

# Town of Willsboro, New York

## **Request for Engineering Services Proposal: Streambank Erosion Evaluation & Report**

**PROJECT NUMBER: P-1064-2021**

**DATE ISSUED: February 18, 2022**

**UPDATED: TBA**

### **Program Requirements:**

- NYS Department of Environmental Conservation (DEC) Non-Point Source Planning Grant (NPG)
- [https://www.dec.ny.gov/docs/water\\_pdf/npg21rfa.pdf](https://www.dec.ny.gov/docs/water_pdf/npg21rfa.pdf)

# TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
REQUEST FOR PROPOSALS – ENGINEERING SERVICES.....	3
INTRODUCTION .....	4
A. Overview.....	4
B. Time of Response .....	4
C. Contract Negotiations .....	5
D. Contract Execution.....	5
E. Term of Contract.....	5
F. Funding Agency Requirements.....	5
PROFESSIONAL SERVICE REQUIREMENTS.....	6
A. Scope of Work .....	6
B. Quality of Work .....	7
C. Records.....	7
D. Additional Requirements .....	7
SUBMITTAL REQUIRMENTS .....	8
A. Preliminary Requirements .....	8
B. Letter of Interest.....	8
C. Main Proposal .....	9
EVALUATION CRITERIA AND SCORING.....	11
SELECTION PROCESS .....	11
SUBMITTAL DUE DATE.....	12
QUESTIONS .....	12
RFP SUBMITTAL REQUIREMENTS CHECKLIST.....	13
APPENDIX A: FUNDING PROGRAM REQUIREMENTS .....	14
APPENDIX B: PROJECT REFERENCE DATA .....	15
APPENDIX C: REFERENCES.....	16
APPENDIX D: CONFLICT OF INTEREST STATEMENT .....	17
APPENDIX E: CERTIFICATE OF AUTHORITY .....	18
APPENDIX F: VENDOR RESPONSIBILITY QUESTIONNAIRE .....	19
APPENDIX G: W-9 FORM .....	20
APPENDIX H: NON-COLLUSION AFFIDAVIT .....	21
APPENDIX I: IRAN DIVESTMENT ACT COMPLIANCE.....	22
APPENDIX J: <INTENTIONALLY LEFT BLANK> .....	23
APPENDIX K: DELIVERABLES TABLE.....	24
APPENDIX L: DRAFT FORM OF CONTRACT (EJCDC).....	25

## REQUEST FOR PROPOSALS – ENGINEERING SERVICES

NOTICE IS HEREBY GIVEN, that the Undersigned, on behalf of the Town of Willsboro, will accept proposals **until 2:00 P.M. on March 18<sup>th</sup>, 2022** for **Municipal Civil Engineering Services** for the **Noblewood Park Streambank Stabilization Evaluation & Report** project.

PLEASE TAKE FURTHER NOTICE that the Town affirmatively states that in regard to any contract entered into pursuant to this notice, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or veteran status, disadvantaged and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

**Disadvantaged and Minority/Women-Owned Business Enterprises (M/WBE) businesses, Service-Disabled Veteran Owned Businesses (SDVOB) and Section 3 businesses are strongly encouraged to participate in this project.** The Town is an equal opportunity employer.

*For more information on the requirements associated with NYS DEC funds, please see their website for a complete list of documents & requirements relevant to this project and necessary for all consultants & contractors under this project:*

- [https://www.dec.ny.gov/docs/water\\_pdf/npg21rfa.pdf](https://www.dec.ny.gov/docs/water_pdf/npg21rfa.pdf)

In addition to the proposal, Respondents shall submit executed non-collusion certificates signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103d. The Respondents shall also submit an executed certificate of compliance with the Iran Divestment Act signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103g. The Town reserves the right to except any and all proposal(s), reject any and all proposals not considered to be in the best interest of the Town, and to waive any technical or formal defect in the proposals which is considered by the Town to be merely irregular, immaterial, or unsubstantial.

Please contact the Essex County Planning Office (518) 873-3426 or [CommunityResources@essexcountyny.gov](mailto:CommunityResources@essexcountyny.gov) for additional information concerning the Proposals. Specifications may be obtained at the **NYS Contract Reporter account:**

**“Essex County Department of Community Development & Planning”**

**RFP Title: “Noblewood Park Streambank Stabilization Evaluation & Report”**

All proposals submitted in response to this notice shall be marked "**NOBLEWOOD PARK STREAMBANK STABILIZATION EVALUTATION & REPORT**" clearly on email traffic and/or the outside of the envelope containing your electronic/digital response files.

**Published: February 18th, 2022**

*Essex County Office of Community Resources  
Elizabethtown, New York 12932  
CommunityResources@essexcountyny.gov  
(518) 873-3426*

# INTRODUCTION

## A. Overview

This Request for Proposals (“RFP”) is being issued by the **TOWN OF WILLSBORO** (“the Town”) for **ENGINEERING SERVICES** for a municipal project. The project will be funded by the Town, and expected to be reimbursed by the NYS Department of Environmental Conservation (DEC) Non-Point Source Planning Grant (NPG); their program requirements are located **Appendix A**.

Noblewood Park and Nature Preserve was established through a partnership between the Town of Willsboro and The Nature Conservancy. The park provides the local and seasonal residents as well as all visitors with a pristine, primitive pocket of nature capturing extraordinary views of the Green Mountains and Lake Champlain. There is erosion is slowly tearing away at a section of lawn that is part of Noblewood Park. This is threatening the Park's existence and public access. The lake shore has compromised trails and beach access.

Companies with demonstrated experience in *Municipal Civil Engineering Utility Projects* and public funding agency administration interested in making their services available to the Town are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is licensed to provide such services in New York State. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

The Town is seeking to encourage participation by respondents who are DBE/MBE/WBE, Section 3 and/or Service –Disabled Veterans’ business enterprises. For the purposes of the project, the Town is requiring a *documented* DBE/MBE/WBE & Section 3 participation compliance & good faith effort per the Program requirements listed in **Appendix A** by providing evidence of direct solicitation to these required DBEs after contract award, but before given Notice to Proceed.

Nothing in this RFP shall be construed to create any legal obligation on the part of the Town or any respondents. The Town reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall the Town be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from the Town for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the Town. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

## B. Time of Response

Respondents will have approximately four (4) weeks to provide a response to this RFP. The Town and resources from Essex County will review the proposals and respond within two (2) weeks of RFP closure, after Town Board Meetings are held



- |                                |  |
|--------------------------------|--|
| 1. RFP Posted:                 | <b>February 18<sup>th</sup>, 2022</b>                |
| 2. Statements Due:             | <b>March 18<sup>th</sup>, by 2:00 pm.</b>            |
| 3. Town Board Proposal Review: | <b>March 18<sup>th</sup> – 25<sup>th</sup>, 2022</b> |
| 4. Contract Awarded estimated: | <b>April 14<sup>th</sup>, 2022</b>                   |

### **C. Contract Negotiations**

After review and interviews are complete, the Town will approve the successful Proposal via Board Resolution and then provide a Notice of Award to the Respondent

### **D. Contract Execution**

Once the contract Terms and Conditions have been approved, the final contract cannot be executed until the NYS DEC program requirements are completed and provided as part of the contract documents, such as the EEO, M/WBE Plans, other required forms and plans, etc. Once these have been provided the Town Board will execute the final contracts with the Respondent

### **E. Term of Contract**

Any contract awarded pursuant to this RFP solicitation shall be for a contract period of approximately **(12) months** and will expire upon completion of the projects' administrative close out. **Completion of the project deliverables must be completed no later than 6/01/2023, and administrative closeout must be complete no later than 7/31/23.**

### **F. Funding Agency Requirements**

Award recipients must follow the guidance provided in **Appendix A**. All Respondents must demonstrate capability to adhere to the following Funding Agencies' requirements:

- Davis Bacon Related Acts (DBRA) Compliance
- Disadvantaged Business Enterprises (DBE) & Minority Women Business Enterprise (MWBE) Compliance (**30% of contract value**)
- Equal Employment Opportunity (EEO) Compliance
- Anti-Lobbying Policy
- NYS EEO Policy / Sexual Harassment Certification & Training
- Others as required per Appendix A.

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. Dates and schedules provided by the above funding agencies will be incorporated into project scope of work and schedule requirements.

# PROFESSIONAL SERVICE REQUIREMENTS

## A. Scope of Work

The Town is seeking proposals from engineers to complete an evaluation on the Noblewood Park Stream Bank erosion issues currently impacting use of the waterfront and produce a report containing recommendations for construction projects that will mitigate erosion and repair current damage. All fees will be held in accordance with current requirements per **Appendix A**.

This solicitation will determine the most qualified Engineering Firm to review the project site and provide an engineering report, which must be in accordance with the outline established in **Appendix A**. Recipients will provide a Cost Proposal according to the Tasks listed below and also in the “Deliverables Table” in **Appendix K**. For a detailed description of the services and deliverables in each Phase, see “Draft Form of Contract”, **Appendix L**.

The Scope of Work must include the following tasks, at a minimum (See also **Appendix K**):

### ➤ **General Requirements –**

- **Task 1 - Project Schedule:** The consultant shall maintain and produce a detailed project schedule in Gantt / Critical Path Method format.
  
- **Task 2 – Project Management & Coordination Meetings:** The consultant shall participate in public meetings and distribution of meeting minutes to the Town and Essex County. Monthly progress meetings with the Town, County and any regulatory/funding agencies are anticipated during the planning portion of this project. The consultant shall work with the Essex County Office of Community Resources for permitting & funding compliance for this project. Essex County will develop all funding applications, provide funding compliance advocacy and accountability acting as Minority Business Officer (MBO) and provide finance consultation with the Town with technical input from the consultant. The consultant will be responsible for any technical information required for project development and permitting purposes. The consultant shall additionally coordinate with regulatory & funding program representatives as requested for review and approval of the project deliverables.
  
- **Task 3 - Field Investigations:** The consultant shall conduct such field work they deem necessary to obtain the required information to properly investigate and recommend improvements to the system. This work may include, but not be limited to land surveying, geotechnical/hydrogeological studies, archaeological surveys and evaluation of all system components. All data collected during this Task shall be a separate deliverable to the Town in a hard copy format (3 hard copies of full-size plans) and digital format (.shp file, .pdf, etc.).
  
- **Task 4 - Preliminary Engineering Report:** The consultant shall provide recommendations for erosion mitigation design based on current regulatory standards, community use of the facilities, feasibility of municipalities budgets and operational efficiencies; prepare schematic level plans for any recommended system upgrades, in accordance with NYS DEC guidelines contained in **Appendix A**.

The consultant shall be responsible for coordinating all aspects of this project and addressing any questions or concerns of regulatory review agencies as required. Additionally, the consultant shall work to meet all DBE, MBE, WBE, SDVOB, and Section 3 participation requirements and goals, as required for funding compliance. Davis-Bacon prevailing wage rate documentation is required for this project, as determined by DOL for wage categories such as, but not limited to, professional land surveyors.

## **B. Quality of Work**

All work shall follow recognized professional practices and standards and meet the specifications required by local, state and federal approval of the project's plans and specification prior to advertising the project for construction bidding.

## **C. Records**

The design professional is to maintain all books, documents, papers, account records and other evidence pertaining to this work and to make such materials available at their respective offices at all reasonable times during the agreement and for a period up to seven (**7 years**) from the date of final payment under the agreement. Throughout the project, the respondent will be required to coordinate with the Town and the Essex County Planning Office via regular project meetings and other electronic project management software.

All reports, documents, information, presentations, electronic drawings, and other materials prepared by the award recipient in connection with and in performance of this Agreement are deliverables to be provided to the Town as a result of the project and are not considered to be the sole properties of the consultant. *Copies of all reports, designs, project documents, supporting information and any materials or equipment furnished to the award recipient by the Owner shall remain the property of the Owner and award recipient's limited possession of the purpose of carrying out the Work, shall be returned to the Owner at the conclusion of the Agreement.* Nothing written in this paragraph, however, will be interpreted to forbid the award recipient from retaining a single copy of the information for its files.

## **D. Additional Requirements**

Professional services shall comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (State OSHA, DNR, and DCH), and any other local regulations and standards (i.e. local ordinance and building codes) that may apply. **Further requirements are identified in the accompanying Appendix of this RFP.**

## SUBMITTAL REQUIREMENTS

### A. Preliminary Requirements

1. \*Certificate of Authority (Corporation) or Certificate of Existence (ex: Professional Limited Liability Company or “PLLC”) issued by the NY Secretary of State
2. \*Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; and, Automobile Liability with limits not less than \$1,000,000 per occurrence.
3. \*References: At least three (3) references of *related projects*, including date of project, contact person and phone number, and a brief description of the project.
4. \*Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the Town. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.
5. \*Non-Collusion Biding Affidavit: Provide completed, signed & notarized form back with Response
6. \*Iran Divestment Act Compliance Form: Provide completed & signed form back with Response
7. \*NYS EEO Policy / Sexual Harassment Certification & Training: Provide completed forms and proof of your firm’s compliance with these NYS requirements.

***\*RFP RESPONSE WILL BE CONSIDERED INCOMPLETE AND NOT SCORED IF THESE ITEMS ARE NOT PROVIDED IN COMPLETION***

### B. Letter of Interest

Submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

- The principal place of business and the contact person, title, telephone/fax numbers and email address.
- Description of organization (i.e. Professional Corporation, or Professional Limited Liability Company).
- The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
- If the Respondent is a partially owned or fully owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
- A brief summary of the qualifications of the Respondent and proposed Project Team.

## C. Main Proposal

The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the Respondents in conformity with the requirements of this RFP. As such, the substance and technical merit of proposals will carry more weight than their form or manner of presentation. The proposal should demonstrate the qualifications of the firm and of the staff members to be assigned to this project. It should also specify an approach that will meet the request for proposals requirements. The proposal should address all the points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of the request for proposals. While additional data may be presented, the following items must be included; this represents the criteria against which the proposal will be evaluated.

