



KATHY HOCHUL
Governor

LISA GOMEZ
Chair

REQUEST FOR APPLICATIONS (RFA)

Nonprofit Infrastructure Capital Investment Program

RFA Announcement Date:

October 02, 2023

RFA Submission Period:

December 1, 2023 – January 12, 2024

To maintain a fair and open process all questions regarding this RFA must be submitted to NICIP@dasny.org. It is a violation of the New York State Procurement Lobbying Law to directly contact personnel at DASNY regarding this RFA.

Nonprofit Infrastructure Capital Investment Program

Request for Applications (RFA)

Timetable of Key Events:

Event:

Date:

Funding Opportunity Announcement.....	10/02/2023
Applicant Webinar.....	10/18/2023
Deadline to Submit Questions (https://www.surveymonkey.com/r/NICIP2023)	10/31/2023
Answers Posted By.....	11/15/2023
Prequalification or Prequal Submissions Due By.....	11/30/2023
Rolling Application Submission	12/1/2023-1/12/2024*
Rolling Application Scoring	12/02/2023-1/31/2025*

***See explanation of submission and scoring processes in this RFA**

Inquiries:

In accordance with State Finance Law § 139-j and § 139-k, this RFA includes and imposes certain restrictions on communications between DASNY personnel and an Applicant, or any representative, agent, consultant or other third party representing the Applicant during the procurement process. All inquiries should therefore be directed as follows:

General inquiries should be directed to:

Email: NICIP@dasny.org
Subject line: NICIP RFA Inquiry

Technical questions regarding Grants Gateway and Prequalification:

Email: GrantsGateway@its.ny.gov
Phone: (518)474-5595
Other Resources:

- [The NYS Grants Reform Website](#)
- [Prequalify to Apply for New York State Grants](#)

Important Note: *Contacts made to any DASNY or other State personnel regarding this procurement as noted in this RFA between the date of release and application deadline may disqualify the Applicant and affect future procurements with governmental entities in the State of New York. Please refer to DASNY's website (www.dasny.org) for policy and procedures regarding this law, or the OGS website (<http://ogs.ny.gov/acpl/>) for more information about this law.*

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Section One: INTRODUCTION

1.1 Background

Nonprofit organizations provide critical services to millions of New Yorkers each year on behalf of the State and local governments. Utilizing nonprofit organizations to provide these services results in a cost-effective delivery system that helps meet the needs of New Yorkers, including many of the State's most vulnerable populations. Many of the services that nonprofits provide on behalf of the State result in long-term cost avoidance and savings by intervening to help avoid crisis situations.

In order to continue to support the work of the State's nonprofit direct human services partners, the Nonprofit Infrastructure Capital Investment Program (NICIP) was appropriated \$50 million in the 2022-2023 Enacted Budget under Ch. 54, L. 2022.

1.2 Purpose of Funding

The Nonprofit Infrastructure Capital Investment Program will make targeted investments throughout the State in capital construction projects that will improve or maintain the quality, efficiency, accessibility of such nonprofit human services organizations that serve New Yorkers as defined in Section 2.1 of this document.

1.3 Funding Availability and Allocations

Funding Limits and Award Sizes

As per the 2023-24 Enacted State Budget, the \$50 million appropriation will be combined with the withdrawals and forfeitures of the previous NICIP Awards. No less than \$60 million will be made available for this RFA. Awards will range between \$50,000 and \$500,000 to ensure projects and organizations of varying sizes may be funded by NICIP Grants. The applications will be scored in a manner based heavily on project viability, regardless of project or organizational size.

Funding Availability

Per the enabling legislation, the NICIP funding opportunity will be offered through rolling application periods on a first come, first served basis. The initial opportunity will allow for a six-week application window for application submission. Applications will be scored in the order in which they are received and according to the scoring criteria as described in section 4.2. All qualified applications will be advanced to DASNY for formal reviews until the entirety of the funding pool has been utilized.

NICIP Qualifying Applicants will have **six months** to finalize their DASNY reviews and enter into Grant Disbursement Agreements with DASNY. Should Applicants fail to meet that deadline or withdraw their Application for any other reason, the full amount of funding allocated to their Application will be returned to the NICIP pool and awarded to the next successive NICIP Qualifying Applicant on the list of Applications.

All NICIP Grant Disbursement Agreements executed from this funding opportunity will expire on December 31, 2026. No extensions will be authorized. Failure to meet the Project completion deadline and/or submit reimbursement requisitions by that date will be an event of default under the terms of the Grant Disbursement Agreement. The disbursed NICIP Grant funds would then be subject to recapture, if appropriate, and the remaining funds will be made available for future NICIP funding opportunities as authorized in the NICIP legislation.

NICIP Applications will remain on the authorized NICIP list until January 31, 2025. After that date, all Applicants will have to reapply for future NICIP funding opportunities.

As additional funding is made available to the NICIP program, future NICIP opportunities will be posted.

Section Two: ELIGIBILITY

2.1 Definitions

For purposes of NICIP under this RFA:

- “Human services organization” shall mean a nonprofit organization that provides direct programs and services in New York State that protect the health and well-being of individuals and families residing in New York State;
- “Direct services” shall mean prevention, intervention, respite and/or habilitative services that a nonprofit organization provides directly to an individual/family or groups of individuals/families;
- “Applicant” is an organization that has its own unique Employer Identification Number, unique Taxpayer Identification Number, or a unique SFS Vendor Identification Number. The organization must also be registered and prequalified as a separate organization in the Grants Gateway to be eligible to apply for its own NICIP grant.

2.2 Eligible Entities

Organizations are eligible to apply for a NICIP grant ONLY if ALL of the following criteria are satisfied:

- The Organization is registered with Grants Gateway and Prequalified under the applicant’s legal name on file with the Department of State and IRS at the time and date the application is submitted. Applicants are strongly encouraged to review their document vaults prior to the application deadline to verify that it is current;
- The Organization is a Human Services Organization as further defined in Section 2.1 of this RFA;
- The Organization provides direct services in New York State to individuals and families residing in New York State as further defined in Section 2.1 of this RFA;

- If the Organization applied previously for a grant under a prior NICIP round and received an award, they can only apply for an award under this RFA if they have received an executed Grant Disbursement Agreement (GDA) as of April 1, 2023 and:
 - have drawn down 100% of their award or notified DASNY project completed and that no further requisitions will be submitted; **or**
 - the previous NICIP award has been withdrawn by the Organization prior to application deadline under this RFA.
- The Organization has not received and is not receiving any other funding from New York State for the same project it outlines on its NICIP application.
- The Organization has or will have site control over the project location at the time of application under its legal name on file with the Department of State and the IRS as further described in Section 2.3 of this document.

For the purposes of this RFA the following organizations are deemed not to be human services organizations offering direct services and are **not** eligible to apply for a NICIP grant:

- Colleges and universities
- Elementary and secondary schools, whether public or private
- Hospitals, nursing homes, and diagnostic and treatment centers authorized under Article 28 of the New York State Public Health Law
- Fire departments
- Libraries, museums, theatres, parks, or gardens
- Organizations whose primary function is fundraising
- Organizations whose primary function is lobbying or advocacy
- Organizations whose primary function is volunteer recruitment and placement
- Membership or umbrella organizations that provide services to another organization and not directly to an individual/family or groups of individuals/families
- Organizations that provide services to another organization but not directly to an individual/family or groups of individuals/families
- Organizations that are the Performing Provider System lead for a Delivery System Reform Incentive Payment Program (DSRIP) network
- Municipal Corporations

2.3 Eligible Project Locations

General Project Location Requirement

Site control is required to prove that the Applicant has sufficient authorization and control to undertake the project at the project location. To determine that the Applicant owns, leases, or otherwise has control over the site where the project will be located, Applicants will be asked to provide a copy of the deed, lease, or other indicia of **site control under the Applicant's legal name on file with the Department of State and the IRS**. If it owns the property, the Applicant will need to provide the deed.

If the project will be undertaken on leased real property, the Applicant will need to provide the lease. **The lease must extend at least five (5) years from the date the application has been submitted, and lease term will be verified at the time of the execution of the Grant Disbursement Agreement to ensure that a significant period of time remains on the lease term.** Support of the property owner for the capital improvement(s) is also required.

Important Note: Project sites that have been or will be funded by a tax credit structure (i.e., New Market Tax Credits (NMTCS), Low-Income Housing Tax Credits (LIHTCS), Brownfield Tax Credits (BTCs), etc.) are ineligible.

Equipment Inventory Tracking Requirement

If the project includes removable equipment or furnishings, the GDA will require Grantees to develop, implement, and maintain an inventory system for tracking such removable equipment and furnishings. Items will be installed, stored, or secured on property owned by and/or under the control of the Grantee; the Grantee has or will develop, implement, and maintain a usage policy for items in compliance with all State and Federal regulations or privacy laws, including use, retention, storage or deletion of any data, images, or videos stemming from grant funded purchase of such items if applicable.

Primary Benefit to Applicant Requirement

NICIP funding must be used for the primary benefit of the Applicant and the Applicant's eligible programs. Therefore, improvements to leased real property will be evaluated carefully to determine whether the landlord or the Applicant will be the primary beneficiary of the expenditure of grant funds. For example, if a nonprofit organization shares a building with other businesses or organizations, the nonprofit organization cannot apply to replace the roof of the entire building. If at any point in the process, in DASNY's sole discretion, it determines that the Applicant is not the primary beneficiary, the application will no longer be deemed qualified, and the funding opportunity will be forfeited. Organizations that operate more than one program must demonstrate how the Applicant's eligible programs, and not any of its ineligible programs, will receive the primary benefit of funds awarded through this grant.

Single Project Location Requirement

Nonprofit organizations may submit one application for a NICIP grant and that application must be for construction and/or eligible technology. Only one project site per application will be allowed. However, one application can cover a single-purpose or multi-purpose project at a single site but not a single-purpose project at multiple sites. For example, an Applicant could submit one application to fix multiple infrastructure issues at a single site (replace all windows, install a new roof, and create accessible entryways at a single address); Conversely, an Applicant cannot submit one application to address one infrastructure issue at several sites (install energy efficient windows at ten program locations unless all grant funded capital assets are moveable furniture, fixtures, or equipment). Furthermore, an Applicant cannot submit one application to install new windows at Site A and replace bathroom fixtures at Site B. As noted above, nonprofit organizations may submit one application for a NICIP grant. If more than one application is submitted, only the first application submitted will be reviewed and scored.

2.4 Eligible Projects and Project Costs

All projects must meet the following criteria:

- The project must be an eligible Construction or Technology project as per the enabling NICIP statute as noted in the chart in this Section.
- The project cannot have started, nor the costs incurred prior to April 1, 2023*;
- The project must be completed, **and all payment requisitions processed by December 31, 2026;**
- The project cannot have been funded in whole or in part by other funding from New York State;

*The only costs that can have occurred prior to April 1, 2023 are design, engineering, and other preliminary planning activities. Costs incurred prior to this date, including for such aforementioned activities, may not be reimbursed from grant funds.

Eligible Construction Projects

NICIP funds may only be used for reimbursement of capital costs for technology, renovations and expansion of space used for direct program services as well as renovations resulting in energy efficiency and increased accessibility.

Ineligible Project Costs Generally

Even if a Project is otherwise eligible, certain project costs would be ineligible and would therefore have to be funded by another demonstrably available funding source as per Section 2.5 below. This is because Grant funding cannot be used for costs that are not capital in nature or are otherwise ineligible under NICIP. If the Grantee submits a requisition including ineligible costs, such ineligible costs will be excluded from payment. Ineligible costs include, but are not limited to:

- Personnel costs, including internal labor, salary, wages, etc.;
- Supplies and non-capital equipment;
- Computer software (whether cloud-based or otherwise), subscriptions, licensing fees, monitoring fees, internet services & cloud storage, training fees;
- General operating costs, such as payment of rent or utilities;
- Working capital, including pay down of liabilities;
- Loans, including loans into an investment account in connection with a tax credit structure, and other debt obligations, including annual debt service and/or debt retirement;
- Routine training and maintenance costs related to implementation of information technology;
- Lease payments;
- Leased equipment;

- Acquisition of real property;
- Recurring costs associated with the use and maintenance of equipment purchased, including internet, email, phone, voicemail service, web hosting or webcasting;
- Vehicles, unless the vehicle is utilized to provide direct services, such as a mobile clinic or a mobile food pantry (**vehicles used for transportation only are ineligible**);
- Replacement furniture, unless undertaken in connection with a larger renovation project;
- Building or property maintenance, structural maintenance, or building systems maintenance; and
- Other non-capital costs as determined by DASNY and DASNY's bond and tax counsel.

2.5 Eligible Project Budgets and Eligible Other Funding Resources

Project Funding Generally

Please note that there is no match requirement, and that the grant may fund the entire cost of the project so long as all cost are eligible for capital funding reimbursement.

Applicants are advised that grants will be awarded only to Applicants that can demonstrate that the project is fully funded and can be completed with the grant funds and other committed funding as necessary. Therefore, if the estimated cost of a project exceeds the amount of the grant, the Applicant must provide evidence of sufficient committed funding resources necessary to complete the project as described.

If the proposed project includes costs that are ineligible for reimbursement under the NICIP award, the Application must also show that ineligible costs will be funded from other sources of committed funding.

Documentation to verify that there are sufficient funds to complete the project may include, but is not limited to, any or all of the following:

- Recently audited financial statements
- Bank account and investment account statements
- Donor pledges, agreements, and receipts
- Non-New York State grant award letters, agreements, and contracts
- Loan agreements, commitment letters, terms and conditions
- Bond documents
- Personal service contracts
- Bills of sale and paid invoices evidencing payment for an eligible cost

Please note that pledges not memorialized in a binding legal agreement, award letters with unsatisfied contingencies, grant applications, pending loan applications, and other non-final commitments do not constitute secured sources of funding.

No Long-Term Financing Requirement

The portion of the project budget to be reimbursed by the NICIP Grant cannot be financed either through long-term debt, a tax credit structure, bond issues, or other long-term financial

instruments. If project costs are financed in the first instance with a short-term or bridge loan, the loan cannot extend over one (1) year.

No Overlapping Funding Requirement

If the project is receiving additional funding from an external funding source, including but not limited to, State or Federal restructuring loans, Federal grants, or grants, loans, or other funding from any other public or private source (currently or within the last six (6) years), this external funding source cannot overlap with project costs to be reimbursed with grant award.

Cost Justification Requirement

As part of the application, a Capital-Based Budget form must be completed where the Applicant must explain and justify the projected costs included in the budget. The Applicant must provide cost estimates and upload supporting documentation for those estimates (i.e. – an estimate or estimates prepared by a design or construction professional) for the following categories of expenses as well as narratives that explain how the Applicant arrived at the cost estimates:

- Scoping and Pre-Development
- Design
- Construction
- Other

Include additional lines as needed in the “Other” category to describe costs not already specified. Any information provided in the Capital-Based Budget form should match the information provided in the “Required Information” Section of the application.

