established in [NYS Department of Environmental Conservation Commissioner Policy 29 on Environmental Justice and Permitting \(CP-29\)](#), Potential Environmental Justice Areas are 2000 U.S. Census block groups of 250 to 500 households each that, in the 2000 Census, had populations that met or exceeded at least one of the following statistical thresholds:

- At least 51.1% of the population in an urban area reported themselves to be members of minority groups; or
- At least 33.8% of the population in a rural area reported themselves to be members of minority groups; or
- At least 23.59% of the population in an urban or rural area had household incomes below the federal poverty level.

Urban and rural designations for census block groups were established by the U.S. Census Bureau. See CP-29 for more information.

Maps depicting potential environmental justice areas are available on the NYS Department of Environmental Conservation website: <https://www.dec.ny.gov/public/911.html>.

Listed below is the DOS policy used to determine if a CFA applicant is eligible to receive state assistance at a rate of 85% of the total eligible project cost:

- The Project Funding and Program Budget section in the CFA must clearly indicate the applicant is seeking State funding from the Local Waterfront Revitalization Program in the amount equal to 85% of the total project cost. This should also be clearly indicated in the LWRP Budget Summary & Detail spreadsheet, submitted as an CFA attachment.
- For applications to prepare or update an LWRP for one municipality, a portion of the LWRP boundary area must meet the environmental justice criteria for the grant to receive state assistance of 85% of the total project cost.

- For applications for design and construction projects, a portion of the project must be located within an Environmental Justice Area for the grant to receive state assistance of 85% of the total project cost.
- For projects that include multiple municipalities, every municipality must meet the Environmental Justice criteria for the grant to receive state assistance of 85% of the total project cost.
- DOS GIS analysis must confirm the project is located within a Potential Environmental Justice Area as mapped by the NYS Department of Environmental Conservation. Confirmation will be determined during the application review.

### **Determining State Funding Request**

Total Eligible Project Cost \* % Local Match (either 0.75 or 0.85) = State Funds Requested

For example, if the total eligible project cost is \$200,000, the State Funds Requested would be \$150,000 and the Local Match would be \$50,000.

$\$200,000 * 0.75 = \$150,000$  State Funds Requested

$\$200,000 * 0.85 = \$170,000$  State Funds Requested for projects meeting Environmental Justice criteria

### **Construction**

Construction must be on public property or where a permanent public interest, such as an 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.

For construction only projects, the applicant is required to submit draft or final design documents with the grant application. Construction projects located within the New York State Coastal Area boundary must be consistent with State Coastal Policies.

### **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 points is derived from program criteria and 20 points from the Regional Economic Development Council (REDC) endorsement.

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. Approximately \$15 million is anticipated for awards for this procurement, with up to \$2 million for updates to

existing LWRPs to mitigate future physical climate risks. Approximately \$9 million will be awarded 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 of 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 acting 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 (maximum of 80 points)**

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:

### **Local Waterfront Revitalization Program (maximum of 4 points)**

- Applicant has a Local Waterfront Revitalization Program which has been locally adopted and approved by the NYS Secretary of State. LWRPs for municipalities within the coastal area must also have received or be in the process of obtaining federal concurrence by the U.S. Office of Coastal Management

- Project will prepare an LWRP or LWRP update for one or more eligible municipalities located along New York's coasts or inland waterways as designated pursuant to Executive Law, Article 42

**Vision (maximum of 4 points)**

- Proposal creates or advances a vision for achieving long-term community goals, capitalizing on assets, or creating opportunities for addressing problems identified in an existing LWRP, LWRP Components, or Designated Brownfield Opportunity Area Plans where applicable