### 1. Qualifications Proposal:

- a. Provide a synopsis of the years of experience and detailed qualifications *of the team that will be dedicated to this project* in performing the range of related project types in compliance with applicable standards, including team's resumes. Respondents should provide narrative examples of a minimum of three (3) projects in detail that are similar in nature to projects described in the RFP (see "References"). These examples should include projects and portfolio vignettes (project ID, client, location, budget, funding agency, description, unique characteristics), which will be reviewed to evaluate the level of experience. Provide the number of full-time and part-time employees, partnerships or subconsultants proposed and their active participation in the project.
- b. **Funding Agency Experience:** Respondents should state whether they are an DBE/MBE/WBE or Section 3 business enterprise; if so, provide a copy of a current DBE/MBE/WBE certification letter. Respondents may also cite previous project experience in working with funding agency compliance elements, DBE firms, cite any existing partnerships with DBEs or cite the planned DBE partnerships relevant to addressing requirements of this project & RFP. If Respondents are planning to cite proposed DBE partnerships for this project (e.g., no existing contract vehicle), please provide contact information for reference checks with the appropriate point of contact for validation.

### 2. Technical Proposal:

- a. **Project Management Plan:** Discuss approach to the project:
  - i. 1) Convey/affirm understanding of the established scope and deliverables execution, regarding any constraints identified in this RFP;
  - ii. 2) Provide a plan for engaging the Town's project team and regulatory agencies required.
  - iii. 3) Provide any observations or recommendations for efficiencies the project could experience and a rationale for your recommendation.
  - iv. 4) Provide plan(s) to meet funding compliance requirements.
- b. **Schedule:** Demonstrate capacity to complete the scope of work within the defined period of performance: April 2022 – July 2023. The successful Respondent will have a detailed project schedule, a well-articulated work plan and illustrate the ability to complete the work with respect to constraints, either stated or assumed. The Schedule Proposal must

include a detailed Gantt chart with critical path milestones to illustrate your proposed schedule.

3. Cost Proposal:

- a. Cost will not be the primary factor in the selection of firm. Each Cost Proposal is scored against the average costs of all proposals, using the following formula:
  - Average of all proposals / your Cost Proposal = X (not to exceed 100%-point score)
  - Maximum points are **20**; any proposals scoring above **20** points using the above formula will be manually graded at the maximum point score.
  
- b. This should include the lump sum/unit rates for different Tasks, per the table provided in **Appendix K, “Deliverables Table”**. Respondents should include a description of the costs and detail proposals for *cost savings* in their Proposal. Labor cost estimates will include any required payments of prevailing wage rates as determined by the NYS Department of Labor and Industries as applicable (such as Survey work for example).

## EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, the Town will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

The point system is to evaluate the experience and capacity of the Respondent. Maximum is 100 Points:

- **Respondents will be awarded up to 10 Points for Completeness of Response.**
  
- **Respondents will be awarded up to 35 Points for Qualifications Proposal.**
  - **Related Project Experience: 25 Points**
    - *Experience of firm:* 5 points
    - *Experience of Project Team:* 10 points
    - *Quality of Vignettes:* 5 points
    - *Unique qualifying attributes:* 5 points
  
  - **Public Funding Experience: 10 Points**
    - *Experience on publicly funded projects:* 5 points
    - *Firm is a DBE (MBE, WBE, SDVOB, S3):* 2.5 points
    - *Inclusion of DBE partners, applicable to scope:* 2.5 points
  
- **Respondents will be awarded up to 35 Points for the Technical Proposal:**
  - **Project Management Plan: 20 Points**
    - *Understanding of Scope:* 5 points
    - *Technical Approach* 7.5 Points
    - *Project Communications Plan:* 2.5 points
    - *Quality Assurance / Quality Control Plan:* 2.5 points
    - *Regulatory / Funding requirements Plans:* 2.5 points
  
  - **Schedule: 15 Points**
    - *Capacity to complete deliverables in time:* 5 points
    - *Detailed Project Schedule:* 5 points
    - *Schedule provided in Gantt / CPM format:* 5 points
  
- **Respondents will be awarded up to 20 Points for Cost Proposal.**

## SELECTION PROCESS

The Selection Committee comprised of the Town and resources from Essex County staff will review qualifications in accordance with the evaluation criteria set forth herein. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any professional services contracts resulting from this RFP will not necessarily be awarded to the Respondent with the lowest price. Instead, professional services shall be awarded to vendor whose proposal provides the best value to the project in accordance with criteria set forth in RFP.

## SUBMITTAL DUE DATE

**Responses to this RFP are due on March 18th, by 2:00 pm.** RFP responses must be submitted via electronic PDF to the following web-form:

**<https://app.smartsheet.com/b/form/bc980cbceaaf47e8aeabd2308b496103>**

Each Respondent shall receive a confirmation of their submission via email. Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals. **PROPOSALS IN PAPER-ONLY FORMATS WILL NOT BE ACCEPTED!** Digital proposals may still be physically submitted in a flash drive or disc if the submission link above is not functioning. If you run into technical difficulties providing your response by the web link above, it is also acceptable to submit your RFP responses in writing via email, OR mail-in digital files (.PDF format) on flash-drive to the RFP point of contact:

**Essex County Office of Community Resources**  
7533 Court Street – PO Box 217  
Elizabethtown, NY 12932  
**[CommunityResources@essexcountyny.gov](mailto:CommunityResources@essexcountyny.gov)**  
(518) 873-3426

The Town will select a Respondent on **October 13th, 2020** at a regular Board Meeting.

## QUESTIONS

*Questions regarding this RFP* should be submitted in writing via email to Essex County Community Resources at (**[CommunityResources@essexcountyny.gov](mailto:CommunityResources@essexcountyny.gov)**) between the hours of 0900 – 1500 *only*. Any RFI responses will in turn be made available to all Respondents as they are received by means of direct emails.



## **RFP SUBMITTAL REQUIREMENTS CHECKLIST**

### **FORMS FROM RFQ PACKAGE TO RETURN:**

- RFP Submittal Requirements Checklist (*Provide Checklist with RFP Response*)
- \*Appendix C: References (Minimum 3 related projects)
- \*Appendix D: Conflict of Interest Statement & Supporting Documentation
- \*Appendix E: Certification of Authority
  - Aka, Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- \*Appendix F: Vendor Responsibility Questionnaire (if over \$100K in proposed contract value)
- \*Appendix G: W-9 Form
- \*Appendix H: Non-Collusive Bidding Certification
- \*Appendix I: Iran Divestment Act Compliance Form
- \*Appendix J: EEO Policy / Sexual Harassment Certification
- \*Appendix K: Deliverables Table with proposed costs

### **FOR THE RESPONDENT TO PROVIDE:**

- Letter of Interest
- Qualifications Proposal:
  - Description of Company
  - Capacity of Company
  - Resumes of specific staff identified to work on project
  - State License and or Certification
  - Experience with DBE/MBE/WBE, Local Hiring, HUD Section 3, if applicable
- Technical Proposal:
  - Project Management Plan (*Describe your approach in detail*)
  - Schedule Proposal (*Provide in a Gantt Chart format*)
- Pricing Proposal Description (*Also include figures in "Deliverables Table"*)
- \*Evidence of Insurance

\*These documents must be submitted and complete before the Town will review the remainder of the proposal.

## **APPENDIX A: FUNDING PROGRAM REQUIREMENTS**

# **2021 Non-Agricultural Nonpoint Source Planning and Municipal Separate Storm Sewer System (MS4) Mapping Grant – Overview**

Funding Available: Up to \$3 million

## **Description**

The New York State Department of Environmental Conservation (DEC) will offer grants to local governments and soil and water conservation districts to help pay for the initial planning of non-agricultural nonpoint source water quality improvement projects. DEC will also offer grants to regulated traditional MS4s for mapping.

Those seeking planning grants to support projects to upgrade, repair or replace elements of a wastewater treatment and/or collection system, or the construction of such system for an area with failing onsite septic systems, are referred to the New York State DEC/EFC Wastewater Infrastructure Engineering Planning Grant Program.

## **PROJECTS AFFECTING WATER QUALITY IN ENVIRONMENTAL JUSTICE (EJ) AREAS**

DEC demonstrates a commitment to Environmental Justice (EJ) and remedies for communities that may be burdened by negative environmental consequences. Environmental justice is defined by the DEC as the fair treatment and meaningful involvement of all people, regardless of race, color or income, with respect to the development, implementation and enforcement of environmental laws, regulations and policies. A report for a proposed project that positively impacts water quality in an EJ community, or positively impacts drinking water quality serving an EJ community or is for MS4 mapping of an EJ community will receive points in the evaluation of an application where indicated. Maps of EJ areas in New York State are available at:

<http://www.dec.ny.gov/public/911.html>.

To qualify for EJ points, your application must include details demonstrating water quality improvement to an EJ area or to drinking water serving an EJ community - where the benefit will be provided, the area served by the drinking water source or the exact street location(s) where the MS4 mapping of an EJ community is to be implemented.

## **A. Nonpoint Source Planning Reports (See MS4 category for MS4 mapping project details)**

The program aims to get nonpoint source projects ready for construction and to apply for implementation funding.

### **Award Amounts**

Grants of up to \$30,000 are available to finance planning services to produce project planning reports, as outlined in each category. Grants of up to \$75,000 are available for comprehensive stream corridor studies. There is no minimum award amount.

An applicant may submit more than one application. If an applicant receives more than one award, DEC may combine the projects into a single contract. Applicants are limited to a maximum of five (5) Nonpoint Source Planning Report applications per round.

Each application must fit within a single grant category.

## **Eligible Applicants**

- Municipalities<sup>1</sup>
- Soil and Water Conservation Districts (excluding Decentralized Wastewater Treatment Facilities for Failing On-Site Treatment Systems)

## **Nonpoint Source Planning Report Categories**

Funding is available for the following six (6) planning report categories:

### **1. *Decentralized Municipal Wastewater Treatment Facilities for Failing On-Site Treatment Systems***

#### **Eligible costs:**

An engineering feasibility study report for municipally-owned decentralized wastewater treatment facilities in areas with failing on-site treatment systems, including the necessary collection and conveyance system. The decentralized wastewater treatment facility must consist of a subsurface treatment and disposal system designed in accordance with Department standards. Collection may take the form of either a septic tank effluent pump (STEP) or septic tank effluent gravity (STEG), grinder pump or gravity sewer system. An engineering feasibility study report may include conceptual designs and any necessary percolation tests.

#### **Report requirements:**

Engineering reports must follow the NYS Environmental Facilities Corporation/DEC Engineering Report Outline for New York State Wastewater Infrastructure Projects<sup>2</sup>.

#### **Technical Contact:**

Ken Kosinski – (518) 402-8111

### **2. *Green Infrastructure***

#### **Eligible reports:**

An engineering feasibility study report for projects that: construct green infrastructure to address combined sewer overflows, reduce a pollutant impacting a receiving waterbody, or address a regional water quality issue; or install green infrastructure retrofits designed to capture and remove the pollutant contributing to a water quality impairment. Green Infrastructure practices are limited to bioretention, rain gardens, constructed wetlands, porous pavement, green roofs, downspout disconnection, stormwater street trees, stormwater harvesting and reuse, and stream daylighting. All Green Infrastructure projects must be designed in accordance with the 2015 New York State Stormwater Design Manual and must go above and beyond the water quality volume treatment and/or reduction requirements listed in the SPDES Construction General Permit. An engineering feasibility study report must include conceptual designs and infiltration tests, if applicable.

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<sup>1</sup> For the purposes of this grant, “municipality” means a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof.

<sup>2</sup> Engineering Report Outline for NYS Wastewater Infrastructure Projects:  
<https://nysefc.box.com/s/0s1j2q1nytylpo3q5llbwt3zta0yopp0>

**Report requirements:**

Feasibility studies must include all Required Elements listed in the Green Infrastructure or Stormwater Retrofits Feasibility Study Outline.<sup>3</sup>

**Technical Contact:**

Ryan Waldron - (518) 402-8177

**3. Stormwater Retrofits**

**Eligible reports:**

An engineering feasibility study report for projects that: construct stormwater retrofits to reduce a pollutant impacting a receiving waterbody or address a regional water quality issue. Eligible practices are limited to those identified in Chapters 5 and 6 of the *2015 NYS Stormwater Design Manual*<sup>4</sup>. All projects must be designed in accordance with the *2015 NYS Stormwater Design Manual*. An engineering feasibility study report must include conceptual designs and infiltration tests (if applicable) and must include load reduction information.

**Report requirements:**

Feasibility studies must include all Required Elements listed in the Green Infrastructure or Stormwater Retrofits Feasibility Study Outline.<sup>5</sup>

**Technical Contact:**

Ethan Sullivan – (518) 402-1382

**4. Streambank/Shoreline Stabilization**

**Eligible Reports:**

- An engineering or conceptual design report for qualifying nature-based or “soft engineering” streambank or shoreline stabilization projects to reduce erosion, enhance flood resilience, and improve water quality and riparian/coastal habitats. Streambank or shoreline projects must incorporate natural features and materials alone or in combination with a minimal use of structural components to manage erosion. Streambank/shoreline stabilization projects may include, but are not limited to, natural buffer zones, constructed or restored wetlands, “living” sills or breakwaters, beach and dune restoration and/or nourishment, nature-based stabilization techniques such as tree/rootwad revetments, staking, live crib walls, and vegetated geogrids. Rip-rap may only be used in conjunction with natural restoration principles that incorporate vegetative materials.
- and/or**
- A comprehensive stream corridor assessment study to identify areas of erosion across a watershed area. The comprehensive stream corridor study must be completed for a minimum of a HUC 12 size watershed area and must identify and/or prioritize opportunities for streambank stabilization, riparian buffer restoration, floodplain reconnection and/or culvert replacement and repair. Flood risk assessment and modeling may be included as part of the comprehensive study.