PROJECT ELIGIBILITY EXAMPLE CHART		
Project Type	Eligible Examples	Ineligible Examples
Renovation or expansion of space used for direct program services	<p>ELIGIBLE: Replacing aging roofs, installing HVAC systems, or addressing structural deficiencies</p>	<p>INELIGIBLE: Renovating a space, or purchasing furniture, fixtures, or equipment for spaces primarily used for administrative, storage, or training purposes*</p> <p>Standalone painting, asbestos abatement, carpeting, or brick repointing that is not part of a larger renovation or expansion project</p> <p>Repairing, leasing, purchasing, or financing (loans or tax credits) the construction or renovation or furnishing of spaces</p>
Modifications to make spaces more sustainable and energy efficient resulting in overall cost and energy savings	<p>ELIGIBLE: Installing energy-efficient windows throughout a residential facility</p> <p>Purchasing energy efficient lighting fixtures for an entire building or space as part of an energy efficiency initiative</p>	<p>INELIGIBLE: Repairing insulation or repairing windows</p> <p>Purchasing LED bulbs for existing fixtures</p> <p>Leasing or financing solar panels</p> <p>Installing solar panels at a location that is used only for administrative purposes and is not used to provide direct services</p>
Technology Upgrades	<p>ELIGIBLE: Purchase and installation of computer hardware to improve organization's electronic records, data analysis or confidentiality.</p> <p>Security Cameras</p>	<p>INELIGIBLE: Software, subscriptions, licensing fees, monitoring fees, internet services, cloud storage, and training fees</p>
Accessibility renovations	<p>ELIGIBLE: Renovating restrooms in a building where direct services are provided in order to make them wheelchair accessible.</p> <p>Installing wheelchair ramps at a building or site operated by a nonprofit where direct services are provided.</p>	<p>INELIGIBLE: Repainting parking lots to include handicap spaces</p> <p>Ongoing or routine maintenance of existing accessibility components of a facility</p>

***Important Note:** For construction projects, the proposed project must involve a space that is exclusively or primarily a location where direct services are provided meaning the individual / family or groups of individuals / families being served come to the location on a regular basis.

Section Three: APPLICATION PROCESS

3.1 View Webinar

Applicant Action Items:

- 1) A Webinar video will be posted on the NYS Grants Gateway and on DASNY's NICIP Website by 4pm Wednesday October 18, 2023. This video will address questions and clarify specific elements of the RFA announcement.
- 2) Prior to the Webinar date, ensure thorough review of RFA for all requirements, including but not limited to Section Four (Evaluation) and Section Five (Advancement and Grant Disbursement Agreements);
- 3) Submit questions as needed as per instructions below.

DASNY will receive all questions for the NICIP RFA via the survey monkey site <https://www.surveymonkey.com/r/NICIP2023>. Please send all questions no later than 4:00 pm 10/31/2023.

Questions of a substantive nature **submitted prior to October 16, 2023** will be addressed on the Applicant Webinar Video, where applicable. To maintain a fair and open process, DASNY will only accept questions regarding this RFA received via <https://www.surveymonkey.com/r/NICIP2023>

Questions received after the Webinar Video has been posted on 10/18/2023, and prior to 5:00 pm on 10/31/2023, will be made available on the NICIP section of the DASNY Website (www.dasny.org) and as part of the NICIP funding opportunity posted on the Grant Opportunity Profile for this Grant Opportunity on the NYS Grants Gateway on 11/15/2023.

All potential applicants are strongly encouraged to view this Webinar as the Nonprofit Infrastructure Capital Investment Program (NICIP) grant application process will be explained in the Webinar Video.

3.2 Prequalify in Grants Gateway

Applicant Action Items:

- 1) Review all resources provided to you on the cover page of this RFA for technical specifications on submitting Document Vault for prequalification in Grants Gateway;
- 2) Submit all required documentation for Prequalification to Grants Gateway;
- 3) Maintain Prequalification Status throughout Application, Grants Administration and Payment processes.

The Prequalification process is separate from, and in addition to, the Application submission process.

Important Note: All Applicants must have the Grants Gateway status of Prequalified prior to submitting a NICIP Application. Please note that uploading documentation to the Document Vault and obtaining the appropriate status may take multiple weeks. It is recommended that all potential NICIP Applicants start the Gateway process, (or update their existing Document Vault), as soon as possible to ensure they are eligible to apply by the Application deadline.

3.3 Submit Application

Applicant Action Items:

- 1) Review Evaluation section below and Appendix 1 – NICIP Application to ensure Application responses directly addresses the program Pass/Fail requirements for eligibility and scoring criteria as laid out in Section Four below;
- 2) Review all the Important Notes in this section below on technical aspects of submitting Applications through Grants Gateway;
- 3) Submit Applications as soon as requirements are met. **Remember, all NICIP Applications will be scored on a first come, first serve basis until the Qualifying Applicants utilize all available funds.**

Applications must be submitted to NYS for review in the Grants Gateway by the established due date and time. The Grants Gateway will not allow Applications to be completed and/or submitted after the submission period has ended. Incomplete and/or unsubmitted Applications will not be considered.

Prospective Applicants are strongly encouraged to submit their Applications **as soon as their Application is complete**. Grants Reform staff are available to answer Applicants' technical questions and provide technical assistance prior to the Application due date and time. Contact information for the Grants Reform Team is available on the cover page of this RFA.

Although the Grants Reform staff will do their best to address concerns, there is no guarantee of the amount of time it will take to resolve any specific issue. The Grants Gateway will always notify Applicants of successful submission. **If a prospective Applicant does not receive a successful submission message assigning their Application a unique ID number, it has not successfully submitted an Application.**

Important Notes: During the Application process, please pay particular attention to the following:

- Not-for-profit Applicants must be prequalified for this Application submission and throughout the scoring and review process.
- Three of a not-for-profit's essential financial documents - the IRS990, Financial Statement, and Charities Bureau filing - expire on an annual basis. If these documents are allowed to expire, the not-for-profit's prequalification status expires as well, and the Applicant will not be eligible for State grant funding until documentation is updated and approved, and prequalified status is reinstated.

- Only individuals with the appropriate roles in Grants Gateway will be able to submit an Application.
- Prior to submission, the Grants Gateway will automatically initiate a global error checking process to protect against incomplete Applications. An Applicant may need to attend to certain parts of the Application prior to being able to submit the Application successfully. Be sure to allow time after pressing the submit button to clean up any global errors that may arise. You can also run the global error check at any time in the Application process.
- Applicants should use numbers, letters and underscores when naming their uploaded files. There cannot be any special characters in the uploaded file name. Also be aware of the restriction on file size (10 MB per upload) when uploading documents.

Applications can be submitted only through the Grants Gateway. Applications submitted via email, postal delivery, or facsimile will not be accepted.

Section Four: EVALUATION

4.1 Pass/Fail Eligibility

Before the Applications are scored, all Applications will be evaluated on a pass/fail basis to ensure the minimum requirements for eligibility have been met. The pass/fail requirements are:

- 1) Prequalification at the time the Application is submitted under the legal name of Applicant on file with the Department of State and IRS;
- 2) Eligibility of Applicant as defined by section 2.1 and 2.2 of the RFA;
- 3) Project Location Eligibility as defined by section 2.3 of the RFA;
- 4) Project/Project Cost Eligibility as defined by section 2.4 of the RFA;
- 5) Project Funding Eligibility as defined by section 2.5 of the RFA;

Supporting Documentation required for the Pass/Fail section:

- Pre-Qualification History and Prequalification Status Report Printouts
- Department of State Corporations Bureau print out
- W-9

4.2 Scoring Criteria

If an Application passes eligibility, the Application will be scored based on Project Viability as evidenced by:

- 1) Project Description & Support for Project Costs

- 2) Anticipated Project Time-Frame
- 3) Other Project Funding Sources
- 4) Project Location Viability

Supporting Documentation that should be submitted for the criteria listed above include:

- Recent estimates, invoices, and quotes to support project costs from vendors authorized to do business in NY State and under the Applicant's legal name. **All cost estimates should be no earlier than April 1, 2023;**
- Recent bank statements under Applicant's legal name to evidence funds committed to support project is fully funded if project total cost is in excess of grant award. **All statements should be no earlier than September 30, 2023;**
- SEQR/SHPO documentation, permit or other documentation of regulatory approvals if applicable to project.

4.3 Scoring Process

Initially, Projects will be screened with pass/fail criteria. After meeting those mandatory criteria, Projects must achieve a minimum average score of 95 out of 100 points for Project Viability in order to be considered a Qualified Application.

Applications will be scored on a first come, first served basis. Applications will be scored in the order they are received, and if the average score meets the minimum threshold, the Application will be deemed Qualified for DASNY processing. The date and time of submission of the NICIP Application in the Grants Gateway will be the determining factor of the order of scoring.

Important Note: Due to the competitive nature of the award process, changes to the project scope and/or project location will not be permitted at any point in the grant administration process. If the Grantee cannot complete the project as described at the location set forth in the application, the NICIP grant will be forfeited.

Section Five: ADVANCEMENT AND GRANT DISBURSEMENT AGREEMENTS

5.1 Qualifying Applications

Applications will be scored on a first come first served basis. Scoring will commence within two weeks of the commencement of the application window. Applications meeting scoring requirements will be deemed Qualifying Applicants as funds permit. DASNY will notify organizations that have been deemed Qualifying as the determinations are made.

5.2 Prerequisites to Grant Disbursement Agreement (GDA)

Once a Qualifying Applicant has been notified, DASNY will undertake a financial, environmental, bond and tax counsel review. DASNY will also determine whether required regulatory approvals have been obtained. DASNY will also verify that sufficient site control is in place.

Financial Review

DASNY will conduct a financial review in connection with each Qualifying Application in order to verify that sufficient funds have been secured in the amount necessary to complete the NICIP project, and that such funds meet all applicable criteria set forth in this RFA. As set forth in Section 2.5 of this RFA, the full project amount must be secured.

State Environmental Quality Review

For those projects requiring an environmental review pursuant to the State Environmental Quality Review Act (SEQRA), the Applicant must provide either the Findings Statement or the Negative Declaration prepared by the SEQRA Lead Agency in connection with the project. If no SEQRA review has been undertaken in connection with a construction project that is currently underway or has not started, DASNY will undertake the necessary review if a NICIP Application is deemed Qualified.

Please provide evidence of completion if a ULURP review or Section 14.09 of the Historic Preservation Act review was completed in connection with the NICIP project.

Certification

All Qualifying Applicants must be able to certify that funds will not be used to finance a program or project that will in any way promote or facilitate religious worship, instruction, or proselytizing. Qualifying Applicants will be asked to certify, at a minimum, the following in connection with the project to be financed by the Grant:

- 1) No religious purpose shall be advanced or promoted by the project or program funded by the proposed NICIP funding;
- 2) The project or program will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of services, or the use of facilities or furnishings assisted in any way by public funds;
- 3) The project or program shall be open to all without regard to religion; and
- 4) The Applicant shall take affirmative steps to ensure that information is widely disseminated with respect to the following aspects of the project or program:
 - a. The project or program is publicly funded;
 - b. The project or program is open to all, regardless of religious affiliation; and
 - c. The project or program beneficiaries are not limited to any particular sect or group.

- 5) All contractors and vendors retained to perform services in connection with the Project shall be authorized to do business in the State of New York and shall possess and maintain all professional licenses and/or certifications required to perform the tasks undertaken in connection with the Project.

Important Note: Due to the anticipated high demand of NICIP funding and in keeping with the intent to invest in time sensitive projects, all NICIP Qualifying Applicants are expected to fully comply with, and complete, all required reviews within six (6) months from when they are notified their Application was deemed Qualified for DASNY processing.

Failure to meet this deadline will constitute forfeiture of the NICIP funding opportunity and the funds will be returned to the NICIP pool to be made available to the next successive Qualifying NICIP Applicant. A NICIP Applicant that is subject to such forfeiture would be eligible to submit a new NICIP Application in future NICIP funding opportunities.

5.3 GDA Process

DASNY will forward a GDA to a Qualifying Applicant once the aforementioned reviews, as applicable, have been completed. The GDA is the contract between the Qualifying Applicant and DASNY. The Qualifying Applicant will review and sign the GDA which will then be forwarded to the Applicant's Attorney for review.

Upon the Qualified Applicant's return of the GDA to DASNY, DASNY will review the GDA for completeness and accuracy, which will include verification that the budget has not changed (or that a valid rationale is given for the change and the change does not materially affect the approved project, timeline or budget), the exhibits are properly completed, an appropriate Opinion of Counsel has been provided as required by Exhibit B of the GDA, and no other issues have arisen that would affect the status of the grant. Once this review is complete, DASNY will arrange for the execution of the GDA.

The GDA will become effective upon execution of the GDA by both the Applicant and DASNY. The GDA will be dated the date of the execution of the GDA by DASNY.

5.4 Requisition of Funds

Once the GDA is fully executed, the Grantee may begin to requisition funds using the forms included as exhibits to the GDA. The Grantee must forward requisitions directly to DASNY's Accounts Payable Unit at APGrants@DASNY.org.

DASNY will perform an audit with respect to each requisition received from the nonprofit organization, which will include, but shall not be limited to, verification that proper documentation has been received.

DASNY will provide reimbursement with NICIP funds only up to the amount of funding set forth in the GDA. If a project goes over budget, it will be the responsibility of the Grantee to cover

additional expenses. **If allowable costs for the project are less than the amount awarded (i.e. “under budget”), any unused funding will revert to the State; it cannot be used for additional purchases, renovations, or any other expense related to the nonprofit organization.** Please also see ALL of the ‘Important Notes’ under Sections 2.3 and 2.4 for additional information regarding project costs that may not be submitted for reimbursement.

Important Note: In order to be reimbursed for eligible project costs – the following documentation must be available for submission at the time of reimbursement:

- **Paid invoice from a vendor authorized to do business in NYS**
- **Cancelled check or bank statement evidencing payment on corporate credit card**
- **The invoice and cancelled check, and or bank statement and corporate credit card must also be under the legal name of the Applicant (i.e. not under parent or child organization, or private individual)**

5.5 GDA Terms and Conditions

Terms of the NICIP GDA

The NICIP GDA between the Grantee and DASNY will terminate December 31, 2026.

Important Note: It is expected that the project will be fully completed, and all payment requisitions will be processed and paid by this deadline. No extensions will be permitted. Any NICIP funds not disbursed by this date will be forfeited by the Grantee and made available for future NICIP funding opportunities.

Reporting Requirements

Any Grantee that receives funding through NICIP may be required to submit periodic reports on project activities.

Non-Discrimination and Affirmative Action Policy for the Project

It is the policy of the State of New York and DASNY, to comply with all federal, State and local law, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action to ensure that Minority and Women-owned Business Enterprises (M/WBEs), Minorities Group Members and women share in the economic opportunities generated by DASNY’s participation in projects or initiatives, and/or the use of DASNY funds.

- 1) The recipient of State funds represents that its equal employment opportunity policy statement incorporates, at a minimum, the policies and practices set forth below:
 - a) The Grantee shall (i) not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, (ii) undertake or continue existing programs of affirmative action to ensure that Minority Group Members and women are afforded equal employment

opportunities, and (iii) make and document its conscientious and active efforts to employ and utilize M/WBEs, Minority Group Members and women in its workforce on contracts. Such action shall be taken with reference to, but not limited to, solicitations or advertisements for employment, recruitment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

- b) At the request of the Affirmative Action Office, (AAO), the Grantee shall request each employment agency, labor union, or authorized representative of workers with whom it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative does not unlawfully discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Grantee's obligations herein.
- 2) The Grantee is encouraged to include minorities and women in any job opportunities created by the Project; and to solicit and utilize M/WBE firms for any contractual opportunities generated in connection with the Project.
- 3) The Grantee represents and warrants that, for the duration of the Agreement, it shall furnish all information and reports required by the AAO and shall permit access to its books and records by DASNY, or its designee, for the purpose of ascertaining compliance with provisions hereof.
- 4) The Grantee shall include or cause to be included, paragraphs (1) through (3) herein, in every contract, subcontract or purchase order with a Contracting Party executed in connection with the Project, in such a manner that said provisions shall be binding upon each Contracting Party as to its obligations incurred in connection with the Project.