**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 Capacity and Previous Performance (*maximum of 4 points*)**

- Demonstrates that an effective organizational structure exists to advance and complete the project
- Previously demonstrated capacity and effective organizational structure to manage more than one EPF LWRP project (Only pertains to applicants which have one or more open EPF LWRP contracts)
- Demonstrated high quality performance under previous EPF LWRP contracts, timely submission of contract deliverables, completion of work within five years or less and submission of contract close out documents within 60 days of the contract end date
- Required contract status reports submitted to the Department in a timely manner
- Payments to MWBEs recorded in the NYS Contract System in a timely manner
- Payment requests submitted to the Department on a regular basis

**Strategies (maximum of 24 points)****Regional Significance (*maximum of 4 points*)**

- Improves or protects natural, cultural or economic resources of regional significance
- Advances State coastal policies
- 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 a public 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 the strategies and priorities of a REDC, related to Downtown Revitalization Initiatives, Opportunity Agenda strategies, and Veterans Initiatives
- Advances regional strategies which address carbon reduction/abatement, energy efficiency or renewable energy

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

- Advances an approved or substantially completed LWRP, or LWRP Component
- Advances completion of a new phase of a project previously funded by EPF LWRP
- 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, including improving, protecting, and restoring water quality
- 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 public 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

**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
- Offsets municipal expenses by protecting ecosystem services
- 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 12 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 deliverables are clearly defined and consistent with program objectives

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

- Demonstrates how the project will be completed within a maximum of five 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 the ability to proceed with project upon award
- 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)
- Site control established (i.e. easements, acquisition etc.)

**Leveraging Resources and Partnerships (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
- Creates or advances regional, intermunicipal, intergovernmental, public, private, or not-for-profit partnerships
- Demonstrates support from stakeholder(s) directly impacted by project

**Performance Measures (maximum of 4 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*)
- Budget narrative clearly demonstrates what matching local funds will be provided (*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 10 points*)

Note: Detailed and clear demonstration of local match 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 (maximum of 20 points)**

Each application will be scored by the Regional Economic Development Council in which the proposed project is located. Regional Councils will review applications to assess the degree to which the project helps implement the Regional Strategic Plan. The Regional Council will score applications based on a set of standards, referred to as “endorsement standards.” and will assign each project a single score of 20, 15, 10, 5 or 0 (no fractions) based on merit. Regional Strategic Plans and endorsement standards can be found at <https://regionalcouncils.ny.gov/>.

## **IX. CONTRACT REQUIREMENTS**

### **New York State Grants Gateway**

Grant applicants are encouraged 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 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. The contract will: 1) be subject to approval by the Attorney General and State Comptroller; 2) require submission of final products in both hard copy and electronic format; 3) be 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.

### **MWBE Utilization**

Applicants are required to create a plan for compliance with the Certified Minority-And Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women requirements as part of this application.

The plan will include a **detailed** statement, with the project description, on how you intend to meet the MWBE goals with your project. The following should be included in the statement:

1. Your project's MWBE goal amount, determined by using the MWBE GOALS CALCULATION Template.
2. The names of general circulation, trade association, and MWBE-oriented publications in which you plan to solicit certified MWBEs for the purposes of complying with the participation goals related to your project.
3. A list identifying the date(s) that all solicitations for certified MWBE participation plan to be published in any of the above publications
4. A list of all certified MWBEs appearing in the NYS Directory of Certified Firms that will be solicited for purposes of complying with your certified MWBE participation goal (The Directory can be viewed at:  
<https://ny.newycontracts.com/FrontEnd/VendorSearchPublic.asp?XID=7637&TN=ny>.)
5. Descriptions of the notices, dates of contact, letters, and any other correspondence that will be made to all certified MWBEs.
6. A description of any contract documents, plans, or specifications to be made available to certified M/WBEs for bid solicitation purposes and the proposed date and manner in which these documents will be made available.

The plan for compliance shall be uploaded as part of the application. Additional information may be found in Appendix 1.

If your project is selected for an award, you will be required to comply with all the contractual requirements, including demonstrating that a good faith effort has been made to meet the goals for certified MWBE firms participation as stated in the executed contract and in accordance with Article 15-A of the Executive Law.