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<sup>3</sup> Green Infrastructure or Stormwater Retrofits Feasibility Study Requirements:  
<http://www.dec.ny.gov/pubs/116725.html>

<sup>4</sup> New York State Stormwater Design Manual: <https://www.dec.ny.gov/chemical/29072.html>

**Report Requirements:**

- Engineering reports and comprehensive stream assessment studies must include all Required Elements listed in the Streambank/Shoreline Stabilization Engineering Design Report Outline or Streambank Corridor Study Outline.<sup>5</sup>
- For projects requiring a permit, engineering designs must meet the minimum Protection of Waters permit requirements, NY's Coastal Consistency requirements, or other State or Federal permit requirements, as applicable.

**Technical Contact:**

Julie Berlinski - (518) 402-8212

**5. *In-Waterbody Controls for Nutrients***

**Eligible costs:**

- A feasibility study or engineering report for projects that reduce internal loading of nutrients (mainly phosphorus) within waterbodies. Eligible practices to address these issues include: hypolimnetic aeration, aeration destratification systems for polymictic lakes, hypolimnetic withdrawal, and dredging.  
**and/or**
- A professional study report that provides justification for use of the best management practice (BMP) recommended by the above feasibility study or engineering report. For destratification systems, the professional study must identify the waterbody as a polymictic lake.  
**and/or**
- A written plan report for the long-term operation and maintenance of the BMP recommended by the above professional study or engineering report.

**Report Requirements:**

Feasibility study/engineering reports must include all Required Elements listed in the In-Waterbody for Control of Nutrients Feasibility Study/Engineering Report Outline.<sup>6</sup>

**Technical Contact:**

Stephanie June – (518) 402-8179

**6. *Bathing Beach Restoration***

**Eligible costs:**

- Beach sanitary survey<sup>7</sup>  
**and/or**
- A feasibility study for projects to implement designs recommended in beach restoration green infrastructure design reports. Projects may include, but are not limited to, porous pavement, bioinfiltration/bioretention, rain gardens, stormwater tree trenches, greenways, beach re-naturalization, beach sand enrichment/nourishment, beach sloping/grading, constructed wetlands.

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<sup>5</sup> Streambank/Shoreline Stabilization Engineering Design Report Outline or Streambank Corridor Study Outline: <http://www.dec.ny.gov/pubs/116725.html>

<sup>6</sup> In-Waterbody for Control of Nutrients Feasibility Study/Engineering Report Outline: <https://www.dec.ny.gov/pubs/116725.html>

<sup>7</sup> The beach sanitary survey report may provide support for conceptual designs under Grant Category 1, above.

**Report Requirements:**

- Sanitary surveys must meet the criteria in Part 6, Subpart 6-2 of the New York State Sanitary Code for Beaches<sup>8</sup>. Sanitary surveys must also follow EPA's Beach Sanitary Survey guidance<sup>9</sup>.
- Feasibility studies must include all Required Elements listed in the Green Infrastructure or Stormwater Retrofit Feasibility Study Outline.<sup>10</sup>

**Technical Contact:**

Lauren Townley - (518) 402-8086

**7. *Stream Culvert Repair and Replacement***

**Eligible costs:**

- Stream culvert site assessment report for projects to address erosion caused by inadequately sized or failing culverts.  
**and/or**
- An engineering feasibility study or engineering design report for stream culvert repair or replacement projects to address erosion.

**Report Requirements:**

- Stream culvert assessments must utilize the North Atlantic Aquatic Connectivity Collaborative (NAACC) framework to identify aquatic barriers, in addition to identifying erosion issues.
- Feasibility study/engineering reports must include all Required Elements listed in the Stream Culvert Repair and Replacement Feasibility Study/Engineering Report Outline<sup>11</sup>.

**Technical Contact:**

Julie Berlinski – (518) 402-8086

**Requirements for All Planning Reports**

- All reports and studies must be prepared by a qualified professional. See table below. For reports and studies prepared by someone other than a professional engineer, applicants must demonstrate in the application that the preparer is a qualified professional through work experience and/or education.

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<sup>8</sup> New York State Sanitary Code for Beaches: <https://regs.health.ny.gov/content/subpart-6-2-bathing-beaches>

<sup>9</sup> EPA Beach Sanitary Survey Guidance: <https://www.epa.gov/dwreginfo/sanitary-survey-guidance-manuals>

<sup>10</sup> Green Infrastructure or Stormwater Retrofit Feasibility Study Outline: <https://www.dec.ny.gov/pubs/116725.html>

<sup>11</sup> Stream Culvert Repair and Replacement Feasibility Study/Engineering Report Outline: <https://www.dec.ny.gov/pubs/116725.html>

Funding Category	Report Type	Professional Requirement
Decentralized Municipal Wastewater Treatment Facilities for Failing On-Site Treatment Systems	Feasibility Study	Professional Engineer
Green Infrastructure	Feasibility Study	Professional Engineer
Stormwater Retrofits	Feasibility Study	Professional Engineer
Streambank/Shoreline Stabilization	Engineering or conceptual design report	Professional Engineer
	Comprehensive stream corridor assessment study	Professional Engineer, Professional Hydrologist, Professional Geologist, Master's Degree, Bachelor's Degree with 2 years of relevant experience, Associates Degree with 5 years of relevant experience
In-waterbody Controls for Nutrients	Feasibility study or engineering report	Professional Engineer
	Professional study report	Professional engineer, certified lake manager, Master's Degree in limnology or related field, Bachelor's Degree in limnology or related field with 2 years of relevant experience
In-waterbody Controls for Nutrients	Long-term operation and maintenance plan	Professional Engineer
Bathing Beach Restoration	Sanitary Survey	Professional Engineer, Environmental Health professional (sanitarian or environmental health technician), Master's Degree, Bachelor's Degree with 2 years of relevant experience, Associates Degree with 5 years of relevant experience
	Feasibility Study	Professional Engineer
Stream Culvert Repair and Replacement	Feasibility Study	Professional Engineer
	Culvert site assessment report	Trained and certified by North Aquatic Connectivity Collaborative (NAACC)

- Reports and studies must be prepared and stamped by a professional engineer when required by New York State Education Law.



- All applications must attach a completed Sexual Harassment Prevention Certification Form.

### **Eligible Costs**

- Funding can be used for the preparation of planning reports, feasibility studies, and supplemental costs as listed by grant category.
- Activities to determine the scope of water quality issues, evaluation of alternatives, and the recommendation of an improvement project.
- Salary and fringe
- Contractual costs
- Travel
- On-site evaluations
- Any necessary environmental review (e.g. SEQR, SHPO, Coastal Consistency) for the recommended project
- Administrative costs

### **Ineligible costs/reports:**

- Reports for projects that have already received Water Quality Improvement Project (WQIP) grant funding
- Costs incurred outside the start and end date of the contract
- Post installation / follow-up monitoring
- Feasibility reports for algaecide use
- Construction costs
- Reports for projects that have already received funding for planning from another State source
- Equipment
- Indirect costs (e.g., space/property rent, utilities and other office supplies)
- Legal fees

### **Resources**

- Nonpoint Source Planning Grant Report Outlines:  
<https://www.dec.ny.gov/pubs/116725.html>
- Nonpoint Source Program Guidance and Technical Assistance:  
<https://www.dec.ny.gov/chemical/96777.html>
- New York State Stormwater Design Manual:  
<https://www.dec.ny.gov/chemical/29072.html>
- DECinfo Locator<sup>12</sup> (most up to date source of WI/PWL segment assessments):  
<http://www.dec.ny.gov/pubs/109457.html>
- NYS Environmental Facilities Corporation/DEC Engineering Report Outline for New York State Wastewater Infrastructure Projects:  
<https://nysefc.box.com/s/0s1j2q1nytylpo3q5llbwt3zta0yopp0>

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<sup>12</sup> To find the closest WI/PWL segment assessment, visit the DECinfo Locator and click on the link for “Environmental Quality Map View”. In the left column of the map, click on “Information List” and check the box for “Rivers, Streams and Shorelines” AND “Lakes, Reservoirs, and Estuaries” to display these map layers. Enter the address or project location in the “Search Near Me” search bar. Click on the plus sign in the top left corner of the map to zoom into the location until the waterbodies are visible on the map. Click on the waterbody of interest. A box with the Waterbody Inventory/Priority Waterbodies List information will be displayed, including the waterbody name, ID number, basin, and assessment level. To access the WI/PWL segment assessment for that waterbody, click on the “Download Fact Sheet” link in the box. For guidance on how to read the WI/PWL segment assessments, visit <http://www.dec.ny.gov/chemical/36730.html>.

- North Atlantic Aquatic Connectivity Project (NAACC): <https://streamcontinuity.org/naacc>
- EPA Guidance for Sanitary Surveys: <https://www.epa.gov/dwreginfo/sanitary-survey-guidance-manuals>
- Maps of New York State Environmental Justice Areas: <https://www.dec.ny.gov/public/911.html>
- Resilient New York Flood Mitigation Reports: <https://www.dec.ny.gov/lands/121102.html>
- Drinking Water Source Protection Program Plans (DWSP2): <https://www.dec.ny.gov/chemical/115250.html>; Contact [source.water@dec.ny.gov](mailto:source.water@dec.ny.gov) for information about any completed DWSP2s in your project area.

## Evaluation Criteria – Planning Reports

Agency Points	<i>Up to 80 agency points are available, as defined below. Applications must receive a minimum of 30 agency points to be eligible for funding. Applications that receive 0 points for Experience and Ability will not be funded.</i>			
<p><b>Performance Measures</b></p> <p><i>38 to 5 points available</i></p>	<p><b>38 POINTS:</b></p> <p>Reports for projects that address a water quality impairment identified in a DEC-approved watershed implementation plan (i.e. TMDL, Nine Element Watershed Plan, or DEC HABs Action Plan) <b>AND</b> benefit an active public drinking water supply.</p> <p><b>OR</b></p> <p>Green infrastructure feasibility studies for projects that reduce stormwater flow to a combined sewer system.</p> <p><b>OR</b></p> <p>Reports for projects that address documented water quality exceedances with known sources for regulated bathing beaches.</p> <p><b>OR</b></p> <p>Reports for projects identified in a DEC-approved plan or report (i.e. Resilient New York Flood Mitigation Report, Drinking Water Source Protection Program Plan) that address nonpoint source pollution <b>AND</b> that benefit an active public drinking water supply.</p> <p><b>OR</b></p> <p>Comprehensive studies that address nonpoint source pollution in TMDL watershed.</p> <p><b>OR</b></p> <p>Reports for projects that are needed to meet MS4 permit retrofit requirements.</p>	<p><b>20 POINTS:</b></p> <p>Reports for projects that address a water quality impairment identified in a DEC-approved watershed implementation plan (i.e. TMDL, Nine Element Watershed Plan, or DEC HABs Action Plan).</p> <p><b>OR</b></p> <p>Reports for projects or comprehensive studies that address a water quality impairment listed as “precluded” or “impaired” in the Waterbody Inventory/Priority Waterbodies List (WI/PWL) segment assessment.</p> <p><b>OR</b></p> <p>Reports for projects that support multiple actions in a DEC Watershed Action Agenda or Plan.</p> <p><b>OR</b></p> <p>Reports for projects that address documented water quality standard exceedances for regulated bathing beaches.</p> <p><b>OR</b></p> <p>Reports for projects identified in a DEC-approved plan or report (i.e., Resilient New York Flood Mitigation Report) that address nonpoint source pollution.</p>	<p><b>10 POINTS:</b></p> <p>Reports for projects or studies that address a water quality impairment listed as “stressed” or “threatened” in the WI/PWL segment assessment.</p> <p><b>OR</b></p> <p>Reports for projects that support an action in a DEC Watershed Action Agenda or Plan.</p>	<p><b>5 POINTS:</b></p> <p>Reports for projects or studies that would impact a waterbody of a WI/PWL segment that is listed as “unassessed” or is not listed in the WI/PWL.</p>

<b>Vision</b>  <i>10 to 2 points available</i>	<b>10 POINTS:</b> Reports for projects that are part of a comprehensive program.  <b>OR</b> Reports for projects to protect a specific public drinking water supply.  <b>OR</b> Reports for projects to improve the water quality of a specific regulated bathing beach.	<b>5 POINTS:</b> Reports for projects that cover multiple project locations.  <b>OR</b> Reports for projects that address aquatic habitat connectivity and/or flood resiliency.	<b>2 POINTS:</b> Reports for a single project at one location or not part of a comprehensive program.
<b>Environmental Justice</b>  <i>2 to 0 points possible</i>	<b>2 POINTS</b> Reports for projects that improve water quality in an Environmental Justice area or positively impact drinking water quality serving an EJ community.		<b>0 POINTS</b> Reports for projects that do not improve water quality in an Environmental Justice area nor positively impact drinking water quality serving an EJ community

<b>Reasonableness of Cost</b>  <i>20 to 0 points available</i>	<b>20 POINTS:</b> Exceptional value for the cost as it applies to both achieving the project objectives and being a fiscally sound project.	<b>10 POINTS:</b> Cost is reasonable as it applies to both achieving the project objectives and being a fiscally sound project.	<b>0 POINTS:</b> Cost is not reasonable for this type of project.  <b><i>Applications that receive 0 points for Reasonableness of Cost will not be funded.</i></b>
<b>Experience &amp; Ability</b>  <i>10 to 0 points available</i>	<b>10 POINTS:</b> Applicant has shown the ability to complete state funded non-agricultural nonpoint source projects in the past 10 years in a timely manner.  <b>OR</b> Applicant has sufficiently shown its ability to complete this non-agricultural nonpoint source project based upon experience with similar non-agricultural nonpoint source projects.	<b>5 POINTS:</b> Applicant has shown the ability to complete a state funded project that was not related to non-agricultural nonpoint source treatment in the past 10 years in a timely manner.  <b>OR</b> Applicant has not been awarded a state grant in the past 10 years but appears to have the experience and ability to carry out the project.	<b>0 POINTS:</b> Applicant does not possess the knowledge, skills and ability to complete the program and does not have prior experience with DEC Division of Water grants in the last 10 years.  <b>OR</b> Applicant has prior experience with DEC grants in the last 10 years and did not complete all tasks in a timely manner.  <b><i>Applications that receive 0 points for experience and ability will not be funded.</i></b>
<b>Regional Economic Development Priority Points</b>	<b><i>Up to 20 points are assigned by the Regional Economic Development Council according to their criteria.</i></b>		
<b>Total Maximum Points</b>	<b>100</b>		

## B. Municipal Separate Storm Sewer System (MS4) Mapping

Funding can be used to complete comprehensive stormwater system maps. This program category encourages and supports cooperation among regulated MS4s to complete mapping of their stormwater system.