Non-Discrimination and Affirmative Action Definitions

Affirmative Action

Shall mean the actions to be undertaken by the Borrower, Grantee and any Contracting Party in connection with any project or initiative to ensure non-discrimination and Minority/Women-owned Business Enterprise and minority/female workforce participation, as set forth in paragraph 2) herein, and developed by DASNY.

Affirmative Action Officer ("AAO")

Shall mean DASNY's Affirmative Action Officer or his/her designee, managing the affirmative action program for DASNY.

Contracting Party

Shall mean (i) any contractor, subcontractor, consultant, subconsultant or vendor supplying goods or services, pursuant to a contract or purchase order in excess of \$1,500, in connection with any projects or initiatives funded in whole or in part by DASNY and (ii) **any borrower or Grantee** receiving funds from DASNY pursuant to a loan or Grant document.

Minority Business Enterprise ("MBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is (i) a lease fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing, (iii) an enterprise in which such minority ownership has and exercises the Authority to control and operate,

independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as a minority business.

Minority Group Member

Shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

Minority and Women-Owned Business Enterprise Participation

Minority and Women-owned Business Enterprise participation efforts are not limited to the efforts suggested herein, and the role of M/WBE firms should not be restricted to that of a subcontractor/subconsultant. Where applicable, M/WBE firms should be considered for roles as prime contractors. Such efforts may include but not be limited to:

- 1) Dividing the contract work into smaller portions in such a manner as to permit subcontracting to the extent that it is economically and technically feasible to do so;
- 2) Actively and affirmatively soliciting bids from qualified M/WBEs, including circulation of solicitations to Minority and Women's trade associations;
- 3) Making plans and specifications for prospective work available to M/WBEs in sufficient time for review;
- 4) Utilizing the services and cooperating with those organizations providing technical assistance to the Contracting Party in connection with potential M/WBE participation on DASNY contract;
- 5) Utilizing the resources of DASNY Affirmative Action Unit to identify New York State certified M/WBE firms for the purpose of soliciting bids and subcontracts;
- 6) Encouraging the formation of joint ventures, associations, partnerships, or other similar entities with M/WBE firms, where appropriate, and
- 7) The Contracting Party shall remit payment in a timely fashion.

Women-owned Business Enterprise ("WBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing, (iii) an enterprise in which such women ownership has and exercises the Authority to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as woman-owned.

Section Six: RIGHTS RESERVED

DASNY reserves the right to:

- Reject any or all Applications received in response to this RFA;
- Reject any Application submitted by an Applicant which is not in compliance with all State requirements;
- Exclude ineligible expenses from the grant amount requested;
- Withdraw the Opportunity in the event that the Grant Administration process is delayed in excess of six (6) months from date the Application was deemed Qualified due to non-responsiveness; or an inability of the Qualifying Applicant to provide the documentation required for the successful administration of the Funding Opportunity (e.g. site control documentation, financial documentation, etc.) towards contract execution.

In the event of NICIP award forfeiture(s), DASNY reserves the right to consider Qualified Applications submitted in response to this RFA that were not initially funded. Updated information will be requested as deemed necessary by DASNY. DASNY also reserves the right to solicit and accept new Applications if additional NICIP funding becomes available.

Appendix 1 – Application Questions

NONPROFIT INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM (NICIP)

General Information

- a) Organization Legally Incorporated Name
- b) Organization Address (including county)
- c) FEIN #
- d) NYS Charities Registration #
- e) Address of Proposed Project Site (Physical location and mailing address, if different, including county)
- f) Application Contact at Organization (name, title, phone and email)

Pass/Fail Criteria

Prequalification Requirement

- a) What is your Organization's Document Vault ID?
- b) What is the date of your last prequalification?
- c) Are you filing your application under the exact legal name that is on file with the Department of State and IRS?

Organization Eligibility

- a) Is your Organization a non-for-profit 'Human services Organization' as defined by 2.1 (a) of RFA?
- b) If you received an award in a previous NICIP round, do you have an executed GDA as of April 1, 2023 and has your Organization:
 - i) drawn down 100% of funds;
 - ii) completed the project and confirm no additional funds will be requisitioned, or
 - iii) withdrawn your award from previous NICIP round as of the date of this application?

Project Location Eligibility

- a) Does your Organization own the project location under your legal name on file with the DOS and IRS and not a parent or affiliate?
- b) Does your Organization lease the project location under your legal name on file with DOS and IRS and not under a parent or affiliate, and do you have an executed lease with a 5 year term minimum at the time of this application?
- c) If you are leasing your project location - please describe how any other entities or programs your Organization operates may benefit from the project (e.g. other Organizations within the same building, landlord, sublessor, etc.)
- d) Under your application will grant proceeds be used to improve or purchase furniture and/or equipment for a project location/area that is primarily used to provide services and not for administrative (e.g. office space) purposes?

Project / Project Cost Eligibility

- a) Is it the case that the project you are submitting has not been submitted in a prior NICIP round?
- b) Will some or are all of your equipment purchases or constructions costs be incurred after April 1, 2023?
- c) Is the project you are submitting an eligible project as defined in section 2.4 of the RFA?
- d) Will your Organization be incurring and making payment of all project costs under your Organization's legal name and will these costs be incurred from a vendor authorized to do business in NYS?

Project Finance Eligibility

- a) Is it the case that the project costs to be submitted for reimbursement will not require any long-term financing or accrual of long-term debt (over 1 year old)?
- b) Is it the case that your project financing will not include any other New York State funding?
- c) Is it the case that your project financing will not include any tax credit structures?

Project Viability

Project Description & Support for Project Costs

- a) What is the title of your project? (1 sentence)
- b) Provide a short project description (8-10 sentences)
- c) What is the total estimated cost of your project?
 - a. Fully complete the Capital Based Budget Form
- d) What is the amount of your estimated total project cost for which you are requesting funding (between \$50K-\$500k)
- e) How did you derive the cost estimate for the SCOPING & PRE-DEVELOPMENT budget category? Please upload any supporting documentation (e.g., invoices or quotes), and please provide a description of the project costs/tasks you are expecting to be reimbursed for under the SCOPING & PRE-DEVELOPMENT budget category.
- f) How did you derive the cost estimate for the DESIGN budget category? Please upload any supporting documentation (e.g., invoices or quotes), and please provide a description of the project costs/tasks you are expecting to be reimbursed for under the DESIGN budget category.
- g) How did you derive the cost estimate for the CONSTRUCTION budget category? Please upload any supporting documentation (e.g., invoices or quotes), and please provide a description of the project costs/tasks you are expecting to be reimbursed for under the CONSTRUCTION budget category.
- h) How did you derive the cost estimate for the OTHER budget category? Please upload any supporting documentation (e.g., invoices or quotes), and please provide a description of the project costs/tasks you are expecting to be reimbursed for under the OTHER budget category.

Anticipated Project Time-Frame

- a) What costs have been incurred as of the date of this application?
- b) If costs have been incurred as the date of this application, please provide a brief description of the work that has been completed. If no work has been completed, please note instead the anticipated project start date.
- c) If the project has been completed, please note the project end date. If the project has not been completed, please provide a brief description of the work that has yet to be completed AND the anticipated end date for the project.

Other Project Funding Sources

- a) What is the amount of your estimated total project cost that will not be funded by grant amount requested?
- b) What percentage of project costs that will be funded by other funding sources have been secured and committed to the project as documented by a bank statement under your Organization's legal name. If no additional funding needed, please answer 100%
- c) Please describe any other funding source you anticipate securing, and anticipated date by which this funding will be available to your Organization in the form of equity to be applied to your project.

Project Location Readiness

- a) Please describe whether any other State agency or local municipality will require SEQRA for the project, and whether the SEQRA has been completed or anticipated SEQR completion date. If completed, please upload a copy of the SEQRA determination. If unknown, please respond unknown. If not applicable, please respond N/A.
- b) Please describe whether SHPA review will be required for the project, and if required, anticipated review completion date. If completed, please upload your determination letter from OPRHP. If unknown, please respond unknown; if not applicable, please respond N/A
- c) Please describe any other regulatory approvals that are or were required for the project, and if they have been received or the anticipated date of receipt of said regulatory approvals, and please upload supporting documentation as applicable. If unknown, please respond unknown; if not applicable, please respond N/A

Nonprofit Infrastructure Capital Investment Program 2023 - Pass/Fail Scoring Matrix						
Q#	Question	Response Field Type	Documentation Required	Pass	Fail	Score (P/F)
1	Prequalification Requirement					
	a) What is your organization's Document Vault ID?	Single Line of Text	PQ History, Status Report, DOS printout, and W-9	1) Legal name of applicant on Prequalification Documents match DOS print out AND 2) Grantee	1) The legal name on the documents and applications do not match OR 2) applicant not	
	b) What is the date of your last prequalification?	Date				
	c) Are you filing your application under the exact legal name that is on file with the Department of State and IRS?	Y/N		Applicant answers Y	Applicant answers N	
2	Organization Eligibility					
	a) Is your organization a non-for-profit 'Human services organization' as defined by 2.1 (a) of RFA?	Y/N	N/A	Applicant answers Y to 2a and chooses a response in 2b that is evidenced by their Document Vault	Applicant answered N to 2a or their response in 2b is not evidenced by their Document Vault	
	c) If you received an award in a previous NICIP round, do you have an executed GDA as of April 1st 2023 and has your organization: i) drawn down 100% of funds or ii) completed the project and confirm no additional funds will be requisitioned, or iii) withdrawn your award from previous round as of the date of this application?	Y/N/NA		Applicant answers Y OR NA	Applicant answers N	
3	Project Location Eligibility					
	a) Does your organization own the project location under your legal name on file with the DOS and IRS and not a parent or affiliate?	Y/N	Deed or lease	Applicant has answered Y to 3a OR 3b and answer is supported by deed or lease. Note: the deed or lease must match DOS print out (including presence or absence of 'Inc', use or non-use of acronyms, etc.)	Applicant has answers N to 3a AND 3b	
	b) Does your organization lease the project location under your legal name on file with DOS and IRS and not under a parent or affiliate, and do you have an executed lease with a 5 year term minimum at the time of this application?	Y/N				
	c) If you are leasing your project location - please describe how any other entities or programs your organization operates may benefit from the project (e.g. other organizations within the same building, landlord, sublessor, etc.)	Paragraph Text		Applicant indicates there are no other entities or programs that will benefit OR the benefit accrued is de minimis and applicant and/or the other applicant programs that will benefit are eligible programs	Applicant indicates other entities or ineligible programs will receive a substantial benefit (e.g. roof / HVAC /elevator project will benefit all entities or other ineligible programs in building/ at project location)	
	d) Under your application will grant proceeds be used to purchase Furniture and/or Equipment for a project location/area that is primarily used to provide services and not for administrative (e.g. office space) purposes?	Y/N/NA		Applicant answers Y OR NA	Applicant answers N	
4	Project / Project Cost Eligibility					
	a) Is it the case that the project you are submitting has not been submitted in a prior NICIP round?	Y/N	N/A	Applicant answers Y	Applicant answers N	
	b) Will some or are all of your equipment purchases or constructions costs be incurred after April 1, 2023?	Y/N		Applicant answers Y	Applicant answers N	
	c) Is the project you are submitting a eligible project as defined in section 2.4 of the RFA?	Y/N		Applicant answers Y	Applicant answers N	
	d) Will your Organization be incurring and making payment of all project costs under your Organization's legal name and will these costs be incurred from a vendor authorized to do business in NYS?	Y/N		Applicant answers Y	Applicant answers N	
5	Project Finance Eligibility					
	a) Is it the case that the project costs to be submitted for reimbursement will not require any long-term financing or accrual of long-term debt (over 1 year old)?	Y/N	N/A	Applicant answers Y	Applicant answers N	
	b) Is it the case that your project financing will not include any other New York State funding?	Y/N		Applicant answers Y	Applicant answers N	
	b) Is it the case that your project financing will not include any tax credit structures?	Y/N		Applicant answers Y	Applicant answers N	

NONPROFIT INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM - PROJECT VIABILITY SCORING MATRIX						
Q#	Question	Response Field Type	Documentation Required	Scoring Guidance	MAX score	Score
1	Project Description & Support for Project Costs				68	0
	a) What is the title of your project? (1 sentence)	Single Line of Text	N/A	N/A		
	b) Provide a short project description (8-10 sentences)	Paragraph Text				
	c) What is the total estimated cost of your project?	\$				
	d) What is the amount of your estimated total project cost (TPC) for which you are requesting funding (between \$50K-\$500k)	\$	N/A	Amount requested = TPC and/or within 10% of TPC = 4; Amount requested under TPC and greater than or equal to 50% of TPC = 3; Amount requested less than 50% of TPC = 2	4	
	e) 1. How did you derive the cost estimate for the SCOPING & PRE-DEVELOPMENT budget category and please upload any supporting documentation (e.g. invoices or quotes)	Paragraph Text	Estimates, Quotes, Invoices	Cost estimate is fully supported by estimate, quotes, or invoices by qualified sources = 10; Cost estimate is mostly supported = 5, Cost estimate has some support = 2	10	
	e) 2. Please provide a description of the project costs/project tasks you are expecting to be reimbursed for under the SCOPING & PRE-DEVELOPMENT category of the budget	Paragraph Text	N/A	Description of costs/project tasks include 0 Non-Bondable Costs (NBC) = 6; Description includes less than 50% NBCs = 3; Description includes de minimis NBCs = 1	6	
	f) 1. How did you derive the cost estimate for the DESIGN budget category and please upload any supporting documentation (e.g. invoices or quotes)	Paragraph Text	Estimates, Quotes, Invoices	Cost estimate is fully supported by estimate, quotes, or invoices by qualified sources = 10; Cost estimate is mostly supported = 5, Cost estimate has some support = 2	10	
	f) 2. Please provide a description of the project costs/project tasks you are expecting to be reimbursed for under the DESIGN category of the budget	Paragraph Text	N/A	Description of costs/project tasks include 0 Non-Bondable Costs (NBC) = 6; Description includes less than 50% NBCs = 3; Description includes de minimis NBCs = 1	6	
	g) 1. How did you derive the cost estimate for the CONSTRUCTION budget category and please upload any supporting documentation (e.g. invoices or quotes)	Paragraph Text	Estimates, Quotes, Invoices	Cost estimate is fully supported by estimate, quotes, or invoices by qualified sources = 10; Cost estimate is mostly supported = 5, Cost estimate has some support = 2	10	
	g) 2. Please provide a description of the project costs/project tasks you are expecting to be reimbursed for under the CONSTRUCTION category of the budget	Paragraph Text	N/A	Description of costs/project tasks include 0 Non-Bondable Costs (NBC) = 6; Description includes less than 50% NBCs = 3; Description includes de minimis NBCs = 1	6	
	h) 1. How did you derive the cost estimate for the OTHER budget category and please upload any supporting documentation (e.g. invoices or quotes)	Paragraph Text	Estimates, Quotes, Invoices	Cost estimate is fully supported by estimate, quotes, or invoices by qualified sources = 10; Cost estimate is mostly supported = 5, Cost estimate has some support = 2	10	
	h) 2. Please provide a description of the project costs/project tasks you are expecting to be reimbursed for under the OTHER category of the budget as per section 2.5 of the RFA.	Paragraph Text	N/A	Description of costs/project tasks include 0 Non-Bondable Costs (NBC) = 6; Description includes less than 50% NBCs = 3; Description includes de minimis NBCs = 1	6	
2	Anticipated Project Time-Frame				15	0
	a) What costs have been incurred as of the date of this application?	\$	N/A	N/A		
	b) If costs have been incurred as the date of this application - please provide a brief description of the work that has been completed. If no work has been completed - please note instead the anticipated project start date.	Paragraph Text		Work has begun OR anticipated start date is within 3 months of application = 5; anticipated start date is within 6 months of application = 3	5	