If an applicant chooses to move forward with a project prior to any award announcement, they are responsible for meeting MWBE requirements established by the State of New York. The requested plan is intended to help an applicant think about how to comply with the regulations and provide information showing their due-diligence to comply with the MWBE requirements.

### **Contract Period**

Subject to the continued availability of funds in the budget, the contract period shall not exceed five years from the start of the project. No extensions are anticipated. The earliest start date of contracts is April 1, 2018. Upon request by the grant recipient, with a showing of good cause, the contract start date may be set to a date in the future not to exceed 12 months beyond the contract execution date. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis.

## **Amendments**

Amendments will not 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.

## **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 an easement (e.g. conservation, public access), 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; and

- 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.
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

# Appendix 1

## CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE-CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES, EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN, AND SERVICE-DISABLED VETERAN-OWNED BUSINESSES

### I. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION

#### NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations Department of State is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of Department of State contracts.

#### Business Participation Opportunities for MWBEs

The Department’s New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) utilization goal is 30%. For purposes of this solicitation, the specific MWBE goal and the breakdown between the Minority-owned Business Enterprise (“MBE”) and the Women-owned Business Enterprise (“WBE”) utilization goals shall be established post award and set forth in the Department of State contract, in the Attachment B “Budget” (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that Department of State may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com/frontend/vendorsearchpublic.asp>. For guidance on how Department of State will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the broker’s contract.

FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the supplier’s contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and Department of State may withhold payment as liquidated damages. 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.

By submitting a proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting Department of State. As a contractor of New York State, you have a responsibility to utilize certified minority- and/or women-owned businesses in the execution of your contracts, per the

MWBE percentage goals stated in your solicitation, proposal or contract documents. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

Additionally, successful applicants will be required to submit the following documents and information within ten (10) business days after the applicant receives notice from Department of State that the grant is being awarded as evidence of compliance with the foregoing:

An MWBE Utilization Plan (**Form D**) or a Certification Letter (**Form D-1**) stating their commitment to show due-diligence to comply with the MWBE goals and requirements. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to Department of State for review and approval.

The Department of State shall review the submitted MWBE Utilization Plan or Certification Letter and issue a written notice of acceptance or notice of deficiency within 20 days of receipt of utilization plan or certification letter.

If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department of State, at the address provided below, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by Department of State to be inadequate, Department of State shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the proposal.

Please see details under "**Additional Notices and Explanations Regarding the MWBE Program and this Request for Applications.**"

Department of State may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan or certification letter;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If Department of State determines that the respondent has failed to document good faith efforts.

Successful applicant(s) will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to Department of State, but must be made no later than prior to the submission of a request for final payment on the Contract.

Successful applicant(s) will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to Department of State, by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

### **Equal Employment Opportunity Requirements**

By submission of a proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of the New York State Master Grant Contract, Section IV (J) - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Additionally, successful applicants will be required to submit the following documents and information within ten (10) business days after the applicant receives notice from Department of State that the grant is being awarded as evidence of compliance with the foregoing:

- A. Submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement (**Form A**) to Department of State.
- B. Submit a Workforce Utilization Report (**Form C**) and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by Department of State on a quarterly basis during the term of the Contract, to the Division of Affirmative Action Programs at:

Maria C. Herman  
Director, Division of Affirmative Action Programs  
Phone: 518-473-3401  
Email: Maria.Herman@dos.ny.gov

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will 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.

**Additional Notices and Explanations Regarding the MWBE Program and Successful Applications to this Request for Applications:**

If your project is selected for an award, you will be required to show due diligence to comply with all the MWBE contractual requirements, including meeting the goals for certified MWBE firms participation as stated in your Contract and in accordance with NYS Executive Law Article 15-A.

If an applicant chooses to move forward with a project prior to any award announcement, they are responsible for meeting MWBE requirements established by the State of New York. The requested plan, as described herein, is intended to help an applicant think about how to comply with the regulations and provide information showing their due-diligence to comply with the MWBE requirements.