### Award Amounts

For MS4s applying as a collaborative, grants of up to \$30,000 per municipality are available for MS4 mapping, with grants of up to \$400,000 available per MS4 collaborative. For MS4 municipalities that must apply alone (see Requirements for All MS4 Mapping section for justification required to apply as single municipality), there is a maximum grant award of \$75,000. There is no minimum award amount. Applicants are limited to one (1) application per round.

### Eligible Applicants

- Municipalities<sup>13</sup>
- Soil and Water Conservation Districts
- Regulated traditional MS4s<sup>14</sup>

### Requirements for All MS4 Mapping

- Mapping must meet the minimum MS4 permit requirements.
- Applicants must participate in an area-wide municipal cooperative stormwater group if one exists. If one does not exist, the application must document the steps that are being taken to develop a group, which must be formed prior to receiving a grant award. In the rare case where a coalition does not exist nor will be established, the application must justify the reasons in the application.
- Funding will be considered for proposals submitted on behalf of multiple regulated MS4s. Only the lead applicant needs to register in the NYS Grants Gateway (<http://grantsreform.ny.gov>). Projects being undertaken by multiple regulated MS4s in the same county or urbanized area will receive additional points. A list of the cooperating MS4s must be provided in the application.
- Applications must include the creation of electronic or GIS system of mapping or specify the use of an already established electronic or GIS system to be expanded upon.
- Basic mapping elements (red in table below) are either required by the NYS Small MS4 General Permit-0-15-003 or considered by DEC to be necessary for effective system management. Therefore, all Basic elements must be completed before grant or match funds can be used for items in the Intermediate or Advanced elements map categories.
- Simultaneous mapping of Basic, Intermediate, and Advanced elements is permitted but any unmapped Basic elements must be included in the application scope of work.
- Information from the WI/PWL must be included in the maps/deliverables created.

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<sup>13</sup> For the purposes of this grant, "municipality" means a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof.

<sup>14</sup> 40 CFR 122.26(b)(16)(i), Small municipal separate storm sewer system means all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that are discharges to waters of the United States.

- Final deliverables must include final map product and final summary report. Required elements for the final deliverables are available at <http://www.dec.ny.gov/pubs/116725.html>.

### Comprehensive System Mapping Table for All MS4 Applications

The table below lists the elements of a comprehensive MS4 system map and is duplicated as a worksheet at <http://www.dec.ny.gov/pubs/116725.html>. For any application to be eligible for this grant, a completed worksheet showing level of mapping **must be attached** for each MS4 participating or benefitting directly or indirectly from the proposed project. The worksheet will help applicants identify their mapping needs.

	Basic Elements Map (Application must include these elements if they are not already included in map)	Intermediate Elements Map (Applications must look to include these elements if they are not already included in map)	Advanced Elements Map (Elements beyond the required permit elements)
<b>Outfall Mapping</b>			
Receiving waterbody name	X		
Type of conveyance (i.e. open drainage, closed pipe, catch basin, etc.)	X		
Outfall material	X		
Outfall shape	X		
Outfall Prioritization <sup>15</sup>	X		
Type of outfall (i.e. direct, indirect, interconnected MS4 outfall)	X		
Submerged in water?	X		
Submerged in sediment?	X		
Latitude/longitude	X		
Land use in drainage area			X
Inspection data			X
Owner			X
Structure/facility ID			X
<b>Storm Sewer System Mapping<sup>16</sup></b>			
Type of conveyance system (closed pipe or open drainage)	X		
Closed pipe or open drainage Description: material, shape, size	X		
Direction of flow	X		

<sup>15</sup> For the purposes of this grant, the following criteria must be used to determine outfall prioritization: high priority outfall criteria are outfalls directly discharging to impaired waters and outfalls discharging to water with designated best usage of primary and secondary contact recreation or higher (Class AA-S, A-S, AA, A, B, SA, or SB) and all other outfalls are considered low priority outfalls.

<sup>16</sup> For the purposes of this grant, this also includes stormwater infrastructure located at municipally owned/operated facilities.

Drop inlet, catch basin, and manhole locations	X		
Number of connections to catch basins and manholes	X		
Latitude/longitude	X		
Receiving waterbody name		X	
Depth of catch basin/manhole			X
Sump depth of catch basins			X
Location of points receiving discharge from updrainage connections with adjacent MS4s (include name and contact information for adjacent MS4 Operator)			X
Owner			X
Structure/facility ID			X
<b>Stormwater Management Practice (SMP) Mapping</b>			
Address	X		
Latitude/longitude	X		
Type of SMP (pond, bioretention, swale, rain garden, etc.) <sup>17</sup>		X	
Receiving waterbody name		X	
Date practice was installed		X	
Ownership of SMP		X	
Responsible party for maintenance		X	
Location of documentation depicting O&M requirements and legal agreements for practice			X
Frequency of inspection of practice			X
Reason for SMP (retrofit, new development, flood control, etc.)			X
Location where SMP discharges (Does SMP drain to MS4?)			X
Contributing drainage area to SMP (if known)			X
Construction date (if known)			X
Last inspection date (if known)			X
Structure/facility ID			X
<b>Municipality owned/operated facilities</b>			
Location/address	X		
Latitude/longitude	X		
Name		X	

<sup>17</sup> Stormwater Practice Type defined in the *New York State Department of Environmental Conservation Maintenance Guidance: Stormwater Management Practices*, March 31, 2017.

Type (Municipal buildings, DPW garage, vehicle and fleet maintenance areas (fire station, police station, bus stations), landfills, salt storage areas, parks & open space, solid waste disposal areas, transfer stations, marinas, etc.)		X	
Facility Prioritization <sup>18</sup>		X	
Receiving waterbody name		X	
Standard Industrial Classification (SIC) Code (if applicable)			X
SPDES ID or No Exposure ID (if applicable)			X
Responsible Department			X
Contact Information			X
Status of facility specific SWPPP (if high priority)			X
Location of facility specific SWPPP (if high priority)			X
Type of activities present on site			X
Last assessment date			X
Year built			X
Size of facility (acres)			X
Owner			X
Structure/facility ID			X
<b>Sewershed Boundary</b>			
Preliminary	X		
Impaired waters (if applicable)	X		
Per MS4 outfall		X	
<b>Priority Areas</b>			
Areas with onsite wastewater systems subject to Part IX requirements	X		
TMDL watersheds	X		
Land use within Impaired Watersheds (Commercial, HD Residential, LD Residential, Industrial, Open Space)		X	
Land use within other Watersheds (commercial, HD residential, LD residential, industrial, open space)		X	

<sup>18</sup> For the purposes of this grant, the following criteria must be used to determine municipal facility prioritization: high priority facilities have one or more of the following on site: storage/use of chemicals, salt, petroleum, pesticides, fertilizers, anti-freeze, lead-acid batteries, tires, waste/debris; fueling stations; vehicle or equipment maintenance/repair; and/or turf management, excluding mowing (e.g., pesticide, fertilizer or other chemical application) and all other municipal facilities are considered low priority municipal facilities.



Description of concern (i.e. sewershed to impaired waters, septic systems, high water table, industrial area, etc.)		X	
Pollutant(s) of concern (litter, sediment, nutrients, etc.)		X	
Areas contributing to impaired waterbodies		X	
Areas where stormwater flows have significant potential to cause erosion (soil, silt, rock, etc.)		X	
Areas contributing to waterbodies of significant value (drinking water supply, public bathing beaches, shellfishing, high recreation value)		X	
Densely populated residential areas		X	
Areas where a high number of construction activities are occurring		X	
Areas with a high number of illicit discharges		X	
Areas of high discharge potential (Refer to Table 14 of IDDE Guidance Manual for identification)			X
Areas of shallow groundwater			X
Areas of low infiltrative soils			X
Areas of historic on-site sanitary system failures			X
Sites with a history of major oil or chemical leaks/spills (Include date of event, type of spill, and final resolution)			X
High priority construction sites (Discharges to impaired waters, AA-S, AA, or A classified water sources, or T (trout)/TS (trout spawning) protected bodies)			X
Other areas of concern (wetlands, riparian buffers, flood plains, steep slopes, etc.)			X
Areas with onsite wastewater systems (include typical age)			X
<b>Proposed Retrofits</b>			
Location	X		
Contributing drainage area to the proposed stormwater retrofit	X		

**Eligible Costs**

- Salary and fringe benefits
- Contractual costs

- Travel
- Administrative costs

**Ineligible costs/reports:**

- Equipment (e.g., hardware)
- Software or GIS licenses
- Development of materials already available through the cooperative stormwater group
- Operating Expenses
- Indirect costs (e.g. space/property rent, utilities, and other office supplies)
- Legal fees
- Costs incurred outside the start and end date of the contract
- Applications for mapping that do not include the creation of an electronic or GIS system of mapping or specify the use of an already established electronic or GIS system to be expanded upon
- Applications for mapping only Intermediate Elements or Advanced Elements where the applicant and participating MS4s have not completed all requirements in the Basic Elements map category
- Applications that do not attach the Mapping Status Table Worksheet identifying the status of mapping for each of the parties in the cooperative agreement for this project

**Required Attachments**

- Budget worksheet
- Letters of support from regulated MS4 entities participating in and/or benefitting from this project
- Map(s) with the project area clearly identified. Map(s) must be a minimum of 1:24,000 scale USGS or DOT planimetric map.
- Completed Sexual Harassment Prevention Certification Form<sup>19</sup>
- Mapping Status Table Worksheet<sup>20</sup> for each of the parties in the cooperative agreement for this project demonstrating level of mapping complete at time of application

**Resources**

- Additional information on Urbanized Areas: <http://www.dec.ny.gov/chemical/92258.html>.
- DECinfo Locator<sup>21</sup> (most up to date source of WI/PWL segment assessments): <https://www.dec.ny.gov/pubs/109457.html>.

**Technical Contact:**

Ethan Sullivan – (518) 402-1382

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<sup>19</sup> Sexual Harassment Prevention Certification Form: <http://www.dec.ny.gov/pubs/116725.html>

<sup>20</sup> Mapping Status Table Worksheet: <http://www.dec.ny.gov/pubs/116725.html>

<sup>21</sup> For projects impacting surface water, the applicant must provide the correct WI/PWL segment ID and HUC 12 watershed of the closest waterbody that the project will impact. To find the closest WI/PWL segment, visit the DECinfo Locator and click on the link for “Environmental Quality Map View”. In the left column of the map, click on “Information List” and check the box for “Rivers, Streams and Shorelines” AND “Lakes, Reservoirs, and Estuaries” to display these map layers. Enter the address or project location in the “Search Near Me” search bar. Click on the plus sign in the top left corner of the map to zoom into the location until the waterbodies are visible on the map. Click on the waterbody of interest. A box with the Waterbody Inventory/Priority Waterbodies List information will be displayed, including the waterbody name, ID number, basin, and assessment level. To access the WI/PWL segment assessment for that waterbody, click on the “Download Fact Sheet” link in the box. For guidance on how to read the WI/PWL segment assessment, visit <http://www.dec.ny.gov/chemical/36730.html>.

## Evaluation Criteria – MS4 Mapping

<b>Agency Points</b>	<b>Up to 80 agency points are available, as defined below. Applications must receive a minimum of 30 agency points to be eligible for funding. Applications that receive 0 points for Project Readiness or Experience and Ability will not be funded.</b>			
<b>Performance Measures</b> <i>28 to 5 points possible</i>	<b>28 POINTS:</b> Project addresses Basic Elements Map (red column) items and will impact a waterbody that: Is listed in the Waterbody Inventory/Priority Waterbodies List (WI/PWL) segment assessment as “precluded” or “impaired” where urban runoff is the known source; <b>OR</b> has a DEC-approved watershed implementation plan (i.e. TMDL, Nine Element Watershed Plan or DEC HABs Action Plan).	<b>20 POINTS:</b> Project addresses Intermediate Elements Map (yellow column) items <b>AND</b> will impact a waterbody that: Is listed in the WI/PWL segment assessment as “precluded” or “impaired” where urban runoff is the known source; <b>OR</b> has a DEC-approved watershed implementation plan (i.e. TMDL, Nine Element Watershed Plan, or DEC HABs Action Plan).	<b>15 POINTS:</b> Project addresses Basic or Intermediate Elements Map (red or yellow column) items <b>AND</b> will impact a waterbody that: Is not listed on the WI/PWL segment assessment as “precluded” or “impaired” <b>AND</b> does not have a DEC-approved watershed implementation plan (i.e. TMDL, Nine Element Watershed Plan, or DEC HABs Action Plan).	<b>5 POINTS:</b> Project addresses only Advanced Elements Map (green column) items.
<b>Reasonableness of Cost</b> <i>20 to 0 points possible</i>	<b>20 POINTS:</b> Exceptional value for the cost as it applies to both achieving the project objectives and being a fiscally sound project.	<b>10 POINTS:</b> Cost is good as it applies to both achieving the project objectives and being a fiscally sound project.	<b>5 POINTS:</b> Cost is reasonable as it applies to both achieving the project objectives and being a fiscally sound project.	<b>0 POINTS:</b> Cost is not reasonable for this type of project.
<b>Vision</b> <i>20 to 0 point(s) possible</i>	<b>20 POINTS:</b> Applicant has demonstrated support from all collaborating regulated MS4 entities that will benefit directly or indirectly from the completion of this mapping project.  <b>OR</b> Project is on behalf of a single municipality with needs specific to the scope of this project <b>AND</b> is neither located in an area with other cooperating regulated MS4 entities nor are shared services available (must specify this in application).	<b>10 POINTS:</b> Applicant has demonstrated support from 50% or more of collaborating regulated MS4 entities that will benefit directly or indirectly from the completion of this mapping project.	<b>5 POINTS:</b> Applicant has demonstrated support from less than 50% of collaborating regulated MS4 entities that will benefit directly or indirectly from the completion of this mapping project.	<b>0 POINT:</b> Applicant has not demonstrated support  <b><i>Applications that fall into this category will not be funded.</i></b>
<b>Readiness</b> <i>5 to 0 points available</i>	<b>5 POINTS:</b> Project has all necessary pieces in place to complete system mapping.	<b>3 POINTS:</b> Project has some of the necessary pieces in place to complete system mapping.	<b>0 POINTS:</b> Project has not secured any of the necessary approvals and is not ready to proceed with project implementation. <b><i>Applications that fall into this category will not be funded.</i></b>	