NONPROFIT INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM - PROJECT VIABILITY SCORING MATRIX						
Q#	Question	Response Field Type	Documentation Required	Scoring Guidance	MAX score	Score
	c) If the project has been completed - please note the project end date. If the project has not been completed - please provide a brief description of the work that has yet to be completed AND the anticipated end date for the project.	Paragraph Text		Project completed after 4/1/2023 OR anticipated end date is within 1 year of applications = 10; anticipated end date is within 2 years of application = 5	10	
3	Other Project Funding Sources				8	0
	a) What is the amount of your estimated total project cost that will not be funded by grant amount requested?	\$	Bank Statements	N/A		
	b) What percentage of project costs that will be funded by other funding sources have been secured and committed to the project as documented by a bank statement under your organization's legal name. If no additional funding needed - please answer 100%	%		If 100% = 8; If over 75% = 4; if over 50% = 2	8	
	c) Please describe any other funding source you anticipate securing, and anticipated date by which this funding will be available to your organization in the form of equity to be applied to your project.	Paragraph Text		If date all other funding needed anticipated within 3 months of application = +2 to score above; if date anticipated within 6 months = +1 (note: if no other funding sources needed as indicated in 3a or 3b - section score already maxed out so do not add any additional points)		
4	Project Location Readiness				9	0
	a) Please describe whether any other State agency or local municipality will require SEQRA for the project, and whether the SEQRA has been completed or anticipated SEQR completion date. If completed - please upload a copy of the SEQRA determination. If unknown - please respond unknown; if not applicable - please respond N/A.	Paragraph Text	SEQR docs, Permits, etc.	If N/A or completed = 3; if anticipated completions date within 3 month = 2; if within 6 months = 1; if within 1 year = 1; if over 1 year or unknown = 0	3	
	b) Please describe whether SHPA review will be required for the project, and if required, anticipated review completion date. If completed - please upload your determination letter from OPRHP. If unknown - please respond unknown; if not applicable - please respond N/A	Paragraph Text		If N/A or completed = 3; if anticipated completions date within 3 month = 2; if within 6 months = 1; if within 1 year = 1; if over 1 year or unknown = 0	3	
	c) Please describe any other regulatory approvals that are or were required for the project, and if they have been received or the anticipated date of receipt of said regulatory approvals, and please upload supporting documentation as applicable. If unknown - please respond unknown; if not applicable - please respond N/A	Paragraph Text			If N/A or completed = 3; if anticipated completions date within 3 month = 2; if within 6 months = 1; if within 1 year = 1; if over 1 year or unknown = 0	3
TOTALS					100	0



Nonprofit Infrastructure Capital Improvement Program (NICIP)

Frequently Asked Questions

This list is designed to answer many of the questions that Applicants may have about the Nonprofit Infrastructure Capital Improvement Program, (NICIP) administered by the Dormitory Authority State of New York (DASNY). If, after reviewing this list, the Applicant has additional questions email NICIP@dasny.org.

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Definitions:

Applicant – the Eligible Applicant (as outlined in the RFA) applying for NICIP Funds for a Project.

Authorized Officer – an individual who has the corporate authority to bind the entity into a contract.

Capital Costs –

- The construction, demolition, or replacement of a fixed asset;
- The major reconstruction or renovation of a fixed asset or assets which materially extends its useful life or materially improves or increases its capacity; or
- The planning or design of the construction, demolition, replacement or renovation of a fixed asset or assets, including the preparation and review of plans and specifications including engineering and other services, field surveys and sub-surface investigations incidental thereto.

Charities Registration Bureau – a division of the NYS Attorney General’s Office with which charitable Organizations operating in NYS are required to file annually, unless it is determined that they are exempt from doing so. More information can be found at https://www.charitiesnys.com/faqs_reg_new.html.

Document Vault – a secure online repository to store and share commonly requested documents which is managed by NYS Grants Management (“Grants Management”).

Eligible Applicant – an Applicant as described in the Section 2.1 of the NICIP Request for Grant Applications (“RFA”):

- “Human services Organization” shall mean an Applicant that provides direct programs and services in New York State that protect the health and well-being of individuals and families residing in New York State;
- “Direct services” shall mean prevention, intervention, respite and/or habilitative services that an Applicant provides directly to an individual/family or groups of individuals/families;
- An “Applicant” is an Organization that has its own unique Employer Identification Number, unique Taxpayer Identification Number, or a unique SFS Vendor Identification Number. The Organization must also be registered and prequalified as a separate Organization in the Grants Gateway to be eligible to apply for its own NICIP grant.

Eligible Project – a capital project as defined in the RFA.

Financial Documentation – copies of quotes, proposals, cost estimates or any other document from a qualified professional that will identify projects costs necessary to complete the project. If the cost estimate is higher than the value of the NICIP award, DASNY will need to see evidence of the other source(s) of funding for the project.

Funding Opportunity – The opportunity for Nonprofit Organizations to apply for NICIP funding as detailed in the Request for Applications (RFA) under the timeframe outlined.

Grant Disbursement Agreement (“GDA”) – the contract by and between DASNY and the Applicant.

Grantee – A Qualified Applicant who has received a fully executed GDA.

Organization – the Applicant entering into the contracts and paying the vendors, and who has control over the project location.

Grantee Certification – This document certifies that public funds will not be used to finance religious programs or programs that may favor one religion over another. As the issuer of the bonds that will finance the project to be funded with NICIP Funds, DASNY must verify that it is in compliance with all applicable Federal and State laws and regulations. This certification should accurately state the purposes for which the NICIP Funds will be used and must be signed by two Authorized Officers.

Grantee Questionnaire (“GQ”) – DASNY needs to be certain that grant funds are paid only to Organizations that are deemed to be responsible entities. Full and accurate responses on the GQ will help to achieve this goal. A request will be made to obtain two Authorized Officer names and email addresses so that the GQ may be sent through DocuSign. The GQ is required in order to complete the review process and will be incorporated into the GDA. The submission of false information on the GQ could be a violation of Federal and State Penal Laws. **NOTE: the GQ should be completed under the Legal Name of Organization.**

Incorporation Documentation – articles of incorporation (including any amendments) or a charter necessary to verify eligibility under NICIP and to verify that the Organization is authorized to do business in the State of New York. If the Organization has a D/B/A, that should also be provided.

Legal Name – Applicant’s name as listed on the Incorporation Documentation) and which:

- matches the name on file with the IRS and corresponds to the Organization’s Federal Employer Identification Number (“FEIN”);
- includes or excludes, where applicable, ‘Inc.’, ‘LLC’, ‘The’, etc.; and
- does not employ acronyms for shorthand.

Positive Pay – a fraud-prevention system offered by most commercial banks.

Project Certification – As the issuer of the bonds that will finance the project to be funded with NICIP Funds, DASNY must verify that the Applicant and the Grant funded project are in compliance with all applicable Federal and State laws and regulations. This document certifies that the project will be in compliance with various relevant statutory provisions and must be signed by an Authorized Officer.

Qualified Applicant – A NICIP Applicant who has received a passing score and whose project has been advanced to DASNY review.

Short Term Debt/Bridge financing – debt that is expected to be paid off within one year and is incurred to pay for project costs until such time as Grant funds become available.

Site Control – a deed, lease, or other document showing that the Applicant has sufficient authorization and control to undertake the project at the project location(s).

W-9 Form – an IRS document utilized to set up the Applicant as a vendor/payee in DASNY’s financial system. The Organization’s FEIN is required to make payment. **NOTE: The Applicant’s Legal Name and FEIN on the W-9 should match the Legal Name and FEIN on file with the Internal Revenue Service as well as in its Incorporation Documents and all documents required to be uploaded to the Applicant’s Document Vault, and those submitted for review by DASNY.**

NICIP Funds – Nonprofit Infrastructure Capital Improvement Program funds made available by the State of New York.

I. Process Questions

A. Questions Regarding DASNY’s Role in Administering NICIP

Q.A1: What is DASNY’s role in administering NICIP?

A.A1: DASNY undertakes a review of each Qualifying Applicant to ensure that the Applicant is eligible to receive NICIP Funds, and the project can be financed with the proceeds of DASNY bonds. Once the Application has been fully reviewed for all relevant criteria, DASNY will enter into a GDA with each Applicant. Once the GDA is fully executed, DASNY will process requisitions for eligible costs upon submission of certified requisitions by the Grantee.

B. Questions Regarding Information Needed Prior to Submitting a NICIP Application:

Q.B1: What should our Organization do first when applying for an opportunity?

A.B1: Each Organization will need to register and maintain a Document Vault in the Grants Management system. The Document Vault must be in prequalified status throughout the grant process, from application submission all the way through to GDA and reimbursement phase. **(Note: See Prequalification heading under Q.C1, below for more information on this.)**

Required Forms for Prequalification include:

1. IRS Determination Letter
2. Incorporation Documentation (including any amendments and D/B/As)
3. Most recent IRS Charities 990, 990EZ or 990-PF (ideally from 2021)
4. NYS Charities 410, if applicable
5. Organizational Bylaws
6. List of Organizational Board Members
7. Top Leadership Profiles
8. Recent Organizational Financial Statement

For additional information on the Grants Management requirements and processes, prospective Applicants can contact GrantsGateway@its.ny.gov directly or view the following videos:

<https://grantsmanagement.ny.gov/videos-grant-applicants>
<https://grantsmanagement.ny.gov/videos-grant-applicants>

Q.B2: Why must our Organization provide a cost estimate?

A.B2: Applicants must demonstrate that they have a complete understanding of their project's total current cost and the funds that will be needed to complete the project. NICIP Funds will only be awarded for a project if it can be demonstrated that the project can be fully completed as proposed and within the mandated timeframe.

Q.B3: Our Organization has members with a variety of backgrounds in construction. Why must we submit a professional cost estimate?

A.B3: All construction estimates must be from either qualified licensed contractors or developed by a licensed engineer or architect and submitted on their letterhead. The contractor should not have the appearance of a conflict of interest.

For the purpose of equipment purchases, website vendor search pages are acceptable.

C. Qualifying Application Review Process

Q.C1: What happens after the applications are scored?

A.C1: DASNY will communicate to each Qualifying Applicant via email with the information required by DASNY. Once all the documents requested have been returned, a DASNY processor will be assigned to follow-up and coordinate all required reviews needed to obtain a GDA. Depending upon the complexity of the project, DASNY may request additional information or call the Applicant to discuss the project in more detail. Please note that all documentation must be provided electronically.

DASNY recommends that Qualifying Applicants do not start their projects until a fully executed GDA has been provided.

Generally, DASNY will undertake the following reviews for each grant:

General Overview:

DASNY reviews each project for compliance with NICIP enabling legislation and applicable tax laws. DASNY will also review documentation evidencing site control, corporate authority, evidence of committed funding to pay for the entire project as described, environmental reviews and other matters. During this review process, the Applicant will be asked to complete certain forms electronically and return them electronically to DASNY. Please do so promptly, as delays in returning these forms will delay the process and, ultimately, the disbursement of NICIP Funds to the Organization.

Prequalification:

Effective August 1, 2013, not-for-profit Organizations are required to register with Grants Management (<https://grantsmanagement.ny.gov/>) in order to receive NICIP Funds. State entities will post upcoming and available funding opportunities on this website. Grants Management will also provide Organizations a secure Document Vault to store and share commonly requested documents. **The Document Vault should be continuously monitored, amended when appropriate and must be in the prequalified status throughout the process including the payment phase.** DASNY will not be able to enter into a GDA with, or make payments to, any Applicants that are not prequalified in Grants Management system. DASNY does not have any discretion in this regard. Any questions regarding Grants Management and the Document Vault may be directed to [Grants Management](#) staff.

Incorporation Documentation:

Please note that, in order to verify that DASNY is entering into a GDA with the appropriate Organization and the Organization is eligible to do business in the State of New York, we will need to review the Applicant's Incorporation Documentation. If the Applicant has a D/B/A, DASNY will need a copy of the filed D/B/A certificate as well. **NOTE: The Applicant's Legal Name and FEIN on the W-9 should match the legal name and FEIN on file with the Internal Revenue Service as well as in its Incorporation Documents and all documents required to be uploaded to the Applicant's Document Vault, and those submitted for review by DASNY.**

If an Organization does not have Incorporation Documentation, then the Organization should contact DOS by calling (518) 473-2492 or submitting a question through the DOS portal at: [Copies of Corporation or Business Entity Documents | Department of State \(ny.gov\)](#).

If an Organization is incorporated in another state, then the Applicant must file a Certificate of Authority with DOS in order to be qualified to do business in the State of New York.

Site Control:

DASNY will need documentation to establish that the Applicant has appropriate site control of the premises where the NICIP-Funded project will occur and where NICIP funds will be spent. If the Organization owns the facility, DASNY will need to review the deed, which must be in Applicant's Legal Name. The Organization must own the property for a period of 10 years after NICIP Funds have been disbursed.

If the Applicant leases the facility, DASNY will need to review the lease, which must be executed in Organization's Legal Name. The term of the lease must be for at least five (5) years and extend for a reasonable period of time after the capital improvements funded by NICIP are scheduled to be completed. If a condition of the Lease is to obtain Landlord

permission prior to work being done, please be advised that Landlord permission is a term and condition of the GDA and therefore must be acquired prior to GDA execution.

In some circumstances, a lease term of less than five (5) years is acceptable where the NICIP funds will be utilized to purchase moveable equipment or furnishings. The equipment and furnishings must be received on site and must be housed at a location controlled by the Applicant, who must develop, implement, and maintain a usage and inventory policy.

Financial Review:

DASNY must verify the existence of committed funding resources sufficient to complete the project as described. Acceptable proof of such funding commitments may include the following: commitment letters from a bank or other lending institution; evidence of other grant awards; a board resolution committing funds to complete the project accompanied by recent audited financial statements; or other documentation acceptable to DASNY that confirms that funding exists to complete the project as proposed within the mandated timeframe.

Office of Environmental Affairs (OEA) Review

All NICIP-Funded projects are subject to the State Environmental Quality Review Act (SEQRA) and State Historic Preservation Act (SHPA). As needed, DASNY's Office of Environmental Affairs will reach out to coordinate and ensure these legislative requirements are met. **NOTE: reviews for certain NICIP-Funded projects can be completed internally by DASNY and would not require further action or documentation by the Applicant.**

Coordination with SHPO is required if the project building(s) or site(s) are eligible for, or listed on, the State and National Registers of Historic Places; if the building(s) or site(s) are considered a contributing element to a defined historic district; or are located in an area of archaeological sensitivity. The Applicant can find this information on the SHPO and NYS Department of Environmental Conservation (DEC) websites:

<https://parks.ny.gov/shpo/online-tools/> and <http://www.dec.ny.gov/cafmapper/>.