Successful applicants notified by the NYS Contract System (System) that a record for the submission of the utilization plan has been created, must comply with this requirement by entering the Utilization Plan data in the System through the Statewide Utilization Management Plan (SUMP) module.

If you are unable to comply with the MWBE goals, you must request a waiver of these requirements by submitting to the Department of State the REQUEST FOR WAIVER FORM E, found on the DOS funding page, for processing. Please note that the following information will be required to secure the waiver (all items may not apply to your case, but provide information and documentation for those that apply):

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. A copy of the completed MWBE GOALS CALCULATION Template, found on the DOS funding page.
3. The names of general circulation, trade association, and MWBE-oriented publications in which you solicited certified MWBEs for the purposes of complying with your participation goals related to this Contract.
4. A list identifying the date(s) that all solicitations for certified MWBE participation were published in any of the above publications.
5. A list of all certified MWBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified MWBE participation levels.
6. Documentation of your search in the NYS Directory of Certified Firms (e.g.: Printouts, screenshots).

7. 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 MWBEs. Any information and/or documentation to support the efforts to follow up with the MWBEs.
8. Copies of responses to your solicitations received by you from certified MWBEs
9. A description of any contract documents, plans, or specifications made available to certified MWBEs for purposes of soliciting their proposals and the date and manner in which these documents were made available.
10. Documentation of any negotiations between you and the MWBEs undertaken for purposes of complying with the certified MWBE participation goals.
11. Any other information you deem relevant which may help us in evaluating your request for a waiver.
12. The name, title, address, telephone number, and email address of your representative authorized to discuss and negotiate this waiver request.
13. Copy of notice of application receipt issued by Empire State Development (ESD), if subcontractors are not certified MWBE, but an application has been filed with ESD.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

## II. SERVICE-DISABLED VETERAN-OWNED BUSINESSES PARTICIPATION

Article 17-B of the Executive Law, enacted in 2014, authorized the creation of the Division of Service-Disabled Veterans' Business Development to promote participation of Service-Disabled Veteran-Owned Businesses (SDVOBs) in New York State contracting. The Service-Disabled Veteran-Owned Business Act recognizes the veterans' service to and sacrifice for our nation, declares that it is New York State's public policy to promote and encourage the continuing economic development of service-disabled veteran-owned businesses, and allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB), in order to increase their participation in New York State's contracting opportunities. To this effect, the Department of State (DOS) has implemented a Veteran-Owned Businesses (SDVOB) Program, as mandated by Article 17-B.

To comply with the SDVOB Program goals of 6%, the Department of State strongly encourages grantees to make every effort, to the maximum extent possible, to engage certified SDVOBs in the purchasing of commodities, services and technology in the performance of their contracts with the Department. If SDVOB utilization is obtained, a quarterly SDVOB utilization report should be submitted to the Department with information of the utilization percentage achieved during that quarter. Contractor Reporting Forms are found at: <https://ogs.ny.gov/Veterans/>.

The Division of Service-Disabled Veterans' Business Development (DSDVBD) is housed within the New York State Office of General Services (OGS), and maintains a directory of the NYS Certified SDVOBs. For assistance with engaging SDVOB vendors in your contracts, please contact the Division of Service-Disabled Veterans' Business Development at the following email address: [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov), or the DOS Division of Affirmative Action Programs – SDVOB Program at [Maria.Herman@dos.ny.gov](mailto:Maria.Herman@dos.ny.gov) or [Api.Ohouo@dos.ny.gov](mailto:Api.Ohouo@dos.ny.gov). The directory of certified SDVOB vendors can be found at: [https://ogs.ny.gov/Veterans/Docs/CertifiedNYS\\_SDVOB.pdf](https://ogs.ny.gov/Veterans/Docs/CertifiedNYS_SDVOB.pdf)