<b>Experience and Ability</b> <i>5 to 0 points available</i>	<b>5 POINTS:</b> Applicant has shown the ability to complete state-funded MS4 projects in the past 10 years in a timely manner  <b>OR</b> Applicant has sufficiently shown its ability to complete this MS4 project based upon experience with similar MS4 projects.	<b>3 POINTS:</b> Applicant has shown the ability to complete a state funded project that was not related to MS4s in the past 10 years in a timely manner  <b>OR</b> Applicant has not been awarded a state grant in the past 10 years but appears to have the experience and ability to carry out the project	<b>0 POINTS:</b> Applicant has demonstrated poor management of DEC Division of Water Grants contract(s) in the past 10 years  <b>OR</b> Applicant has not been awarded a DEC Division of Water grant in the past 10 years and does not appear to have the experience and ability to carry out the program  <i><b>Applications that fall into this category will not be funded</b></i>
<b>Environmental Justice</b> 2 to 0 points possible	<b>2 POINTS</b> Projects that include mapping of an Environmental Justice area.		<b>0 POINTS</b> Projects that do not include mapping of an Environmental Justice area
<b>Regional Economic Development Priority Points</b>	<i><b>Up to 20 points for this criterion are provided by the Regional Economic Development Councils</b></i>		
<b>Total Maximum Points</b>	<b>100 points</b>		

## **Grant Opportunity General Information and Conditions**

### **Match**

All grants require a local match equal to 10 percent of the requested grant amount. The match can include cash and/or in-kind services. Only costs eligible for this grant may be used as match. Match funds cannot come from other New York State funding sources but may come from federal funding sources. The applicant should identify the source of the match at the time that the application is submitted.

### **Grant Payment**

The grant will be disbursed based on the awardee's progress toward completion of an acceptable report or final deliverable.

Soil and water conservation districts are eligible for a one-time advance payment of up to twenty-five percent of the grant amount for project start-up funding. After the advance payment, all additional payments will be made on a reimbursement basis; however, no additional payments will be made until the SWCD provides documentation showing that all the advance payment was spent on the project.

Municipalities are not eligible for advance payments. All payments to municipalities will be made on a reimbursement basis.

All awardees may apply for reimbursement of eligible project expenses on a calendar quarter basis after the contract between the Department and the grant recipient is executed. All reimbursement requests must be accompanied by a narrative progress report covering the same period as the reimbursement request.

The final reimbursement will be made to the awardee when the report and/or final deliverable is completed and accepted by DEC.

### **Project Selection**

Projects will receive a final score and be selected for grant funding from the highest down to the lowest ranked scores. Applications must receive a minimum of 30 agency points to be eligible for funding.

DEC will consider regional distribution in the determination of awards, to the extent practicable.

### **Multiple Application Submissions**

If an applicant chooses to submit multiple applications, please prioritize and rank the applications in terms of importance.

### **Contract Term**

DEC expects the term of each contract to be consistent with the project timeline proposed in the grant application. The initial term of each contract will need to be between May 10, 2021 and May 9, 2023. Applicants should not apply if they do not expect their project to be complete by May 9, 2023.

All project costs must be incurred between the start and end dates of the contract to be eligible for reimbursement, or to be used as match for the grant.

### **Report Submittal**

All reports and findings funded by this grant must be submitted to DEC and acceptable to DEC.

## **Definitions**

In-Kind Services - means services performed by capable and qualified employees of the grant recipient for technical and administrative work that are directly related to and in support of the development of the report and are deemed reasonable by DEC.

Planning - means the orderly development of a project concept from the original statement of need or purpose through the evaluation of alternatives to a final recommendation on a course of action and measures to implement the selected alternative, including completion of the environmental review process and Historic Preservation Review requirements, if applicable.

### **The Department of Environmental Conservation reserves the right to:**

- Award additional and available funding for scored and ranked projects consistent with this grant opportunity.
- Reduce a grant award from the requested amount if the indicated match is insufficient for the requested amount, or if the requested amount is greater than the defined maximum award amount.
- Award an agreement for any or all parts of the Program Overview in accordance with the method of award or withdraw the Program Overview at any time at the Department's sole discretion.
- Award only one application for funding in the event there are multiple application submissions for a single project or for pieces of a single project.
- Award to the next highest scoring application in the event a grantee fails to negotiate a grant contract with the Department within 90 days of a grant award.
- Monitor the progress of all grant awards and withdraw grant funding if the grantee fails to make significant and timely progress on the project or fails to receive the necessary permissions and permits for the project.
- Not fund projects that are determined not to be consistent with NYS's Smart Growth Public Infrastructure Policy Act.
- Not fund projects that are determined not to be consistent with the Climate Leadership and Community Protection Act or its implementing regulations.<sup>22</sup>
- Reject any or all applications at the agency's sole discretion.

### **Additional Application Submission Information**

#### ***Pre-Application Requirements***

All governmental entities (municipalities, municipal corporations, and soil and water conservation districts, and as further defined in this Program Overview) must register in the NYS Grants Gateway to be considered eligible for this grant opportunity <https://grantsmanagement.ny.gov/> .

In addition to registering, not-for-profit organizations must also complete the Vendor Prequalification process in the NYS Grants Gateway to be considered eligible to apply for this grant opportunity. Government entities are currently not required to complete the Vendor Prequalification process.

#### ***NYS Grants Gateway Registration Instructions:***

If your organization has not already registered in the Grants Gateway, the registration is NOT an online process. Register now to allow time for processing!!

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<sup>22</sup> The Climate Leadership and Community Protection Act is in Chapter 106 of the laws of 2019

- 1.) On the Grants Management Website at <https://grantsmanagement.ny.gov/resources-grant-applicants> download a copy of the Registration Form for Administrator.
- 2.) Complete the form according to the instructions provided. The completed form must be signed and notarized.
- 3.) After the form is received and reviewed, you will be provided with a Username and Password allowing you to access the Grants Gateway.
- 4.) Log in to the Grants Gateway at <https://grantsgateway.ny.gov>. You will be prompted to change your password at the bottom of your Profile page. Enter a new password and click the SAVE button located on the top, right-hand side of the page.

If you have previously registered and do not know your Username please email [grantsgateway@its.ny.gov](mailto:grantsgateway@its.ny.gov). If you do not know your Password, please click the Forgot Password link from the main log in page and follow the prompts.

Additional registration and prequalification information, including a video tutorial, is available on the Grants Management website at <https://grantsmanagement.ny.gov/videos-grant-applicants>.

The applicant name must exactly match the name of the eligible entity registered in the NYS Grants Gateway. Entities not registered in the Grants Gateway at the time of application will be found ineligible.

### ***Debriefing Request***

In accordance with section 163 of the NY State Finance Law, the Department must, upon request, provide a debriefing to any unsuccessful offeror that responded to the Program Overview, regarding the reasons that the proposal or bid submitted by the unsuccessful offeror was not selected for an award. An unsuccessful offeror wanting a debriefing must request a debriefing in writing, within fifteen calendar days of receipt of the notice that their proposal did not result in an award. Requests for debriefings after fifteen calendar days may be denied.

### ***Formal Protest and Appeal Procedure***

Any interested party who believes that he/she has been treated unfairly in the application, evaluation, bid award, or contract award phases of the procurement, may present a formal protest to DEC and request administrative relief concerning such action. Formal protests concerning a pending contract award must be received within five (5) business days after the protesting party knows or should have known of the facts that constitute the basis of the formal protest.

### ***Sexual Harassment Prevention Certification***

State Finance Law §139-l requires all applicants of grant funding to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor's model policy and training standards) to all its employees.

Where applying for grant funding is required pursuant to statute, rule or regulation, every application submitted to the state or any public department or agency of the state must contain the following statement: "By submission of this application, each applicant and each person signing on behalf of the applicant certifies, and in the case of a partnering application each party thereto certifies as to its own organization, under penalty of perjury, that the applicant has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law."

Applications that do not contain the certification will not be considered for award; provided however, that if the applicant cannot make the certification, the applicant may provide a signed statement with their application detailing the reasons why the certification cannot be made. After review and consideration of such statement, the Department may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

Applicants are required to sign and upload the Sexual Harassment Prevention Certification form or upload a signed statement with their application detailing the reasons why the certification cannot be made into the pre-submission uploads folder.

### ***State Environmental Quality Review Act (SEQR) and Permits***

The applicant is responsible for assuring that any SEQR determinations, permits, approvals, lands, easements and rights-of way that may be required to carry out the activities of the project are obtained.

### ***Letters of Permission/Municipal Endorsement***

The applicant must own the property, or obtain an applicable access agreement, for the proposed project site.

- If the property is owned by the applicant – a copy of the current deed.
- If the property owner is a municipality – a resolution by the municipality supporting the project.
- If the property is not owned by the applicant – a formal written agreement between the applicant and landowner which allows the applicant access to the property, and represent the landowner, to accomplish the proposed project.

### ***Quality Assurance***

Quality assurance applies to all programs/projects that involve the collection, generation or use of environmental data associated with the mapping, modeling, monitoring, and assessment of water quality data intended for use by the New York State Department of Environmental Conservation for its regulatory purposes. This includes the design or use of water quality focused environmental technology. Activities associated with these types of programs/projects, conducted in the field or laboratory, shall be:

- a. Performed in accordance with an effective quality system for planning and assessing environmental measurements and tests, and for conducting required quality assurance and quality control procedures to promote and maintain the accuracy and reliability of environmental measurements and test results. An effective Quality System includes a Quality Assurance Project Plan (QAPP) based on guidance provided by the USEPA Guidance for Quality Assurance Project Plans (QA/G-5 May 2006), or American National Standard ASQ/ANSI E4:2014: Quality management systems for environmental information and technology programs—Requirements with guidance for use, approved February 4, 2014.
- b. Performed by a laboratory certified by the New York State Department of Health (NYSDOH) under the Environmental Laboratory Approval Program (ELAP) pursuant to Section 502 of the Public Health Law. This requirement shall not apply to specific parameters where NYS DOH ELAP has not issued a certificate for the specific parameter.



- c. Performed in a manner that ensures all requisite quality control and calibration requirements are met, including field testing, sample collection, preservation, and record-keeping. Basic quality assurance and quality control requirements defined in 40 CFR Part 136.7 shall be followed as well as any specific method requirements.
- d. Required to submit environmental monitoring data electronically to US EPA Water Quality Exchange (WQX) following the guidance as set by US EPA's WQX Submission Instructions.
- e. Covered under the Publicity clause (article IV.G.) of the Master Contract for Grants – Standard Terms and Conditions. Specifically, the Contractor agrees that any work products, including but not limited to, water quality data or environmental information; measured, generated, or developed under this contract shall not be released, published, cited, or shared in draft or final form without prior written authorization from the Department.

### ***Historic Preservation Review Requirements***

For projects that involve properties listed on the State or National Registers of Historic Places, all work undertaken as part of a grant-assisted project must conform to the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.

Questions about or proposals for listing on the State or National Register should be directed to the OPRHP National Register Unit at (518) 237-8643. To ensure the public benefit from the investment of state funding, preservation covenants or conservation easements will be conveyed to the State (OPRHP) for all historic property grants.

### ***Coastal Consistency Requirements***

SEQR Type I and Unlisted actions located within the NYS Department of State's coastal zone boundaries must meet the consistency requirements of the Secretary of State's Coastal Management Program. This consistency determination will be performed by the Department as part of the grant review process. If the proposed project is located within a municipality that has an approved Local Waterfront Revitalization Plan (LWRP), the policies of that LWRP apply. Projects in other areas will need to be consistent with the State's 44 coastal policies. The coastal policies can be found at <https://www.dos.ny.gov/opd/programs/consistency/index.html>. Applicants are encouraged to determine if their project is located within the coastal zone, and to include in their site plan or sketch map their project's location within the coastal zone boundaries if applicable. Maps of the coastal zone boundaries can be found at <https://www.dos.ny.gov/opd/programs/consistency/index.html>.

### ***Grant Program Reporting***

Quarterly Narrative Reports must be submitted in narrative form, no later than 30 days from the end of the calendar quarter. The reports will summarize how the project progressed toward meeting project objectives and deliverables during the respective quarter. Quarterly reports shall be submitted in the NYS Grants Gateway.

Quarterly Expenditure Reports, detailed by object of expense as defined in the Master Contract for Grants (MCG) Attachment B-1 Expenditure Based Budget, must accompany the quarterly Narrative Reports, no later than 30 days from the end of the calendar quarter. These reports must correlate to subsequent vouchers submitted for payment.

Quarterly MCG payment reimbursement requests will be accepted prior to submission of a final closeout reimbursement request. Approved project design, required permits and landowner permissions must be in place to submit a reimbursement request.