NOTE: consultation with SHPO may also be required for structures approaching 50 years old, and/or if the project involves ground disturbance/demolition.

Please provide DASNY with a copy of the determination letter from OPRHP once the consultation has been completed. **NOTE: the project must be filed in SHPO's Cultural Resource Information System (CRIS) to receive a determination letter.** SHPO will not issue a determination letter upon receipt of a Lead Agency Letter or email. The CRIS system can be found at: <https://parks.ny.gov/shpo/online-tools/cris/>

If there are any questions regarding SEQR or SHPO requirements, please direct these questions to grantsseqr@dasny.org.

Bond Counsel Review:

Once all documentation has been returned to DASNY, we will review it in consultation with our bond and tax counsel as needed. We may call the Applicant to discuss further. The timing of bond counsel reviews varies and is dependent upon the complexity of the project. Once it has been determined that the Applicant's project complies with relevant statutory provisions and all paperwork is in order, DASNY will forward a GDA to the Applicant electronically for execution.

Q.C2: Why must our Organization complete a form certifying that the NICIP Funds will not be used for programs that might have some religious components?

A.C2: It could be a violation to use public funds to finance religious programs or programs that may favor one religion over another. As the issuer of the bonds, DASNY must take great care to ensure that it is in compliance with all applicable Federal and State laws, including tax laws and regulations promulgated by the Securities and Exchange Commission.

Q.C3: Once a NICIP Application is deemed Qualified, is there a deadline for returning required documentation to DASNY?

A.C3: Yes, all Qualifying Applicants are required to work with DASNY to complete the required reviews within six months from the date the Application was deemed Qualified. Failure to do so will disqualify the Application and the funding opportunity will be forfeited.

D. Processing of the GDA

The GDA is the contract between DASNY and the Applicant setting forth the terms pursuant to which the NICIP Funds will be disbursed.

Organizations will be attesting in the GDA that:

All contractors and vendors retained to perform services in connection with the Project shall be authorized to do business in the State of New York and/or have filed such documentation, certifications, or other information with the State or County as required in order to lawfully provide such services in the State of New York. In addition, said contractors/vendors shall possess and maintain all professional licenses and/or certifications required to perform the tasks undertaken in connection with the Project.

If the Applicant is uncertain if the contractor or vendor being retained to perform services is authorized to do business in the State, the Organization may want to consult its attorney or reach out to the New York State Department of State at:

- https://www.dos.ny.gov/corps/bus_entity_search.html; or
- by calling (518) 473-2492; or
- by submitting a question through the portal at [Contact Us | Department of State \(ny.gov\)](#)

Q.D1: When will I receive a GDA from DASNY?

A.D1: When all DASNY required reviews have been completed, a GDA will be forwarded to the Qualified Applicant electronically for execution. Once a GDA is fully executed by both parties, the NICIP funds will be deemed awarded as evidenced by the GDA between DASNY and the NICIP Grantee.

Q.D2: When will our Organization receive money?

A.D2: Funds are only available for requisition when a GDA has been fully executed. NICIP is a reimbursement program; that is, the Organization must actually incur project costs and have paid those expenses or have been invoiced by the contractor for work actually completed before receiving reimbursement from NICIP Funds. Once expenses have been incurred and/or paid, the Organization will submit one or more requisitions to DASNY, using the forms included within the GDA, along with such supporting documentation as may be required by DASNY.

Please note that in cases where an Organization is unable to make payment to the contractor in the first instance, the Organization must request that the contractor be paid on invoice. If this option is requested, then the Organization must establish a segregated bank account into which NICIP Funds will be deposited and from which NICIP-Funded project costs will be paid. If payment on invoice is chosen as the method of payment to vendors, then the Organization should apply industry standard fraud protection to the segregated bank account (Positive Pay). See section below regarding the requisition process for more information.

II. Eligibility

A. Entity Eligibility

Q.A1: Are all nonprofit Organizations eligible for NICIP funding?

A.A1: No, as outlined in Section 2.2 of the RFA, only certain nonprofit Organizations providing direct human services to New Yorkers are eligible to apply for NICIP funds.

Q.A2: I see that schools are excluded from the NICIP program. We are a New York State licensed nonprofit childcare program that offers preschool to 3- and 4-year-olds. Are we considered a school, or can we apply for a NICIP grant?

A.A2: Nonprofit childcare programs are considered human service Organization for the purpose of NICIP. However, if your Organization has a certified Universal Preschool program affiliated with a public school district, capital improvements to the Universal Pre-K program would be excluded from utilizing NICIP funds.

Q.A3: Our Organization was awarded a NICIP grant from a previous round of funding. Are we eligible to apply for additional funding in this new round?

A.A3 **If your existing project is still ongoing, you will be excluded from this NICIP round.** If your previous NICIP project has been fully completed and all NICIP funds have been disbursed, or you formally withdrew the earlier project, you would be eligible to participate in this NICIP funding opportunity.

B. Project Eligibility

Q.B1: We have applied for funding through the New York State Regional Economic Development Council and are also in talks with our elected representatives to gain funding for our project. We don't know when we will hear on those requests. Can we still apply for NICIP funding?

A.B1: As per the requirements of the RFA, no other New York State funding can be involved in the project as described in the NICIP Application. If you applied, and your application has been deemed Qualified for NICIP, you must forgo any other State funding or forfeit the NICIP opportunity.

Q.B2: We would like to use the NICIP Grant to upgrade our computer system. Is that an eligible cost?

A.B2: Possibly. Since NICIP funds can only be used for capital purposes, only certain technology costs would be eligible. See Section 2.4 for eligible project costs.

III. Reimbursable Costs

A. Deposits, Retainers, Professional Service Fees, and Storage of Materials

Q.A1: Can I use the NICIP Funds for a down payment or a deposit to a contractor or vendor or for a retainer fee to a professional such as an architect or an engineer?

A.A1: No. NICIP Funds may only be used to pay for work actually undertaken and completed (or materials received at the project site) specifically for the approved project at the project location. However, the Applicant will be able to submit for reimbursement of a down payment or deposit once documentation has been received from the Applicant's contractor that the payment has been applied to the value of the work completed to date and is no longer being held as a deposit, or once the job has been completed and the contractor bills the Applicant for the balance of the job.

Q.A2: Can I use the NICIP Funds to make a payment to the Organization's attorney or other service professional for work related to the project or to assist with the NICIP Administration process on our Organization's behalf?

A.A2: Generally, no. Attorney's fees or other professional service fees incurred to assist with documentation and administrative requirements do not qualify as a capital work or purpose pursuant to Federal and State laws.

Q.A3: Can I use the NICIP Funds to purchase real property?

A.A3: No. The purchase of real property is not a NICIP eligible expense.

Q.A4: Can the NICIP Funds be used to purchase a vehicle?

A.A4: The purchase of a vehicle is only eligible if the vehicle in question is used to provide direct services such as a mobile clinic or mobile food pantry. Vehicles used for transportation only are ineligible.

Q.A5: The contractor has ordered supplies for the project early so they wouldn't be delayed when it was time to install them. The supplies were recently delivered to the contractor but can't be installed until another portion of the project has been completed in another month or so. The costs show up on my latest bill from the contractor. May we be reimbursed for these materials now that the contractor has them in hand?

A.A5: No. All materials are required to be received at the approved project location(s) prior to submission for reimbursement.

B. Payment for Internal Labor

Q.B1: In order to save money, our Organization wants to use internal labor to undertake the project. May we be reimbursed for these costs?

A.B1: No. Costs associated with internal labor or employee salaries are not reimbursable with NICIP Funds.

Q.B2: Our Organization would like to use the NICIP Funds to pay the salary of the employee who will be administering the project for our Organization. Is this allowable?

A.B2: No. Salaries of administrative personnel do not qualify.

Q.B3: Members of our Organization are interested in undertaking portions of our project. Since they are not our employees, can the Organization pay them and be reimbursed?

A.B3: In order to be reimbursed for project costs, all contractors and vendors must be authorized to do business in the State of New York and/or have filed such documentation, certifications or other information with the State or County as required in order to lawfully provide such services in the State of New York. In addition, said contractor/vendors shall possess and maintain all professional licenses and/or certifications required to perform the tasks undertaken in connection with the project.

Please note however, per a provision of the GDA, NICIP Funds cannot be used for:

payments to any firm, company, association, corporation or Organization in which a member of the Organization's Board of Directors or other governing body, or any officer or employee of the Organization, or a member of the immediate family of any member of the Organization's Board of Directors or other governing body, officer, or employee of the Organization has any ownership, control or financial interest, including but not limited to an officer or employee directly or indirectly responsible for the preparation or the determination of the terms of the contract or other arrangement pursuant to which the proceeds of the Grant are to be disbursed. For purposes of this paragraph, "ownership" means ownership, directly or indirectly, of more than five percent (5%) of the assets, stock, bonds or other dividend or interest-bearing securities; and "control" means serving as a

member of the board of directors or other governing body, or as an officer in any of the above; and payment to any member of Organization's Board of Directors or other governing body of any fee, salary or stipend for employment or services, except as may be expressly provided for in this Agreement.

C. Payments on a Lease, Mortgage, or to Pay Existing Debt

Q.C1: Can NICIP Funds be used to make lease payments on equipment?

A.C1: No. NICIP Funds may only be used to purchase and install equipment and may not be used to make lease payments or pay down existing debt incurred to finance the purchase and installation of such.

Q.C2: Can the Organization use NICIP Funds to make mortgage payments, pay off an existing mortgage or make other debt service payments?

A.C2: No. As explained above, this would be considered working capital, as opposed to a capital cost. NICIP Funds may not be used to make mortgage payments or pay off an existing mortgage.

D. Costs Constituting Working Capital

Q.D1: Our Organization runs on a very tight budget and would like to use the NICIP Funds to assist in making our rent payments or in paying the utility bills at our site. Is this an allowable use of NICIP Funds?

A.D1: No. Such costs would be considered working capital, or operating costs, as opposed to a capital cost. Federal and State laws mandate that NICIP Funds be spent on capital work only.

Q.D2: Can our Organization use NICIP Funds to pay for certain maintenance or repair costs?

A.D2: No. As explained above, this would be considered working capital. Please note that maintenance and repair costs are not reimbursable even if the awarded project was for the purpose of upgrading and/or replacing a particular system. For example, suppose an award was made for the purpose of replacing a boiler. In addition to replacing the boiler, the contractor also tests the entire heating system, makes necessary repairs, and replaces worn parts. While the costs for replacing the boiler would be reimbursable, the cost of testing and repairing the heating system would not be.

Q.D3: What is the difference between maintenance and capital work? Our Organization would like to apply for NICIP Funds to fix the exterior of our Community Center but we aren't sure what is eligible?

A.D3: It depends on the nature of the work to be done. In general, replacing or reconstruction is generally considered capital. Repairing or resurfacing is almost always considered maintenance. For example, replacing windows is capital, but reglazing the panes on

existing windows is not. Likewise, completely milling and repaving a parking lot is capital, but fixing cracks and sealing the existing pavement is maintenance.

Please note that flooring is an exception to this rule. Replacing carpet or vinyl flooring in a facility would only be eligible for reimbursement if it was in conjunction with renovation or reconstruction projects that created new space or moved walls. Simply replacing worn flooring is considered maintenance.

Q.D4: Our building hasn't been painted in more than 20 years. May we apply for NICIP funding to repaint?

A.D4: Painting on its own, whether interior or exterior, is considered maintenance and not a capital project. However, if a facility is undergoing reconstruction and painting is an element of finishing that renovation, it may be eligible.

Q.D5: Our Organization would like to do a variety of projects to improve our building like automatic doors, energy efficiency, bathrooms and exterior renovations. Will we be allowed to have multiple projects within our application?

A.D5: Yes, as long as each task in a proposed project is capital in nature and at one project location. The cost estimates that are provided with the Organization application should outline the anticipated costs for each item on the list, not just an overall project total.

Q.D6: Can our Organization use NICIP Funds to purchase supplies such as paper, pens, postage, and similar items if they would be used in connection with the Project?

A.D6: No. Such costs would be considered working capital, or operating costs, as opposed to a capital cost. As explained above, NICIP Funds may only be spent on capital costs.

Q.D7: Can our Organization use NICIP Funds to purchase a maintenance plan, service agreement or extended warranty for our Project?

A.D7: No. Such costs would be considered working capital, or operating costs, as opposed to capital costs. As explained above, NICIP Funds may only be spent on capital costs. NICIP Funds may not be used to pay for service agreements or extended warranties.

Q.D8: Can our Organization use NICIP Funds to pay for training on the use of equipment acquired with NICIP Funds?

A.D8: NICIP Funds may only be used to pay for training costs incurred to "train the trainer" on specialized equipment. That is, the NICIP Funds may be used to pay the costs incurred to train one person within the Organization who will be responsible to train the other users. If training expenses are incurred to train groups of users, then these costs are operational in nature and may not be reimbursed with NICIP Funds.

Q.D9: Can our Organization use NICIP Funds to pay for recurring costs such renewing work permits?

A.D9: No. NICIP Funds may not be used to pay any recurring costs such as or costs incurred to renew work permits.

Q.D10: Our Organization would like to do work that will lower our overhead costs. Can we be reimbursed for installing solar panels?

A.D10: The purchase and installation of solar panels is a capital eligible project. However, the solar equipment must be owned by the Organization and installed at the project location. Solar installations that lease the solar equipment to the facility would not be eligible for reimbursement, nor would community solar projects. In addition, please note that the Organization must be the only entity benefiting from the solar panels.

E. New Yorkers Must Benefit

Q.E1: Our Organization is located in a town just over the New York border, but many of the people we serve live in New York. Can our Organization apply for NICIP Funding?

A.E1: No. NICIP Funds must be used for projects that will be located within the State of New York and benefit New York State Residents.

F. Tax Credit Structures

Q.F1: Our Organization would like to use a tax credit structure such as New Market Tax Credits, Low Income Tax Credits, Historic Preservation Tax Credits, or similar programs to help finance our project. Is this allowable?

A.F1: No. It is often difficult to reconcile the requirements of the tax credit programs with NICIP. For example, the NICIP requires the named Applicant to incur costs related to the funded project and to retain ownership of the funded project. Many tax credit programs require title to be held in the name of a related entity and project costs are paid out of a corpus held in the name of a party other than the Applicant. NICIP requires that all NICIP funds be used for projects other than those being funded through a tax credit structure.

III. The Requisition Process

A. Timing Questions

Q.A1: Our Organization started work on the project before submitting the application. May we submit a requisition for work undertaken before the Application date?

A.A1: Eligible Projects cannot have started prior to April 1, 2023 as stated in the RFA. Any cost incurred prior to this date are not reimbursable costs.

Q.A2: How often may our Organization submit a requisition for payment?

A.A2: There is no limit on the number or frequency of submissions. DASNY typically has two payment dates per month, and Grantees may receive one payment per month so long as the requisition meets all of the requirements.

Q.A3: Is there a time limit as to when the Organization can submit a requisition?

A.A3: Yes. All costs must be incurred, and all payment requisitions must be processed and paid by December 31, 2026. Any funds not utilized at this point will be forfeited by the Grantee.

The Grantee may submit its first requisition once the GDA is fully executed.

Q.A4: How long will it take to receive payment after a requisition is submitted?

A.A4: DASNY attempts to pay all requisitions submitted with the proper supporting documentation within six (6) weeks from the date the requisition is submitted. Please note that if insufficient documentation is provided, or if DASNY requires additional documentation to support a requisition, it could take longer. In addition, DASNY must voucher for the NICIP Funds from the State in order to make payment on a requisition. Typically, such funds are received in time to make a payment within six (6) weeks of submission, but please be advised that DASNY will only be able to make payment on the requisitions once funds are received from the State.

B. Submission of Requisitions

Q.B1: What backup documentation must be submitted with a requisition?

A.B1: Certain exhibits to the GDA must be returned to DASNY in connection with each requisition for reimbursement. Please note that Applicants must have two (2) Authorized Officers sign the Dual Certification in support of each requisition. In addition, copies of **invoices** provided by the contractor must be provided. *Quotes, proposals, estimates, purchase orders, and other such documentation do NOT qualify as invoices.*

In addition, readable copies of both the front and back of canceled checks or other satisfactory proof of payment MUST be included with the request for reimbursement. Please see A.B2, below, for more information.

All checks must be drawn on an account of the Applicant and not an affiliate, subsidiary, or parent Organization. If a check is drawn on an account with a name that is different from the Applicant, it will delay the reimbursement process. Please note that for payment on invoice, checks must be drawn on the segregated account as discussed below in Section C.

Q.B2: My bank does not provide copies of canceled checks, so I can't provide them. Does this pose any problems?

A.B2: If the Grantee cannot get copies of canceled checks, please provide a copy of the front of the signed check along with a copy of a bank statement clearly showing that payment was made by Grantee to the contractor. In addition, DASNY requires the Grantee to certify that documents submitted in support of the requisition are accurate copies of the original documents as presented to, and cashed by, the contractor or vendor.

Q.B3: What backup documentation must be provided when payment is made by credit card, PayPal, Venmo or other form of electronic payment?

A.B3: If the card used was a corporate credit card, we require a copy of the statement showing the charge, the invoice for the materials purchased, and a copy of the canceled check paying

the statement in full. We do not recommend using a personal credit card to pay for NICIP project-related costs; this may require additional processing time and could delay payment. If, however, payments have been made using a personal credit card, we will need to see the individual's credit card statement, the invoice for the materials purchased, and a copy of the canceled check showing the Grantee reimbursed the appropriate party for the NICIP project-related items.

DASNY does not recommend using PayPal, Venmo or other virtual payment methods to pay costs for which the Grantee will seek reimbursement from NICIP. If, however, this is unavoidable, then DASNY must see funds drawn directly on the bank account of the named Grantee and DASNY must also see that the appropriate party is in receipt of the funds.

Note: project expenses that have been incurred by an Applicant using a credit card are NOT eligible for payment on invoice.

Q.B4: The contractor was paid in cash for work related to the project. Does this pose any problems?

A.B4: Yes. DASNY must receive adequate proof of payment prior to releasing NICIP Funds, and we will not reimburse the Grantee for costs paid in cash. The preferred method of payment is by check as evidenced by a copy of a Grantee's canceled check made payable directly to the contractor or vendor.

Q.B5: The contractor did not give our Organization an invoice, so we cannot provide one with the requisition. Is this a problem?

A.B5: Yes. An invoice from the contractor along with proof of payment must be provided in order to be reimbursed for project expenditures. Please ask each contractor for an invoice made out to the Grantee when work is undertaken in connection with the Project.

Q.B6: The contractor requested that the check be made payable to him personally, and not to the corporate entity. Is this acceptable?

A.B6: No. Payment should be made to the corporate entity that performed the work and provided the invoice. For example, if an invoice is received from "Jack's Contracting, Inc.," the check should be payable to "Jack's Contracting, Inc." and not to "Jack Smith."

Q.B7: Another entity has actually paid for the construction costs relating to the project and is looking to our Organization for reimbursement. Does this pose any problems?

A.B7: Yes. DASNY can only use NICIP Funds to reimburse a Grantee for costs related to their project that were actually incurred by the Grantee and not another entity. The Grantee is the entity that should be incurring project costs, paying those costs from their own bank or checking account, and then requesting reimbursement. If another entity paid for the project costs and the Grantee is seeking reimbursement for those costs, there will likely be a delay in processing the requisition.

Q.B8: What if the wrong documentation is submitted with the requisition?

A.B8: If the wrong documentation is included with the Grantee's requisition request, DASNY will not make payment. The Grantee will be informed, in writing, of the portions of the requisition for which DASNY is unable to make payment and the reason(s) why payment was denied. Please note that it is the Grantee's responsibility to submit requisitions that are properly assembled and clearly delineate allowable costs to be paid for with NICIP Funds; it is not the responsibility of DASNY staff to make sense of a disorganized submission. If the requisition is not readily understandable, the entire requisition package will be returned to the Grantee for resubmission prior to payment.

Q.B9: Is there someone available to assist my Organization with assembling a requisition?

A.B9: As indicated above, it is the Applicant's responsibility to submit requisitions that are properly assembled and clearly delineate allowable costs to be paid for with NICIP Funds. While members of DASNY's Accounts Payable staff are available to answer specific questions about a requisition, DASNY cannot assume the Grantee's responsibility to locate the documentation necessary to support costs to be paid for with NICIP Funds or evidencing proof of payment; matching proof of payment to invoiced costs; inferring the services or materials provided where the documentation does not clearly provide an explanation; and other such tasks.

Q.B10: Can our Organization submit a requisition request electronically?

A.B10: Yes. After the Grantee receives an executed GDA, requisitions may be submitted by email to apgrants@dasny.org. Please email the requisition from the Grantee's email account, and please include the project ID number and Grantee's Legal Name in the subject line.

C. Payment on Invoice

Q.C1: Our Organization does not have the funds to make payment in the first instance. Is there a way to access the NICIP Funds to pay the costs as they are incurred?

A.C1: NICIP is intended to be a reimbursement program. However, we recognize that it may be difficult for some Grantees to pay for project costs upfront. If that is the case, pursuant to the terms of the GDA, the Grantee will need to provide DASNY with documentation evidencing that a non-interest-bearing, segregated account has been established by the Grantee into which NICIP Funds will be deposited, and that an industry standard fraud protection service has been added to the segregated bank account (Positive Pay). Eligible expenses incurred in connection with the project to be financed with NICIP Funds must be paid out of this account. All work being paid on invoice must be completed prior to disbursement of NICIP Funds. The funds in the segregated account shall not be used for any purpose other than making payments to a contractor or vendor for costs in connection with the NICIP-Funded project. The Applicant must provide proof of disbursement of NICIP Funds to the respective contractor and/or vendor in a form acceptable to DASNY, within sixty (60) days of the date that NICIP Funds are disbursed to the Applicant to pay for such costs. DASNY will not make any additional disbursements from NICIP Funds until such time as proof of payment is provided.

Q.C2: When seeking payment on invoice, what must our Organization submit to access the NICIP Funds?

A.C2: Submit an invoice from the contractor/vendor for the completed work undertaken on the project along with the appropriate requisition exhibits that are in the executed GDA. All project-related work being paid on invoice must be completed prior to the disbursement of NICIP Funds. All NICIP Funds paid on invoice must be deposited into the non-interest-bearing segregated account established by the Grantee (see prior question and answer) and all eligible expenses incurred in connection with the project to be financed with NICIP Funds must be paid out of this segregated account. The funds in the segregated account shall not be used for any purpose other than making payments to the contractor or vendor for costs incurred in connection with the NICIP-Funded project. When the Applicant receives payment on invoice, the Grantee must show proof of disbursement of all funds from the segregated account to the contractor before DASNY will pay any additional payment requests.

The Grantee must provide proof of disbursement of NICIP Funds to the respective contractor and/or vendor in a form acceptable to DASNY, within sixty (60) days of the date that NICIP Funds are disbursed to the Grantee to pay for such costs. DASNY will not make any additional disbursements from NICIP Funds until such time as proof of payment is provided.

IV. Project Changes After the Award

Q.A1: The project is going to take longer than originally estimated. Can our Organization receive an extension of time to complete the project?

A.A1: As per the terms of the RFA, all projects are required to be completed and payment requisitions processed by December 31, 2026. If the project cannot be completed during that timeframe, the Applicant will have to decline the NICIP funding opportunity.

Please contact DASNY via email at NICIP@dasny.org if the Applicant can no longer undertake the awarded project.

Q.A2: What if our Organization wants to use the NICIP Funds to pay for costs other than those described in the Application?

A.A2: Since the NICIP is a competitive program, changes are **not permitted**. If the project proposed in the Application can no longer go forward, the Applicant will have to decline the Award.

Please contact DASNY via email at NICIP@dasny.org if the Applicant can no longer undertake the awarded project.

This **GRANT DISBURSEMENT AGREEMENT** includes
all exhibits and attachments hereto and is made on the terms and by the parties listed below
and relates to the project described below:

**DORMITORY AUTHORITY OF THE STATE OF
NEW YORK (“DASNY”):**

515 Broadway
Albany, New York 12207
Contact: Karen Hunter
Phone: (518) 257-3177
E-mail: grants@dasny.org

THE GRANTEE:

Grantee Name
Grantee Address
City, New York Zip
Contact: Contact Name
Phone: Contact Phone
Email: Contact Email

THE PROJECT:

Project Description

PROJECT LOCATION(S):

Grantee Emergency Services Training Facility

ADDRESS:

Project Location Address

GRANT AMOUNT:

\$NICIP Award Amount

GRANTS GATEWAY APPLICATION #

PBC01*-NICIP-2023-XXXXX

FUNDING CATEGORY

FUNDING SOURCE:

Nonprofit Infrastructure Capital
Improvement Program(“NICIP”)

For Office Use Only:

APPLICATION QUALIFICATION DATE:

EXPIRATION DATE OF THIS AGREEMENT:

December 31, 2026

PROJECT ID: XXXXX

FMS#: XXXXXX

Grantee ID: XXX

TERMS AND CONDITIONS

1. The Project

The Project description, including tasks and a timeline with respect thereto, is set forth in Exhibit A. The Grantee will perform the tasks on the schedule and as described in Exhibit A to this Agreement.

2. Project Budget and Use of Funds

- a) The Grantee will undertake the Project in accordance with the overall Project budget, which includes the Grant funds, as set forth in Exhibit A to this Agreement. The Grant will be applied only to Eligible Expenses, which are separately identified, as described in Application PBC01*-NICIP-2023-xxxxx submitted in the Grants Gateway ("the Application") and in Exhibit A hereto.
- b) Grantee agrees and covenants to apply the Grant proceeds only to capital works or purposes that improve the quality, efficiency and accessibility of nonprofit services organizations, which shall consist of the following, but shall not be limited to:
 - (1) Technology upgrades related to improving electronic records, data analysis, or confidentiality;
 - (2) Renovations or expansions of space used for direct program services;
 - (3) Modifications to provide for sustainable, energy efficient spaces that would result in overall energy and cost savings; and
 - (4) Accessibility renovations
- c) All costs incurred must comply with the definition of Capital Work or Purpose pursuant to the State Finance Law.
- d) Grantee agrees and covenants that the Grant proceeds shall not be used for costs that are not capital in nature, which include, but shall not be limited to working capital, rent, utilities, salaries, supplies, administrative expenses, or to pay down debt incurred to undertake the Project.

3. Books and Records

The Grantee will maintain accurate books and records concerning the Project for six (6) years from the date the Project is completed and will make those books and records available to DASNY, its agents, officers and employees during Grantee's business hours upon reasonable request. In the event of earlier termination of this Agreement, such documentation shall be made available to DASNY, its agents, officers and employees for six (6) years following the date of such early termination.

4. Conditions Precedent to Disbursement of the Grant

No Grant funds shall be disbursed until the following conditions have been satisfied:

- a) DASNY has received a description of the Project, budget and timeline in the form of Exhibit A, and an opinion of Grantee's counsel, in substantially the form appended to this Agreement as Exhibit B; and
- b) The requirements of the NICIP Program have been met; and
- c) The monies required to fund the Grant have been received by DASNY; and
- d) In the event of disbursement pursuant to paragraph 5(b) below, the Grantee has provided DASNY with documentation evidencing that a segregated account has been established by the Grantee into which Grant funds will be deposited (the "Segregated Account"). The Segregated Account must have industry-standard fraud protections added to the account, including but not limited to, check positive pay and ACH positive pay. Eligible Expenses incurred in connection with the Project to be financed with Grant proceeds that are to be paid on invoice shall be paid out of the Segregated Account. The funds in such account shall not be used for any other purpose.
- e) The Grantee certifies that it is in compliance with the provisions of the NICIP Program as well as this Agreement and that the Grant will only be used for the Project set forth in the Application and in Exhibit A hereto.
- f) The Grantee is required to register and maintain the "Prequalified" status on the New York State Grants Gateway (www.grantsreform.ny.gov) in order to receive Grant funds. The Grantee's Document Vault must be in prequalification status prior to any disbursements of the grant funds.

5. Disbursement

Subject to the terms and conditions contained in this Agreement, DASNY shall disburse the Grant to the Grantee, in the manner set forth in Exhibit D, as follows:

- (a) Reimbursement: DASNY shall make payment directly to the Grantee in the amount of Eligible Expenses actually incurred and paid for by the Grantee, upon presentation to DASNY of (i) the Payment Requisition Forms attached to this Agreement as Exhibit E and its attachments; (ii) copies of invoices for Eligible Expenses from the Grantee's contractor and/or vendor and proof of payment from the Grantee to the contractor and/or vendor in a form acceptable to DASNY; and (iii) such additional supporting documentation as DASNY may require in order to clearly demonstrate that Eligible Expenses were incurred and paid by the Grantee in connection with the Project described herein; or
- (b) Payment on Invoice:
 - (1) DASNY may make payment directly to the Grantee in the amount of Eligible Expenses actually incurred by the Grantee, upon presentation to DASNY of (i) the Payment Requisition Forms attached to this Agreement as Exhibit E and

its attachments; (ii) copies of invoices for Eligible Expenses from the Grantee's contractor and/or vendor in a form acceptable to DASNY evidencing the completion of work; and (iii) such additional supporting documentation as DASNY may require in order to clearly demonstrate that Eligible Expenses were incurred by the Grantee in connection with the Project described herein.

(2) The Grantee must deposit all Grant proceeds paid on invoice pursuant to this paragraph (b) into the Segregated Account established pursuant to Paragraph 4(d). All Eligible Expenses incurred in connection with the Project to be financed with Grant funds that are to be paid on invoice must be paid out of this account. The account shall not be used for any other purpose.

(3) The Grantee must provide proof of disbursement of Grant funds to the respective contractor and/or vendor in a form acceptable to DASNY, within sixty (60) days of the date that Grant funds are disbursed to the Grantee to pay for such costs. DASNY will not make any additional disbursements from Grant funds until such time as proof of payment is provided.

(4) Utilizing the Grant funds paid to the Grantee pursuant to this section for any purpose other than paying the contractors and/or vendors identified in the requisition documentation in the amounts set forth in the requisition shall constitute a default under this Agreement and shall, at a minimum, result in the denial of payment on invoice for subsequent requisitions.