Final Report must be submitted and approved by the DEC prior to the release of the final contract payment to the Grantee. The Contractor must submit the Final Report no later than 60 days after the end of the contract period. The Final Report should report on all aspects of the program and detail how the use of grant funds were utilized in achieving the goals set forth in the approved MCG Attachment C Work Plan. Copies of appropriate documents (i.e. inventory and/or management plan) must be submitted and approved by the DEC.

Any project involving volunteer time will be required to report the number of volunteers and the number of volunteer hours in their project quarterly status reports. The total number of volunteers and volunteer hours for the entire project must be reported in the Final Report.

Projects already receiving funds from another NYS or Federal assistance grant program are not eligible to receive funding for the same project activities identified in this Program Overview.

### **What to Expect If You Receive an Award**

#### ***Notification of Award***

Applicants selected to receive a grant award will be notified by email and in an official Department award letter.

**IMPORTANT NOTE:** By accepting an award, applicant agrees to abide by all Master Contract for Grants (MCG) terms and conditions. Any changes to the terms and conditions will not be accepted and may affect applicant's award.

#### ***State of New York Master Contract for Grants (MCG)***

Applicants selected to receive a grant award will be required to execute a MCG within 90 days from the time of their award notification. Failure to submit timely required MCG documents could cause a grantee to lose their grant award. Applicants should review and be prepared to comply with all MCG terms and conditions should grant funding be awarded. The MCG and attachments can be reviewed and/or downloaded in the Grants Gateway HRE application under the screen named 'Contract Document Properties.' The MCG and attachments include:

- MCG Grants Face Page
- Standard Terms and Conditions (NYS standard terms and conditions)
- Attachment A-1 Program Specific Terms and Conditions (Agency and Program specific terms and conditions)
- Attachment B-1 Expenditure Based Budget (project expense categories and detail)
- Attachment C Work Plan (project objectives, tasks and performance measures)
- Attachment D Payment and Reporting Schedule (claims for reimbursement and grant reporting provisions)

**IMPORTANT NOTE:** Project related costs must be incurred within the term of the MCG to be considered eligible for reimbursement or match. Contract payments will not be approved or processed by the DEC until a MCG is fully approved by the DEC, and as applicable the Attorney General and the State Comptroller. All contracts must be approved by the contract start date, which will be determined at the time of an official award.

***Applicants (referred to as “Contractor” following award of Grant Contract) Should Be Prepared to Comply With the Following MCG Requirements:***

- I. Insurance Requirements  
Contractor will be required to carry appropriate insurance as specified in the MCG or LOA, Attachment A-1 Program Specific Terms and Conditions, and agree that each project consultant, project contractor and project subcontractor secures and delivers to the contractor appropriate policies of insurance issued by an insurance company licensed to do business in the State of New York. Policies must name the contractor as an additional insured, with appropriate limits, covering contractor’s public liability and property damage insurance, contractor’s contingency liability insurance, “all-risk” insurance and workers compensation/disability benefits coverage for the project.
- II. Permit Requirements (if applicable)  
Contractors agree to obtain all required permits, including but not limited to, local, state and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.
- III. State Environmental Quality Review Act (SEQR) Documentation  
With respect to the project, the Contractor certifies that it has complied, and shall continue to comply with all requirements of SEQR. The Contractor agrees to provide all environmental documents as may be required by the DEC. The Contractor has notified, and shall continue to notify, the DEC of all actions proposed for complying with the environmental review requirements imposed by SEQR.

***Vendor Responsibility Questionnaire***

Not-For-Profit contractors and/or subcontractors are subject to a vendor responsibility review by the State to ensure public dollars are being spent appropriately with responsible contractors. A vendor responsibility review may include a contractor and/or subcontractor to present evidence of its continuing legal authority to do business in NYS, integrity, experience, ability, prior performance, and organizational and financial capacity. To enroll in and use the NYS VendRep System, see the VendRep System instructions available at <http://www.osc.state.ny.us/vendrep/enroll.htm>, or go directly to the VendRep System at <https://portal.osc.state.ny.us>.

***Iran Divestment Act***

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. By entering into a Contract, the Contractor certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additional detail on the Iran Divestment Act can be found in the MCG, Attachment A-1 Program Specific Terms and Conditions.

***Minority/Women Business Enterprises (M/WBE) and Equal Employment Opportunities (EEO) Requirements***

The Department 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 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. Applicants subject to executing a future NYS Master Contract for Grants agree, in addition to any other nondiscrimination provision of the MCG and at no additional cost to the Department, to fully comply and cooperate with the Department 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 (“M/WBEs”). 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.

Failure to comply with M/WBE and EEO requirements may result in a Department finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages or enforcement proceedings.

Please refer to the NYS Master Contract for Grants - Article IV (J) and Attachment A-1 Program Specific Terms and Conditions - Article X, to review M/WBE and EEO requirements. Required M/WBE and EEO related forms can be found at <http://www.dec.ny.gov/about/48854.html>

- The local government is responsible for designating someone to serve as their Affirmative Action representative. The governing body should make this designation through official means.
- A list of certified M/WBE enterprises can be obtained via the internet from the NYS Department of Economic Development at <https://ny.newnycontracts.com/FrontEnd/ VendorSearchPublic.asp?TN=ny&XID=9885>
- Contracts which meet the established M/WBE-EEO thresholds require the Contractor to submit Quarterly Reports, [http://www.dec.ny.gov/docs/administration\\_pdf/quarterlyversion7.pdf](http://www.dec.ny.gov/docs/administration_pdf/quarterlyversion7.pdf), detailing payments made by the Prime Contractor to NYS Certified M/WBEs.
- For purposes of this procurement, the Department hereby establishes an overall goal of up to **30%** for Minority and Women-Owned Business Enterprises (“MWBE”) participation, (based on the current availability of qualified MBEs and WBEs).

#### **MWBE Responsibilities & Requirements Document**

- Contractors must read, sign, and submit the NYSDEC MWBE Responsibilities & Requirements document as part of the grant application. This document describes the MWBE requirements and provides directions for completing the required MWBE Utilization Plan form and subsequent Quarterly Reports.

DEC M/WBE Compliance  
NYS Department of Environmental Conservation  
Bureau of Contract and Grant Development/MWBE Program  
625 Broadway, 10th Floor  
Albany, New York 12233-5028  
Phone: (518) 402-9240  
Fax: (518) 402-9023

#### ***Procurement of Contractors/Subcontractors***

Municipalities must comply with General Municipal Law Sections 103 (competitive bidding) and 104-b (procurement policies and procedures). Not-for-profit corporations must follow procurement policies that ensure prudent and economical use of public money. Failure to comply with these requirements could jeopardize full reimbursement of your approved eligible project costs.

***Americans With Disabilities Act***

In the event the monies defined herein are to be used for the development of facilities, outdoor recreation areas, transportation or written or spoken communication with the public, the Contractor shall comply with all requirements for providing access for individuals with disabilities as established by Article 4A of the New York State Public Buildings Law, Americans with Disabilities Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code. Standards for certain Recreation Facilities are found in the 2010 ADA Standards for Accessible Design while others are found in the Architectural Barriers Act Accessibility Guidelines for Outdoor Recreation Areas <https://www.access-board.gov/guidelines-and-standards>.

# NONPOINT SOURCE PLANNING GRANT



Department of  
Environmental  
Conservation

## Streambank Stabilization Engineering Design Report Outline

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Engineering design reports for projects to address sedimentation of waterbodies caused by erosion of streambanks must include the required elements listed below. Streambank stabilization practices include but are not limited to staking, erosion control matting, root wads, and rip-rap. Rip-rap may only be used in conjunction with natural restoration principles that incorporate vegetative materials. The engineering design report must include an accurate description of the existing conditions and the proposed work, which may include a combination of streambank stabilization practices identified. Engineering designs must meet the minimum [Protection of Waters permit requirements](#).

### Required Elements

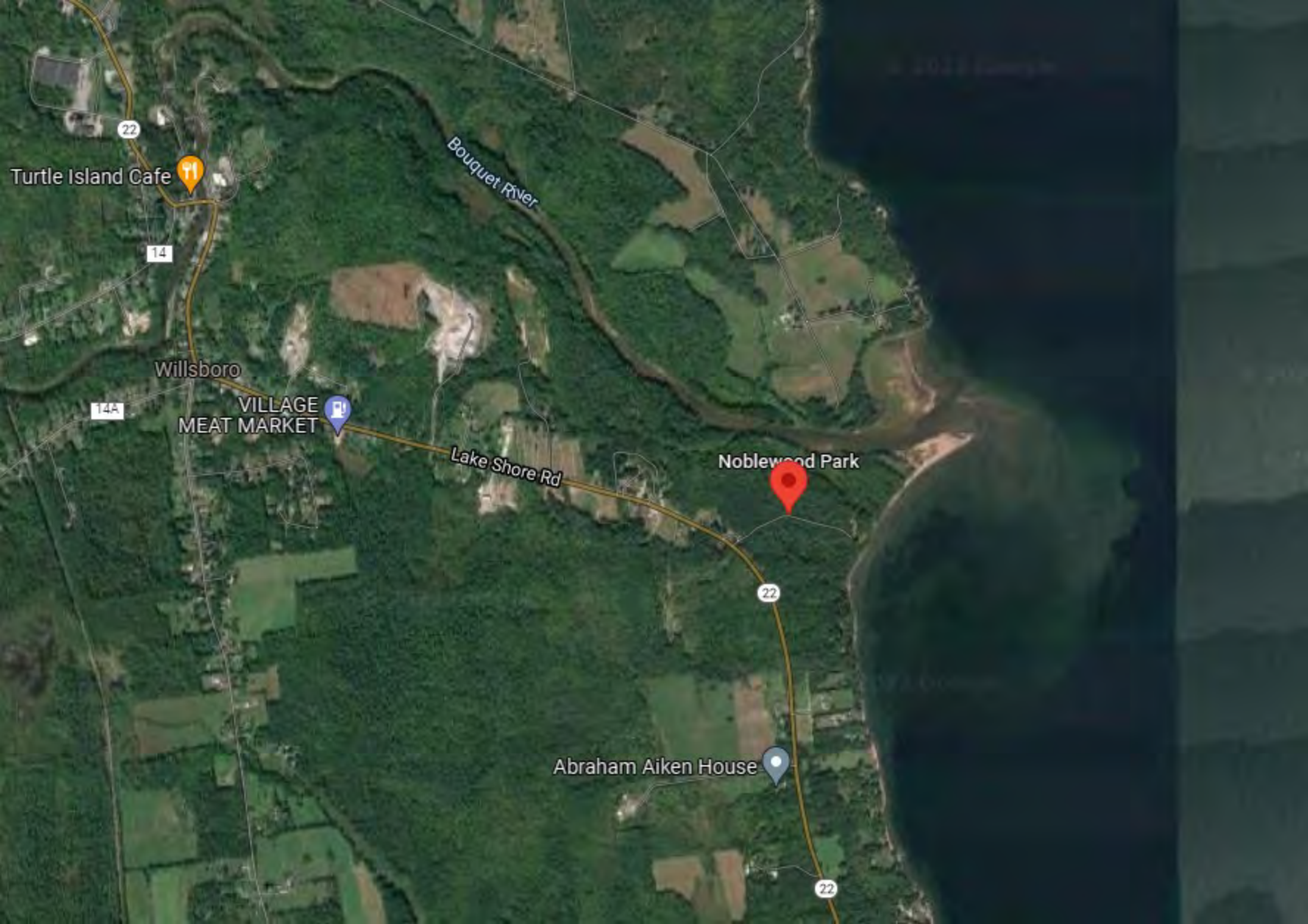
- I. **Cover Page** (project title, owner, prepared by, professional's stamp, and date)
- II. **Executive Summary:** Overview of the project's purpose
- III. **Projective Objectives:** Describe goals for streambank stabilization elements. Indicate whether the elements are a portion of a larger project. Include a project background description and history/problem statement.
- IV. **Existing Conditions:** Include an analysis of the proposed project site which may include but are not limited to: historic/current erosion rates, nearby land use, soil classification, current streambank condition, and description of critical infrastructure.
- V. **Existing Conditions Graphic:** A plan or diagram of the existing project site is required. It must include:
  - a. Engineer / Landscape Architect name; date and project title
  - b. North arrow / legend
  - c. Graphical scale
  - d. Site features (wetlands, streets, buildings, etc.)
  - e. Location map
  - f. Site topography
  - g. Project location / address (including nearest cross street)
  - h. Stormwater flowpath (also consider adjacent sites)
  - i. Nearest receiving waterbody
  - j. Location relative to the 100-year floodplain
  - k. Other site considerations (hotspots, brownfield remediation or other potential design issues at the site)
  - l. Location of any available boring logs, infiltration tests, or other subsurface investigations.
- VI. **Project Description:** Provide a narrative that explains the proposed project and provides justification for the recommended streambank stabilization practices and why they were selected.
- VII. **Alternatives Analysis with cost estimates**
- VIII. **Anticipated Regulatory Approval and Permits** (*list all that will apply, e.g. NYSDEC, NYSDOT, etc.*)
- IX. **Conceptual Site Plan:** A plan or diagram of the project's conceptual design is required. It must include:
  - a. Engineer / Landscape Architect name; date and project title
  - b. North arrow / legend
  - c. Graphical scale (1 " = 10', 20', 30', 40', 50', 60' or 100')
  - d. Location map
  - e. Site features (wetlands, nearest waterbody, streets, buildings, etc.)