(5) DASNY may deny payment on invoice at its sole and absolute discretion, thereby restricting the method of payment pursuant to this contract to reimbursement subject to the terms of Section 5(a).

(c) Electronic Payments Program: DASNY reserves the right to implement an electronic payment program ("Electronic Payment Program") for all payments to be made to the Grantee thereunder. Prior to implementing an Electronic Payment Program, DASNY shall provide the Grantee written notice one hundred twenty days prior to the effective date of such Electronic Payment Program ("Electronic Payment Effective Date"). Commencing on or after the Electronic Payment Effective Date, all payments due hereunder by the Grantee shall only be rendered electronically, unless payment by paper check is expressly authorized by DASNY. Commencing on or after the Electronic Payment Effective Date the Grantee further acknowledges and agrees that DASNY may withhold any request for payment hereunder, if the Grantee has not complied with DASNY's Policies and Procedures relating to its Electronic Payment Program in effect at such time, unless payment by paper check is expressly authorized by DASNY.

(d) In no event will DASNY make any payment which would cause DASNY's aggregate disbursements to exceed the Grant amount.

(e) The Grant, or a portion thereof, may be subject to recapture by DASNY as provided in Section 9(c) hereof.

6. No Liability of DASNY or the State

DASNY shall not in any event whatsoever be liable for any injury or damage, cost or expense of any nature whatsoever that occurs as a result of or in any way in connection with the Project and the Grantee hereby agrees to indemnify and hold harmless DASNY, the State and their respective agents, officers, employees and directors (collectively, the "Indemnitees") from and against any and all such liability and any other liability for injury or damage, cost or expense resulting from the payment of the Grant by DASNY to the Grantee or use of the Project in any manner, including in a manner which, if the bonds are issued on a tax-exempt basis, (i) results in the interest on the bonds issued by DASNY the proceeds of which were used to fund the Grant (the "Bonds") to be includable in gross income for federal income tax purposes or (ii) gives rise to an allegation against DASNY by a governmental agency or authority, which DASNY defends that the interest on the Bonds is includable in gross income for federal income tax purposes, other than that caused by the gross negligence or the willful misconduct of the Indemnitees.

7. Warranties and Covenants

The Grantee warrants and covenants that:

- (a) The Grant shall be used solely for Eligible Expenses in accordance with the terms and conditions of this Agreement and the Nonprofit Infrastructure Capital Investment Program enacted by Chapter 54, section 1 of the Laws of 2015, as amended ("the Program")
- (b) No materials, if any, purchased with the Grant will be used for any purpose other than the eligible Project costs as identified in Exhibit A.
- (c) The Grantee agrees to utilize all funds disbursed in accordance with this Agreement in accordance with the terms of the NICIP Program.
- (d) The Grantee is solely responsible for all Project costs in excess of the Grant. The Grantee will incur and pay Project costs and submit requisitions for reimbursement in connection with such costs.
- (e) The Grantee has sufficient, secured funding for all Project costs in excess of the Grant, and will complete the Project as described in the Application and in this Agreement.
- (f) The Grantee will comply with all applicable provisions of Executive Law Article 15-A and the provisions set forth in Section 6 of this Agreement.
- (g) The Grantee agrees to use its best efforts to utilize the Project for substantially the same purpose set forth in this Agreement until such time as the Grantee

determines that the Project is no longer reasonably necessary or useful in furthering the public purpose for which the grant was made.

- (h) There has been no material adverse change in the financial condition of the Grantee since the date of submission of the Application.
- (i) No part of the Grant will be applied to any expenses paid or payable from any other external funding source, including State or Federal grants, or grants from any other public or private source.
- (j) No part of the Grant will be applied for any expenses related to building or property maintenance or improvements, structural maintenance or improvements, or building systems maintenance or improvements in a publicly owned building.
- (k) No part of the Grant will be applied for any construction expenses or technology purchases incurred prior to the effective date of the Program, which is April 1, 2015.
- (l) The Grantee owns or leases the site where the Project will be located. If the Project includes removable equipment or furnishings including but not limited to, computer hardware and customized software, air conditioning units, lab equipment, and office furniture, Grantee will develop, implement and maintain an inventory system for tracking such removable equipment and furnishings.
- (m) The Project to be funded by the Grant will be located in the State of New York. If the Grant will fund all or a portion of the purchase of any type of direct service vehicle, such direct service vehicle will be registered in the State of New York and a copy of the New York State Vehicle Registration documents will be provided to DASNY's Accounts Payable Department at the time of requisition.
- (n) The Project description set forth in the Type II Action Determination accurately and completely describes the Project to be undertaken with NICIP Grant funds.
- (o) Grantee is in compliance with, and shall continue to comply in all material respects, with all applicable laws, rules, regulations and orders affecting the Grantee and the Project including but not limited to maintaining the Grantee's document vault on the New York State Grants Reform Gateway (www.grantsreform.ny.gov).
- (p) The Grantee has obtained all necessary consents and approvals from the property owner in connection with any work to be undertaken in connection with the Project.
- (q) All contractors and vendors retained to perform services in connection with the Project shall be authorized to do business in the State of New York and shall possess and maintain all professional licenses and/or certifications required to perform the tasks undertaken in connection with the Project.

- (r) Neither the Grantee nor any of the members of its Board of Directors or other governing body or its employees have given or will give anything of value to anyone to procure the Grant or to influence any official act or the judgment of any person in the performance of any of the terms of this Agreement.
- (s) The Grant shall not be used in any manner for any of the following purposes:
- (1) political activities of any kind or nature, including, but not limited to, furthering the election or defeat of any candidate for public, political or party office, or for providing a forum for such candidate activity to promote the passage, defeat, or repeal of any proposed or enacted legislation;
 - (2) religious worship, instruction or proselytizing as part of, or in connection with, the performance of this Agreement;
 - (3) payments to any firm, company, association, corporation or organization in which a member of the Grantee's Board of Directors or other governing body, or any officer or employee of the Grantee, or a member of the immediate family of any member of the Grantee's Board of Directors or other governing body, officer, or employee of the Grantee has any ownership, control or financial interest, including but not limited to an officer or employee directly or indirectly responsible for the preparation or the determination of the terms of the contract or other arrangement pursuant to which the proceeds of the Grant are to be disbursed. For purposes of this paragraph, "ownership" means ownership, directly or indirectly, of more than five percent (5%) of the assets, stock, bonds or other dividend or interest bearing securities; and "control" means serving as a member of the board of directors or other governing body, or as an officer in any of the above; and
 - (4) payment to any member of Grantee's Board of Directors or other governing body of any fee, salary or stipend for employment or services, except as may be expressly provided for in this Agreement.
- (t) The relationship of the Grantee (including, for purposes of this paragraph, its officers, employees, agents and representatives) to DASNY arising out of this Agreement shall be that of an independent contractor. The Grantee covenants and agrees that it will conduct itself in a manner consistent with such status, that it will neither hold itself out as, nor claim to be, an officer, employee, agent or representative of DASNY or the State by reason hereof, and that it will not by reason thereof, make any claim, demand or application for any right or privilege applicable to an officer, employee, agent or representative of DASNY or the State, including without limitation, worker's compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.
- (u) The information contained in the Application submitted by the Grantee in connection with the Project and the Grant, and any supplemental documentation requested by the State or DASNY in connection with the Grant, is incorporated

herein by reference in its entirety. In the event of an inconsistency between the descriptions, conditions, and terms of this Agreement and those contained in the Application, the provisions of this Agreement shall govern. The Grantee hereby acknowledges that DASNY has relied on the statements and representations made by the Grantee in the Application and any supplemental information in making the Grant. The Grantee hereby represents and warrants that it has made no material misstatement or omission of fact in the Application, supplemental information, or otherwise in connection with the Grant and that the information contained in the Application and supplemental information continues on the date hereof to be materially correct and complete.

- (v) The Grantee hereby represents and warrants that it has made no material misstatement or omission of fact in the Grantee Questionnaire ("GQ"), attached hereto as Exhibit C, or the Grantee's document vault in the New York State's Grants Reform Gateway completed by the Grantee in connection with the Project and the Grant, and that the responses in the GQ and the document vault continue on the date hereof to be materially correct and complete. The Grantee hereby acknowledges that DASNY has relied on the statements and representations made by the Grantee in the GQ in making the Grant, and that the Grantee will be required to reaffirm the information therein each time a requisition for grant funds is presented to DASNY.
- (w) The Grantee hereby represents and warrants that it has made no material misstatement or omission of fact in the MWBE and SDVOB Utilization Plans attached hereto as Exhibit F-1 and F-2, or in the Request for Waiver Applications attached hereto as Exhibit F-3 and F-4 (if required). The Grantee hereby acknowledges that DASNY has relied on the statements and representations made by the Grantee in the MWBE and SDVOB Utilization Plans or Request for Waiver Applications making the Grant, and that the Grantee will be required to reaffirm the information therein each time a requisition for grant funds is presented to DASNY.
- (x) The Grantee is duly organized, validly existing and in good standing under the laws of the State of New York, or is duly organized and validly existing under the laws of another jurisdiction and is authorized to do business and is in good standing in the State of New York and shall maintain its corporate existence in good standing in each such jurisdiction for the term of this Agreement, and has full power and authority to execute and deliver the Agreement and to perform its obligations thereunder;
- (y) The Grantee agrees to provide such documentation to DASNY as may be requested by DASNY in its sole and absolute discretion to support a requisition for payment, to determine compliance by the Grantee with the terms of this Agreement or otherwise reasonably requested by DASNY in connection with the Grant, and further acknowledges that if documentation requested in connection with a requisition for payment does not, in the sole and absolute discretion of DASNY, provide adequate support for the costs requested, that such requisition request shall be denied and payment shall not be made to the Grantee.

- (z) The Grantee agrees to provide a report on project activities to be submitted with the final requisition for payment.
- (aa) The Agreement was duly authorized, executed and delivered by the Grantee and is binding on and enforceable against the Grantee in accordance with its terms.

8. Default and Remedies

- (a) Each of the following shall constitute a default by the Grantee under this Agreement:
 - (i) Failure to perform or observe any obligation, warranty or covenant of the Grantee contained herein, or the failure by the Grantee to perform the requirements herein to the reasonable satisfaction of DASNY and within the time frames established therefor under this Agreement.
 - (ii) Failure to comply with any request for information reasonably made by DASNY to determine compliance by the Grantee with the terms of this Agreement or otherwise reasonably requested by DASNY in connection with the Grant.
 - (iii) The making by the Grantee of any false statement or the omission by the Grantee to state any material fact in or in connection with this Agreement or the Grant, including information provided in the Application or in any supplemental information that may be requested by the State or DASNY.
 - (iv) The Grantee shall (i) be generally not paying its debts as they become due, (ii) file, or consent by answer or otherwise to the filing against it of, a petition under the United States Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (iii) make a general assignment for the benefit of its general creditors, (iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (v) be adjudicated insolvent or be liquidated or (vi) take corporate action for the purpose of any of the foregoing.
 - (v) An order of a court having jurisdiction shall be made directing the sale, disposition or distribution of all or substantially all of the property belonging to the Grantee, which order shall remain undismissed or unstayed for an aggregate of thirty (30) days.
 - (vi) The Grantee abandons the Project prior to its completion.
 - (vii) The Grantee is found to have falsified or modified any documents submitted in connection with this grant, including but not limited to invoice, contract or payment documents submitted in connection with a Grantee's request for payment/reimbursement.

(viii) Utilizing the Grant funds paid to the Grantee pursuant to Section 5(b) for any purpose other than paying the contractors and/or vendors identified in the requisition documentation in the amounts set forth in the requisition.

- (b) Upon the occurrence of a default by the Grantee and written notice by DASNY indicating the nature of the default, DASNY shall have the right to terminate this Agreement.
- (c) Upon any such termination, DASNY may withhold any Grant proceeds not yet disbursed and may require repayment of Grant proceeds already disbursed. If DASNY determines that any Grant proceeds had previously been released based upon fraudulent representations or other willful misconduct, DASNY may require repayment of those funds and may refer the matter to the appropriate authorities for prosecution. DASNY shall be entitled to exercise any other rights and seek any other remedies provided by law.

9. Term of Agreement

Notwithstanding the provisions of Section 9 hereof, this Agreement shall terminate three (3) years after the latest date set forth on the front page hereof without any further notice to the Grantee. DASNY, in its sole discretion, may extend the term of this Agreement upon a showing by the Grantee that the Project is under construction and is expected to be completed within the succeeding twelve (12) months. All requisitions must be submitted to DASNY in proper form prior to the termination date in order to be reimbursed.

10. Project Audit

DASNY shall, upon reasonable notice, have the right to conduct, or cause to be conducted, one or more audits, including field inspections, of the Grantee to assure that the Grantee is in compliance with this Agreement. This right to audit shall continue for six (6) years following the completion of the Project or earlier termination of this Agreement.

11. Survival of Provisions

The provisions of Sections 3, 7, 8(r), 8(s) and 11 shall survive the expiration or earlier termination of this Agreement.

12. Notices

Each notice, demand, request or other communication required or otherwise permitted hereunder shall be in writing and shall be effective upon receipt if personally delivered or sent by any overnight service or three (3) days after dispatch by certified mail, return receipt requested, to the addresses set forth on this document's cover page.

13. Assignment

The Grantee may not assign or transfer this Agreement or any of its rights hereunder.

14. Modification

This Agreement may be modified only by a written instrument executed by the party against whom enforcement of such modification is sought.

15. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. This Agreement shall be construed without the aid of any presumption or other rule of law regarding construction against the party drafting this Agreement or any part of it. In case any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such provision(s) had never been contained herein.

16. Confidentiality of Information

Any information contained in reports made to DASNY or obtained by DASNY as a result of any audit or examination of Grantee's documents or relating to trade secrets, operations and commercial or financial information, including but not limited to the nature, amount or source of income, profits, losses, financial condition, marketing plans, manufacturing processes, production costs, productivity rates, or customer lists, provided that such information is clearly marked "confidential" by the Grantee that concerns or relates to trade secrets, operations and commercial or financial information, including but not limited to the nature, amount or source of income, profits, losses or expenditures, financial condition, marketing plans, manufacturing processes, production costs, productivity rates, or customer lists, which is determined by DASNY to be exempt from public disclosure under the Freedom of Information Law, shall be considered business confidential and is not to be released to anyone, except DASNY and staff directly involved in assisting the Grantee, without prior written authorization from the Grantee, as applicable. Notwithstanding the foregoing, DASNY will not be liable for any information disclosed, in DASNY's sole discretion, pursuant to the Freedom of Information Law, or which DASNY is required to disclose pursuant to legal process.

17. Executory Clause

This Agreement shall be deemed executory to the extent of monies available for the NICIP Program to DASNY.