- f. Proposed streambank stabilization location
- h. Site grading (proposed conditions)
- i. Other design considerations

**X. Site Photographs:** Photographs that are representative of existing site conditions.

## **APPENDIX B: PROJECT REFERENCE DATA**





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22

14

145

22

22

Bouquet River

Lake Shore Rd

Turtle Island Cafe

Willsboro

VILLAGE  
MEAT MARKET

Noblewood Park

Abraham Aiken House

Chesterfield



9

22

9

87

87

22

Poke-o-Moonshine  
Observer's Trail Trailhead

Long Pond

Willsboro Bay

Willsboro  
Point

Willsboro Inn



22

Flat Rock Camp



Willsboro

Noblewood Park



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BEACH







CAUTION























**APPENDIX C: REFERENCES**

**CERTIFICATION OF EXPERIENCE**

I, \_\_\_\_\_ HEREBY CERTIFY THAT (COMPANY \_\_\_\_\_  
\_\_\_\_\_ HAS PERFORMED THE FOLLOWING WORK WITHING THE LAST  
THREE YEARS **UNLESS SPECIFIED DIFFERENTLY IN THE SPECIFICATION:**

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

## **APPENDIX D: CONFLICT OF INTEREST STATEMENT**

## APPENDIX D: CONFLICT OF INTEREST STATEMENT

\_\_\_\_\_ (“Respondent”)

### Conflict of Interest Statement

The owner(s), corporate members or employees of [Respondent], shall derive any personal profit or gain, directly or indirectly, by reason of his or her participation with the [the Town of Lewis]. Each individual shall disclose to the [the Town of Lewis] any personal interest or direct relationship which he or she may have and shall refrain from participation in any decision making in related manners.

Any owner, corporate member or employee of [Respondent] who is an officer, board member, a committee member or staff member of a related organization shall identify his or her affiliation with such agency or agencies; further, in connection with any policy committee or board action specifically associated with [the Town of Lewis], he/she shall not participate in the decision affecting that entity and the decision must be made and/or ratified by the full board. At this time, I am a Board member, a committee member, or an employee of the following organizations/companies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Now this is to certify that I, except as described below, am not now nor at any time during the past year have been:

- 1) A participant, directly or indirectly, in any arrangement, agreement, investment, or other activity with any vendor, supplier, or other party; doing business with the [the Town of Lewis] which has resulted or could result in person benefit to me.
- 2) A recipient, directly or indirectly, of any salary payments or loans or gifts of any kind or any free service or discounts or other fees from or on behalf of any person or organization engaged in any transaction with the [the Town].

Any exceptions to 1 or 2 above are stated below with a full description of the transactions and of the interest, whether direct or indirect, which I have (or have had during the past year) in the persons or organizations having transactions with the [the Town of Lewis].

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Respondent:** \_\_\_\_\_

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

**Signature:** \_\_\_\_\_

**Printed name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

## **APPENDIX E: CERTIFICATE OF AUTHORITY**

**CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_  
(Officer other than officer executing proposal documents)

certify that I am the \_\_\_\_\_ of the \_\_\_\_\_  
(Title) (Name of Contractor)

\_\_\_\_\_ a corporation, duly organized and in good standing under the  
\_\_\_\_\_  
(Law under which organized, e.g., the New York Business Corporation Law)

named in the foregoing agreement; that \_\_\_\_\_  
(Person executing proposal documents)

who signed said agreement on behalf of the Contractor was, at the time of execution,  
\_\_\_\_\_ of the Contractor; that said agreement was duly signed for  
(Title of such person)

and in behalf of said Contractor by authority of its Board of Directors, thereunto duly authorized, and that  
such authority is in full force and effect at the date hereof.

\_\_\_\_\_  
Signature Corporate Seal

STATE OF NEW YORK ) SS.:  
COUNTY OF ESSEX )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_  
\_\_\_\_\_ to me known, and known to me to be the \_\_\_\_\_  
(Title) of \_\_\_\_\_ the corporation described in  
and which executed the above certificate, who being by me duly sworn did depose and say that he, the said \_\_\_\_\_  
\_\_\_\_\_ resides at \_\_\_\_\_, and that he is \_\_\_\_\_  
\_\_\_\_\_ of said corporation and knows the corporate seal of the said corporation; that the  
seal affixed to the above certificate is such corporate seal and that it was so affixed by order of the Board of  
Directors of said corporation, and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public County



**APPENDIX F: VENDOR RESPONSIBILITY QUESTIONNAIRE**

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

**COMPLETION & CERTIFICATION**

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

**NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)**

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at [ITServiceDesk@osc.state.ny.us](mailto:ITServiceDesk@osc.state.ny.us) or call 866-370-4672.

**DEFINITIONS**

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf). These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

**RESPONSES**

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

**REPORTING ENTITY**

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

**ASSOCIATED ENTITY**

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does not include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

**STRUCTURE OF THE QUESTIONNAIRE**

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>I. LEGAL BUSINESS ENTITY INFORMATION</b>			
<u>Legal Business Entity Name*</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u> )		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company</u> ( <u>LLC</u> or <u>PLLC</u> )		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u> )		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number			

\*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf).

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>I. LEGAL BUSINESS ENTITY INFORMATION</b>		
1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No  <input type="checkbox"/> N/A
If "Yes," provide the address and telephone number for one office located in New York State.		
1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> , <u>Women-Owned Business Enterprise (WBE)</u> , <u>New York State Small Business (SB)</u> or a federally certified <u>Disadvantaged Business Enterprise (DBE)</u> ? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise (WBE)</u> <input type="checkbox"/> <u>New York State Small Business (SB)</u> <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise (DBE)</u>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1.6 Identify <u>Officials</u> and <u>Principal Owners</u> , if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.		
Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>II. REPORTING ENTITY INFORMATION</b>	
<p>2.0 The <u>Reporting Entity</u> for this questionnaire is:</p> <p>Note: Select only one.</p> <p><input type="checkbox"/> <u>Legal Business Entity</u></p> <p><i>Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)</i></p> <p><input type="checkbox"/> <u>Organizational Unit within and operating under the authority of the Legal Business Entity</u></p> <p>SEE DEFINITIONS OF "<u>REPORTING ENTITY</u>" AND "<u>ORGANIZATIONAL UNIT</u>" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.</p> <p><i>Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)</i></p>	
<b>IDENTIFYING INFORMATION</b>	
a) <u>Reporting Entity</u> Name	
Address of the <u>Primary Place of Business</u> (street, city, state, zip code)	Telephone  ext.
b) Describe the relationship of the <u>Reporting Entity</u> to the <u>Legal Business Entity</u>	
c) Attach an <u>organizational chart</u>	
d) Does the Reporting Entity have a <u>DUNS</u> Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," enter <u>DUNS</u> Number	
e) Identify the designated manager(s) responsible for the business of the <u>Reporting Entity</u> . <i>For each person, include name and title. Attach additional pages if necessary.</i>	
Name	Title

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**INSTRUCTIONS FOR SECTIONS III THROUGH VII**

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

<b>III. LEADERSHIP INTEGRITY</b>	
<i>Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:</i>	
3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any government contracting process?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
For each “Yes” or “Other” explain:	

<b>IV. INTEGRITY – CONTRACT BIDDING</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
4.0 Been <u>suspended</u> or <u>debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise goal or statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>V. INTEGRITY – CONTRACT AWARD</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

<b>VI. CERTIFICATIONS/LICENSES</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

<b>VII. LEGAL PROCEEDINGS</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY</b>	
<b>8.0</b> Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.1</b> Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.2</b> Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.3</b> In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
<b>8.4</b> During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal</u> , state or local tax laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
<b>8.5</b> During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.6</b> During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	



**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<p><b>IX. ASSOCIATED ENTITIES</b></p> <p><i>This section pertains to any entity(ies) that either controls or is controlled by the reporting entity. (See definition of "associated entity" for additional information to complete this section.)</i></p>	
<p>9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u>?</p> <p>Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either:</p> <ul style="list-style-type: none"> <li>- An <u>Organizational Unit</u>; or</li> <li>- The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies).</li> </ul> <p>If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for:</p> <ul style="list-style-type: none"> <li>a) Any business-related activity; or</li> <li>b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the <u>Associated Entity</u>, his/her relationship to the <u>Reporting Entity</u>, relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).</p>	
<p>9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u>, New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u>, primary business activity, relationship to the <u>Reporting Entity</u>, relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</p>	
<p>9.3 Within the past five (5) years, has any <u>Associated Entity</u>:</p>	
<p>a) Been <u>disqualified</u>, <u>suspended</u> or <u>debarred</u> from any <u>federal</u>, New York State, New York City or other New York local <u>government contracting process</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>c) Been <u>suspended</u>, <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u>) on any <u>federal</u>, New York State, New York City or New York local <u>government contract</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>d) Been the subject of an <u>investigation</u>, whether open or closed, by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>e) Been the subject of an indictment, grant of immunity, <u>judgment</u>, or conviction (including entering into a plea bargain) for conduct constituting a crime?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>For each "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u>, primary business activity, relationship to the <u>Reporting Entity</u>, relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</p>	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**X. FREEDOM OF INFORMATION LAW (FOIL)**

<p>10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).                  Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

If "Yes," indicate the question number(s) and explain the basis for the claim.

**XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE**

<b>Name</b>	<b>Telephone</b>	<b>Fax</b>
	ext.	
<b>Title</b>	<b>Email</b>	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**Certification**

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

**The undersigned certifies that he/she:**

- is knowledgeable about the submitting Business Entity’s business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity’s responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity’s responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_;

\_\_\_\_\_ Notary Public

**CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT**

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, \_\_\_\_\_, being duly sworn, deposes and says that he/she is the \_\_\_\_\_ of the \_\_\_\_\_ Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

\_\_\_\_\_  
SIGNED

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

**NON-COLLUSIVE BIDDING CERTIFICATION**

1. By submission of this bid, the undersigned bidder and each person signing on behalf of such bidder certifies and in the case of a joint bid each party thereto certifies as to its own organization — UNDER PENALTY OF PERJURY, that to the best of the undersigned’s knowledge and belief:

- (a) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

2. The undersigned acknowledges and agrees that a bid shall not be considered for award nor shall any award be made where any of the above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where one or more of the above has/have not been complied with, the bid shall not be considered for award nor shall any award be made unless the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

3. The undersigned also acknowledges and agrees that the fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph 1 above.

4. The undersigned further acknowledges and agrees that any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a bidder which is a corporation or a limited liability company for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in paragraph 1 of this certificate, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation or limited liability company.

Name of Bidder: \_\_\_\_\_  
(print full legal name)

Date Signed: \_\_\_\_\_ Signature: \_\_\_\_\_

Name of Person Signing Certificate: \_\_\_\_\_  
(print full legal name of signer)

Bidder is (check one):  an individual,  a limited liability partnership,  a limited liability company,  
 other entity (specify): \_\_\_\_\_

## **APPENDIX G: W-9 FORM**

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

Print or type  
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification: check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

<b>Part I Taxpayer Identification Number (TIN)</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;">Social security number</td> </tr> <tr> <td style="width: 20%; height: 20px;"></td> <td style="width: 20%;"></td> <td style="width: 20%; text-align: center;">-</td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> </tr> </table> <p style="text-align: center; margin: 5px 0;"><b>OR</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;">Employer identification number</td> </tr> <tr> <td style="width: 20%; height: 20px;"></td> <td style="width: 20%;"></td> <td style="width: 20%; text-align: center;">-</td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> </tr> </table>	Social security number												-								Employer identification number												-							
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Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.  <b>Note.</b> If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.																																									

<b>Part II Certification</b>
Under penalties of perjury, I certify that:
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.



**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>3</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.  
<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## **APPENDIX H: NON-COLLUSION AFFIDAVIT**

NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Name of Organization)

\_\_\_\_\_  
(Title of Person Signing)

\_\_\_\_\_  
(Signature)

ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

My Commission Expires: \_\_\_\_\_

## **APPENDIX I: IRAN DIVESTMENT ACT COMPLIANCE**

## IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the New York State Education Department (AGENCY) receive information that a person is in violation of the above-referenced certification, AGENCY will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then AGENCY shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

AGENCY reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

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

**APPENDIX J: NYS EEO & SEXUAL HARASSMENT CERTIFICATION**

### Introduction

New York State is a national leader in the fight against sexual harassment and is partnering with employers across the state to further our commitment to ending sexual harassment in the workplace.

This toolkit will provide you step-by-step guidance to implementing the required training and sexual harassment policy, directing you to resources available through New York State and the relevant state agencies.

These resources are all available on the State's Combating Sexual Harassment in the Workplace website: [www.ny.gov/programs/combating-sexual-harassment-workplace](http://www.ny.gov/programs/combating-sexual-harassment-workplace).

### What are the New Requirements?

The 2019 New York State Budget includes the nation's strongest and most comprehensive sexual harassment package, including new resources and requirements for employers. There are two key components under this law:

#### Policy (see pages 2-4)

Under the new law, every employer in New York State is **required to establish a sexual harassment prevention policy**. The Department of Labor in consultation with the Division of Human Rights has established a model sexual harassment prevention policy for employers to adopt, available at [www.ny.gov/programs/combating-sexual-harassment-workplace](http://www.ny.gov/programs/combating-sexual-harassment-workplace). Or, employers may adopt a similar policy that meets or exceeds the minimum standards of the model policy ([www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy](http://www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy)).

#### Training (see pages 5-6)

In addition, every employer in New York State is **required to provide employees with sexual harassment prevention training**. The Department of Labor in consultation with the Division of Human Rights has established this model training for employers to use. Or, employers may use a training program that meets or exceeds the minimum standards of the model training ([www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements](http://www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements)).



## **Policy: Implementation**

All employers must adopt and provide a sexual harassment prevention policy to all employees by **October 9, 2018**.

### **If you want to adopt the State Model Policy:**

- The State Model Policy contains fields for you to list your business name and the name/contact information for the individual(s) you have designated to receive sexual harassment complaints. Fill in those fields and apply whatever branding (e.g., logos, etc.) you like. You may choose to modify the policy to reflect the work of your organization and industry specific scenarios or best practices.
- Distribute the policy to all employees in writing or electronically. Employers are also encouraged to have employees acknowledge receipt of the policy, and to post a copy of the policy where employees can easily access it.

### **If you already have a policy and do NOT want to adopt the State Model Policy:**

- Use the checklist on the next page to ensure your policy meets or exceeds the required minimum standards.
- If it already meets those standards, ensure it already has been or will be distributed to employees by October 9, 2018. All future new employees should receive the policy before commencing work.
- Ensure your complaint form and process are up to date and that employees are made aware of it as part of the policy.
- If you do not have a complaint form, a model is available online: [www.ny.gov/combating-sexual-harassment-workplace/employers#model-complaint-form](http://www.ny.gov/combating-sexual-harassment-workplace/employers#model-complaint-form)
- Review the online FAQs, which outline numerous common questions that may arise: [www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions](http://www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions)
- Distribute a copy of your finalized policy to all employees in writing. This may be done electronically, for example, by email. Employers are also encouraged to have employees acknowledge receipt of the policy, and to post a copy of the policy where employees can easily access it.
- You are also encouraged to provide the policy and training to anyone providing services in the workplace.

**If you do NOT yet have a policy:**

- Download the model policy, available online: [www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy](http://www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy)
- Customize the document by filling in the employer name, person or office designated to receive complaints and appropriate contact information, as highlighted throughout.
- You may choose to modify the policy to reflect the work of your organization and industry specific scenarios or best practices.
- Review the online FAQs, which outline numerous common questions that may arise: [www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions](http://www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions)
- Distribute a copy of your finalized policy to all employees in writing. This may be done electronically, for example, by email. Employers are also encouraged to have employees acknowledge receipt of the policy, and to post a copy of the policy where employees can easily access it.
- You are also encouraged to provide the policy and training to anyone providing services in the workplace.

## **Policy: Minimum Standards Checklist**

An employer that does not use the State model policy -- developed by the State Department of Labor and State Division of Human Rights -- must ensure their policy meets or exceeds the following minimum standards.

The policy **must**:

- Prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- Provide examples of prohibited conduct;
- Include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
- Include a complaint form;
- Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
- Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
- Clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and
- Clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.

## **Training: Instructions for Employers**

All employers are required to train current employees by October 9, 2019. New employees should be trained as quickly as possible. In addition, all employees must complete sexual harassment prevention training at least once per year. This may be based on calendar year, anniversary of each employee's start date or any other date the employer chooses.

### **If you already have a training:**

- Use the checklist on the next page to ensure your training meets or exceeds the required minimum standards.
- If your existing training does not, it should be updated to include all the listed elements. You may also provide supplemental training to employers who have already completed the training to ensure they have received training that meets or exceeds the minimum standards.
- Review the online FAQs, which outline numerous common questions that may arise: [www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions](http://www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions)

### **If you do NOT yet have a training:**

- Download the model training, available online: [www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements](http://www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements).
  - You may execute this training in a variety of ways, including live in person, via webinar or on an individual basis, with feedback as outlined in the training guidance document.
  - Depending on how you choose to present your training, you may utilize different available resources. For example, if you do a live presentation, you should download the PowerPoint and read the script that appears in the "Notes" of each slide.
  - If you choose to train employees with the video, you may direct them to watch it online or download it and show to a group, after which you would provide them a mechanism for feedback, as outlined in the training guidance document.
- Customize the training document(s) and modify them to reflect the work of your organization, including industry specific scenarios or best practices.
- The training should detail any internal process employees are encouraged to use to complain and include the contact information for the specific name(s) and office(s) with which employees alleging harassment should file their complaints.
- You may wish to include additional interactive activities as part of the training, including an opening activity, role playing or group discussion(s).
- Review the online FAQs, which outline numerous common questions that may arise: [www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions](http://www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions)

## **Training: Minimum Standards Checklist**

An employer that does not use this model training -- developed by the State Department of Labor and State Division of Human Rights -- must ensure their training meets or exceeds the following minimum standards.

The training **must**:

- Be interactive (*see the model training guidance document for specific recommendations*);
- Include an explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- Include examples of unlawful sexual harassment;
- Include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to targets of sexual harassment;
- Include information concerning employees' rights of redress and all available forums for adjudicating complaints; and
- Include information addressing conduct by supervisors and additional responsibilities for supervisors.

## **BIDDER'S CERTIFICATION**

Name of Bid: \_\_\_\_\_

In submitting this Bid, BIDDER represents, as more fully set forth in this Bid, that:

- a) BIDDER acknowledges that they have read, understand, and agree to all aspects of the terms and specifications as presented without reservation or alteration.
- b) When awarded, the bid package becomes the "Contract Document".
- c) That the organization, its principals, and sub-recipients are not currently suspended or debarred from doing business with the Federal Government.
- d) The BIDDER has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees in accordance with New York State Labor Law §201-g.

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

Vendor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Subscribed to and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

**APPENDIX K: SCHEDULE OF VALUES FOR COST PROPOSAL**

DELIVERABLES	LUMP SUM PROPOSED:	HOURS OF LABOR:
<b>GENERAL REQUIREMENTS</b>		
Task 1) Project Schedule		
Task 2) Project Management & Coordination Meetings ( <i>incl. MILEAGE</i> )		
<b>FIELD INVESTIGATIONS &amp; SURVEY</b>		
Task 3) Conduct Investigation of the project area and review findings with Owner.		
<b>ENGINEERING REPORTS</b>		
Task 4) Preliminary Engineering Report		



## **APPENDIX L: DRAFT FORM OF CONTRACT**

**SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND  
ENGINEER FOR PROFESSIONAL  
SERVICES**

THIS IS AN AGREEMENT effective as of \_\_\_\_ **TBA** \_\_\_\_ ("Effective Date") between Town of \_\_\_\_ **Willsboro,**  
NY \_\_\_\_ ("Owner") and \_\_\_\_ **TBA** \_\_\_\_ ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:  
\_\_\_\_ **Noblewood Stream Bank Evaluation & Report** \_\_\_\_ ("Project").

**Engineer's services under this Agreement are generally identified as follows: ("Services").**

**General Requirements –**

- **Task 1 - Project Schedule:** The consultant shall maintain and produce a detailed project schedule in Gantt / Critical Path Method format.
- **Task 2 – Project Management & Coordination Meetings:** The consultant shall participate in public meetings and distribution of meeting minutes to the Town and Essex County. Monthly progress meetings with the Town, County and regulatory/funding agencies are anticipated during the planning portion of this project. . The consultant shall work with the Essex County Office of Community Resources for permitting & funding compliance for this project. Essex County will develop all funding applications, provide funding compliance advocacy and accountability acting as Minority Business Officer (MBO) and provide finance consultation with the Town with technical input from the consultant. The consultant will be responsible for any technical information required for project development and permitting purposes. The consultant shall additionally coordinate with regulatory & funding program representatives as requested for review and approval of the project deliverables.

**Task 3 - Field Investigations:** The consultant shall conduct such field work they deem necessary to obtain the required information to properly investigate and recommend improvements to the system. This work may include, but not be limited to land surveying, geotechnical/hydrogeological studies, archaeological surveys and evaluation of all system components. All data collected during this Task shall be a separate deliverable to the Town in a hard copy format (3 hard copies of full-size plans) and digital format (.shp file, .pdf, etc.).

**Task 4 - Preliminary Engineering Report:** The consultant shall provide recommendations for erosion mitigation design based on current regulatory standards, community use of the facilities, feasibility of municipalities budgets and operational efficiencies; prepare schematic level plans for any recommended system upgrades, in accordance with NYS DEC guidelines contained in **Appendix A**.

**Exclusions:**

- None

**Owner Responsibilities**

- None

Owner and Engineer further agree as follows:

*1.01 Basic Agreement and Period of Service*

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above ("Additional Services").
- B. Engineer shall complete its Services within the following specific time period: ***Draft report to be completed no later than 6/01/2023 (for presentation to Town Board), with the final report due no later than 7/31/2023 (for submission to regulatory agency for approval).*** If no specific time period is indicated, Engineer shall complete its Services within a reasonable period of time.
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's Services is impaired, or Engineer's Services are delayed or suspended, then the time for completion of Engineer's Services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

*2.01 Payment Procedures*

- A. ***Invoices:*** Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner ***on a monthly basis for approval by Owner's Board.*** Invoices are due and payable within 30 days of receipt ***and approval by Owner's Board. If the Engineer fails to provide invoicing prior to the publicly listed Owner's Board meeting schedule, then the invoices would be approved in the next scheduled Board Meeting.*** If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within ***thirty (30) days after Owner's Board Approval*** of Engineer's invoice then (1) the amounts due Engineer will be increased at the rate of 1.5% per month from said ***thirtieth (30) day***, and (2) in addition, Engineer may, after giving ***seven (7) days*** written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- B. ***Payment:*** As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in ***Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services).*** If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

*2.02 Basis of Payment-Lump Sum*

- A. Owner shall pay Engineer for Services as follows:
  - 1. A Lump Sum amount of \$ \_\_\_\_\_
  - 2. In addition to the Lump Sum amount, reimbursement for the following expenses: **None**

- B. The portion of the compensation amount billed monthly for Engineer's Services will be based upon Engineer's estimate of the percentage of the total Services actually completed during the billing period.

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Appendix 1.

### 3.01 Termination

- A. The obligation to continue performance under this Agreement may be terminated:

- 1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
- b. By Engineer:
  - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
  - 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.1.
- c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
- d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1 .a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

- 2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

#### 4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

#### 5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
  2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
  3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and
  4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$100,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.

- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- K. This Agreement is to be governed by the law of the state in which the Project is located.
- L. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

### 6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

### 7.01 *Definitions*

- A. *Constructor*-Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. *Constituent of Concern*-Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

*Attachments:* Appendix 1, Engineer's Standard Hourly Rates

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

**Owner: Town of Willsboro, NY**

**Engineer: TBA**

By: \_\_\_\_\_

Print name: Shaun Gilliland

Title: Supervisor

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

By: \_\_\_\_\_

Print name:

Title:

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

Engineer License or Firm's Certificate No. (if required): \_\_\_\_\_

State of: \_\_\_\_\_

Address for Owner's receipt of notices:

**Town of Willsboro, NY.**

**5 Farrell Rd.**

**Willsboro, NY 12996**

**(518) 963-8668**

Address for Engineer's receipt of notices:





**Reimbursable Expenses Fee Schedule**

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## Appendix 2 - SPECIAL PROVISIONS

### Additional Terms and Conditions to Agreement

Between The Town of Willsboro (“the Town”) and

TBA. (“Engineer”)

The parties hereto agree that the terms and conditions of this **Appendix 2** shall supersede and control over any conflicting or contrary provisions in this contract and should there be a dispute between the same, the provisions of this **Appendix 2** shall control and prevail.

#### 1. CLAIMS AND DISPUTES

**1.1 Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between Town and Engineer arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim. The written notice of claim must be accompanied by full documentation and proof to substantiate the claim.

**1.2 Decision of the Town, its Engineer or Construction Manager.** Claims shall be referred initially to the Town, or its Engineer or Construction Manager for action as provided below. A decision by the Town or its Engineer or Construction Manager, shall be required as a condition precedent to litigation of a Claim between the Town and Contractor as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to the execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Town or Construction Manager in response to a Claim shall not be a condition precedent to arbitration or litigation in the event (1) the position of the Town or Construction Manager is vacant, (2) the Town or Construction Manager has not received evidence or has failed to render a decision within agreed time limits, (3) the Town or its Engineer or Construction Manager has failed to take action required under **Section 1.3** within **fifteen (15) days** after the Claim is made, (4) **forty-five (45) days** has passed after the Claim has been referred to the Town or its Engineer or Construction Manager or (5) the Claim relates to a mechanic's lien.

**1.3 Time Limits on Claims.** Claims by either party must be made within **fifteen (15) days** after occurrence of the event giving rise to such Claim or within **fifteen (15) days** after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the Initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

## 2. RESOLUTION OF CLAIMS AND DISPUTES

**2.1** The Town or Construction Manager will review Claims and take one or more of the following preliminary actions within **fifteen (15) days** of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when Town or Construction Manager expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Town or Construction Manager may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

**2.2** If a Claim has been resolved, the Town or Construction Manager will prepare or obtain appropriate documentation.

**2.3** If a Claim has not been resolved, the party making the Claim shall, within **ten (10) days** after the Town or Construction Manager's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by Town or Construction Manager, (2) modify the initial Claim or (3) notify the Town or Construction Manager that the initial Claim stands.

**2.4** If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Town or Construction Manager, the Town or Construction Manager will notify the parties in writing that the Town or Construction Manager's decision will be made within **ten (10) days**, which decision shall be final and binding on the parties but subject to arbitration. Upon expiration of such time period, the Town or Construction Manager will render to the parties the Town or Construction Manager's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Town or Construction Manager may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

The parties expressly agree that any and all controversies and claims arising out of this contract will not be referred to arbitration but will be referred and brought in a Court of competent jurisdiction within Essex County, New York.

## 3. DELAYS.

**3.1** The Town shall not be liable to Contractor or any subcontractors for claims or damages of any nature caused by or rising out of delays. The sole remedy against the Town for delays shall be the allowance of additional time for completion of the Work, the amount of which shall be subject to the claims procedure set forth herein. Except to the extent, If any, expressly prohibited by law, Contractor expressly agrees not to make and hereby waives any claim for damages for delay, including, but not limited to those resulting from increased labor or material costs, directions given or not given by the Town, including scheduling of the work, or an account of any delay, or on account of any delay, obstruction or hindrance for any cause whatsoever by the Town, or its agents or any other Contractor on the project, whether or not foreseeable property damage, death arising out of or in connection with its officers, employees, agents, contractors, sub-contractors, guests or invitees' negligence or its/their performance or failure to perform this agreement.

**4. TOWN'S RIGHT TO SET-OFF**

The Town shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Town's option to withhold for the purposes of set-off any moneys due to the Contractor under this agreement up to any amounts due and owing to the Town with regard to this contract, any other contract with any Town department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the Town for any other reason, including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Town shall exercise its set-off rights in accordance with normal Town practices, including, in cases of set-off pursuant to an audit, the acceptance of such audit by the Town Board or its designated representative.