Grantee
Project Description
Project ID: XXXXX

This agreement is entered into as of the latest date written below:

GRANTEE: Grantee

(Signature of Grantee Authorized Officer)

(Printed Name and Title)

Date: _____

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

(Signature of DASNY Authorized Officer)

(Printed Name)

Date: _____

DASNY OFFICE USE ONLY	
GRANTS ADMIN REVIEW	FINAL LEGAL REVIEW
APPROVED FOR LEGAL REVIEW:	APPROVED FOR SIGNATURE:
DATE:	DATE:

GRANT DISBURSEMENT AGREEMENT

EXHIBITS

EXHIBIT A	Project Budget
EXHIBIT B	Opinion of Counsel
EXHIBIT C	Grantee Questionnaire
EXHIBIT D	Disbursement Terms
EXHIBIT E	Payment Requisition Form and Dual Certification
EXHIBIT E-1	Payment Requisition Cover Letter
EXHIBIT E-2	Payment Requisition Back-up Summary
EXHIBIT F	Non-Discrimination and Affirmative Action Policy

EXHIBIT A: Project Budget

Grantee
Project Description
Project ID: XXXXX

USE OF FUNDS	TIMELINE		SOURCES			Total
	Anticipated Dates**		DASNY Share	In-Kind / Equity /Sponsor	Other Sources	
	<i>Start</i>	<i>End</i>	<i>Amount</i>	<i>Amount</i>	<i>Amount</i>	
Project description			\$NICIP Award			

* Please note that the project description as set forth in this column must summarize the scope of the Eligible Expenses set forth in the Application as per Section 2(a) of this Agreement for which reimbursement or payment on invoice will be sought. Please ensure that the project description is an appropriate summary of the Eligible Expenses for which grantee will be submitting for requisition. The failure to ensure **all** Eligible Expenses are consistent with the project description may delay payment.

** Please be sure to complete the anticipated start and end dates in the Project timeline above before returning to DASNY.

EXHIBIT B: Opinion of Counsel

DASNY
General Counsel
515 Broadway
Albany, New York 12207

*Re: Nonprofit Infrastructure Capital Improvement Program ("NICIP") Grant
Project Description
Project ID: XXXXX*

Ladies and Gentlemen:

I have acted as counsel to Grantee (the "Grantee") in connection with the Project referenced above. In so acting, I have reviewed a certain Grant Disbursement Agreement between you and the Grantee (the "Agreement") and such other documents as I consider necessary to render the opinion expressed hereby.

Based on the foregoing, I am of the opinion that:

1. the Grantee is duly organized, validly existing and in good standing under the laws of the State of New York; **or**

the Grantee is duly organized and validly existing under the laws of another jurisdiction, and the Grantee is in good standing and authorized to do business in the State of New York;

2. the Grantee has full power and authority to execute and deliver the Agreement and to perform its obligations thereunder; **and**

3. the Agreement was duly authorized, executed and delivered by the Grantee and is binding on and enforceable against the Grantee in accordance with its terms.

1 By selecting this option and providing my electronic signature, I hereby execute and deliver a validly binding legal opinion in the form of this Exhibit B, just the same as a pen-and-paper signature on a separate document.

Approved – Legal Opinion attached

***Instructions – Grantee's Attorney will choose appropriate response . If "**Approved as to form**" is checked, the Attorney will DocuSign form. If "**Approved – Legal Opinion attached**" is checked, the Attorney must attach a legal opinion using the language provided in this exhibit.*

EXHIBIT C: Grantee Questionnaire

PLEASE READ THE FOLLOWING:

- 1) You are acknowledging the following regarding the included Grantee Questionnaire:
 - This inserted Grantee Questionnaire is an accurate and true copy of such previously submitted DASNY Grantee Questionnaire.
 - The Grantee certifies that there has been no material change in the information provided in the Grantee Questionnaire.

EXHIBIT D: Disbursement Terms

Grantee
Project Description
Project ID: XXXXX

Subject to the terms and conditions contained in this Agreement, DASNY shall disburse the Grant to the Grantee as follows:

Standard Reimbursement

DASNY shall make payment to the Grantee, no more frequently than monthly, based upon Eligible Expenses (as set forth and in accordance with the budget in Exhibit A) actually incurred by the Grantee, in compliance with Exhibit A and upon presentation to DASNY of the Payment Requisition Forms attached to this Agreement as Exhibit E and its attachments, together with such supporting documentation as DASNY may require in order to clearly demonstrate that Eligible Expenses were actually incurred by the Grantee in connection with the Project described herein. Payment shall be made by reimbursement, subject to the terms and conditions of Sections 4 and 5(a) of this Agreement or by payment on invoice subject to the terms and conditions of Sections 4 and 5(b) of this Agreement.

Supporting documentation acceptable to DASNY must be provided prior to payment, including invoices and proof of payment in a form acceptable to DASNY. If the fronts and backs of canceled checks cannot be obtained from the Grantee's financial institution, a copy of the front of the check must be provided, along with a copy of a bank statement clearly showing that payment was made by the Grantee to the contractor. DASNY reserves the right to request additional supporting documentation in connection with requests for payment, including the backs of canceled checks, certifications from contractors or vendors, or other documentation to verify that grant funds are properly expended. *Please note that quotes, proposals, estimates, purchase orders, and other such documentation **do NOT** qualify as invoices.*

The Grantee agrees to provide such documentation to DASNY as may be requested by DASNY in its sole and absolute discretion to support a requisition for payment, to determine compliance by the Grantee with the terms of this Agreement or otherwise reasonably requested by DASNY in connection with the Grant, and further acknowledges that if documentation requested in connection with a requisition for payment does not, in the sole and absolute discretion of DASNY, provide adequate support for the costs requested, that such requisition request shall be denied and payment shall not be made to the Grantee.

All expenses submitted for reimbursement or payment on invoice must be for work completed at the approved project location(s) and/or items received at the approved project location(s) prior to the date of the request for reimbursement/payment. In addition, if funds are requisitioned for the purchase of a direct service vehicle, the New York State Vehicle Registration Documents and title must be submitted along with the requisition forms.

EXHIBIT E: Payment Requisition Form and Dual Certification

Grantee
Project Description
Project ID: XXXXX

For Office Use Only:

FMS#: XXXXXX

Payment Request #

For work completed between / / and / /

THIS REQUEST:

A: DASNY SHARE*		B: THIS REQUEST	C: TOTAL REQUESTED PRIOR TO THIS REQUEST	D: A-B-C BALANCE
\$	\$NICIP Award			

* Please note that when submitting a requisition for payment, DASNY can only reimburse for capital expenditures for the Project as set forth in Exhibit A of this Agreement. In addition, all capital expenditures are to be both incurred (billed to) and paid for by the named Grantee. Capital expenditures include the costs of acquisition, design, construction, reconstruction, rehabilitation, preservation, development, improvement, modernization and equipping of the approved Project location.

** If this request represents the final payment requisition, please submit a report detailing the status of project completion and whether or not the short-term and long-term benefits described in the Application were achieved. The report should be submitted with the final requisition.

DASNY may not reimburse Grantees or make payments on invoice for costs including, but not limited to, the following: working capital, rent, utilities, salaries, supplies and other administrative expenses.

EXHIBIT E: Payment Requisition Form and Dual Certification

DUAL CERTIFICATION

This certification must be signed by two Authorized Officers of the Grantee, for Project #XXXXX.

We hereby warrant and represent to DASNY that:

1. To the best of our knowledge, information and belief, the expenditures described in Payment Requisition Request # _____ attached hereto in the amount of \$ _____ for which Grantee, is seeking payment and/or reimbursement comply with the requirements of the Agreement between DASNY and Grantee (the "Agreement"), are Eligible Expenses, and that the payment and/or reimbursement of expenditures for which it is seeking payment and/or reimbursement from DASNY does not duplicate reimbursement or disbursement of costs and/or expenses from any other source.
2. The warranties and covenants contained in Section 8 of the Agreement are true and correct as if made on the date hereof.
3. The Eligible Expenses for which reimbursement is sought in connection with this requisition were actually incurred by the Grantee named on the cover page of this Agreement, and/or will be paid by the Grantee solely from the Segregated Account established pursuant to paragraph 4(d) of the Grant Disbursement Agreement to the contractor named on the invoices submitted in connection with this requisition and shall not be used for any other purpose.
4. All Project costs described in any contractor/vendor invoice submitted pursuant the payment requisition form have been completely and fully performed prior to the date hereof.
5. Proof of disposition of funds from the Segregated Account to the contractor and/or vendors that are being paid on invoice, if any, will be provided to DASNY within sixty (60) days of the date that Grant funds are disbursed to the Grantee to pay for such costs. We understand that in the event that acceptable proof of payment is not provided, DASNY will not make any additional disbursements from Grant funds until such time as such proof of payment is provided.
6. We have the authority to submit this requisition on behalf of Grantee. The tasks have been completed in the manner outlined in the Agreement.
7. The following documents are hereby attached for DASNY approval, in support of this requisition, and are accurate images of the original documents **(Please check off all that apply):**

- ☐ Readable copies of both front and back of canceled checks.
- ☐ Readable copies of the front of the checks and copies of bank statements showing that the checks have cleared.
- ☐ Copy of New York State Vehicle Registration and Title documents for all direct service vehicles purchased with Grant funds.
- ☐ Invoices/receipts for eligible goods/services that have been received/performed at the approved Project location(s).
- ☐ Other:

Authorized Officer Signature: _____

Date: _____

Print Name: _____

Title: _____

Authorized Officer Signature: _____

Date: _____

Print Name: _____

Title: _____

EXHIBIT E-I: Payment Requisition Cover Letter

ON GRANTEE'S LETTERHEAD

Date

Attention: Accounts Payable - Grants
DASNY
515 Broadway
Albany, New York 12207

*Re: Nonprofit Infrastructure Capital Improvement Program ("NICIP") Grant
Project Description
Project No. XXXXX*

To Whom It May Concern:

Enclosed please find our request for payment/reimbursement. The package includes completed Exhibits E and E-2, including a Dual Certification with original signatures from two authorized officers. I have also included supporting documentation and invoices, as summarized in Exhibit E-2.

Below I have checked off the relevant payment option and completed the required payment information. This information is complete and accurate as of the date of this letter:

1) ☐ We would like to be paid by reimbursement pursuant to section 5(a) of the grant disbursement agreement. Proof of payment is enclosed for all invoices submitted in this request. Please remit payment by check.

OR

2) ☐ We would like to be paid by reimbursement pursuant to section 5(a) of the grant disbursement agreement. Proof of payment is enclosed for all invoices submitted in this request. Please remit payment by wire. The wire instructions for our account are as follows:

BANK NAME: _____ ACCOUNT #:

ACCOUNT NAME: _____ ABA #:

OR

- 3) ☐ We would like to be paid on invoice pursuant to Section 5(b) of the grant disbursement agreement. We have not paid the invoice(s) included in this request. We have established a **segregated account to be used solely for accepting and disbursing funds from DASNY for this grant and for no other purpose.** We have applied industry standard fraud protections to this account, including but not limited to, check positive pay and ACH positive pay. The wire instructions for this account are as follows:

BANK NAME: _____ ACCOUNT #:

ACCOUNT NAME: _____ ABA #:

If any further information is needed, please contact me at (____) _____.

Signature: _____

Print Name: _____ Title: _____

EXHIBIT E-2: Payment Requisition Back-up Summary

Grantee
Project Description
Project ID: XXXXX

Please list below all invoice amounts totaling the amount for which you are seeking reimbursement in this request. Invoices should be organized and total amount requested for reimbursement from grant subtotaled. Please use additional sheets if necessary.

VENDOR/ CONTRACTOR NAME	INVOICE/ APPLICATION #	AMOUNT REQUESTED FROM GRANT FUNDS	COMMENT
TOTAL Requested:			(Transfer total amount requested to Exhibit E pg. 18 column B)

EXHIBIT F

NON-DISCRIMINATION AND AFFIRMATIVE ACTION POLICY FOR THE PROJECT

It is the policy of the State of New York and DASNY, to comply with all federal, State and local law, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action to ensure that Minority and Women-owned Business Enterprises (M/WBEs), Minorities Group Members and women share in the economic opportunities generated by DASNY's participation in projects or initiatives, and/or the use of DASNY funds.

- 1) The recipient of State funds represents that its equal employment opportunity policy statement incorporates, at a minimum, the policies and practices set forth below:
 - a) Grantee shall (i) not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, (ii) undertake or continue existing programs of affirmative action to ensure that Minority Group Members and women are afforded equal employment opportunities, and (iii) make and document its conscientious and active efforts to employ and utilize M/WBEs, Minority Group Members and women in its workforce on contracts. Such action shall be taken with reference to, but not limited to, solicitations or advertisements for employment, recruitment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
 - b) At the request of the AAO, the Grantee shall request each employment agency, labor union, or authorized representative of workers with whom it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative does not unlawfully discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Grantee's obligations herein.
- 2) The Grantee is encouraged to include minorities and women in any job opportunities created by the Project; and to solicit and utilize M/WBE firms for any contractual opportunities generated in connection with the Project.
- 3) Grantee represents and warrants that, for the duration of the Agreement, it shall furnish all information and reports required by the AAO and shall permit access to its books and records by DASNY, or its designee, for the purpose of ascertaining compliance with provisions hereof.
- 4) Grantee shall include or cause to be included, paragraphs (1) through (3) herein, in every contract, subcontract or purchase order with a Contracting Party executed in connection with the Project, in such a manner that said provisions shall be binding upon each Contracting Party as to its obligations incurred in connection with the Project.

NON-DISCRIMINATION AND AFFIRMATIVE ACTION DEFINITIONS

Affirmative Action

Shall mean the actions to be undertaken by the Borrower, Grantee and any Contracting Party in connection with any project or initiative to ensure non-discrimination and Minority/Women-owned Business Enterprise and minority/female workforce participation, as set forth in paragraph 2) herein, and developed by DASNY.

Affirmative Action Officer ("AAO")

Shall mean DASNY's Affirmative Action Officer or his/her designee, managing the affirmative action program for DASNY.

Contracting Party

Shall mean (i) any contractor, subcontractor, consultant, subconsultant or vendor supplying goods or services, pursuant to a contract or purchase order in excess of \$1,500, in connection with any projects or initiatives funded in whole or in part by DASNY and (ii) **any borrower or Grantee** receiving funds from DASNY pursuant to a loan or Grant document.

Minority Business Enterprise ("MBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is (i) a least fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing, (iii) an enterprise in which such minority ownership has and exercises DASNY to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as a minority business.

Minority Group Member

Shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

Minority and Women-Owned Business Enterprise Participation

Minority and Women-owned Business Enterprise participation efforts are not limited to the efforts suggested herein, and the role of M/WBE firms should not be restricted to that of a subcontractor/subconsultant. Where applicable, M/WBE firms should be considered for roles as prime contractors. Such efforts may include but not be limited to:

- (a) Dividing the contract work into smaller portions in such a manner as to permit subcontracting to the extent that it is economically and technically feasible to do so;
- (b) Actively and affirmatively soliciting bids from qualified M/WBEs, including circulation of solicitations to Minority and Women's trade associations;
- (c) Making plans and specifications for prospective work available to M/WBEs in sufficient time for review;

- (d) Utilizing the services and cooperating with those organizations providing technical assistance to the Contracting Party in connection with potential M/WBE participation on DASNY contract;
- (e) Utilizing the resources of DASNY Affirmative Action Unit to identify New York State certified M/WBE firms for the purpose of soliciting bids and subcontracts;
- (f) Encouraging the formation of joint ventures, associations, partnerships, or other similar entities with M/WBE firms, where appropriate, and
- (g) The Contracting Party shall remit payment in a timely fashion.

Women-owned Business Enterprise (“WBE”)

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing, (iii) an enterprise in which such women ownership has and exercises DASNY to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as woman-owned.