



Department of
Environmental
Conservation

2021 Environmental Restoration Program Grant Opportunity

Request for Applications

GRANT GUIDELINES AND APPLICATION INSTRUCTIONS

New York State
Department of Environmental Conservation
Division of Environmental Remediation

***Reimburses Remediation Design and Construction Costs
of Municipally-owned Brownfield Sites in Accordance with
Title 5 of Article 56 of the Environmental Conservation
Law and Section 97-b of the State Finance Law***

***NYS Grants Gateway Application ID No.:
DEC01-ERP-2021***

Application Due Date: November 15, 2021

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Key Events

<u>Event</u>	<u>Date</u>
Application Period Begins	09/01/2021
Question & Answer Period Ends	11/08/21
Applications Due	11/15/2021; 3:00 p.m.
Award(s) Announced By (anticipated)	01/10/2022

Purpose

Environmental Conservation Law (ECL) Article 56, Title 5 authorizes an Environmental Restoration Program (ERP). The purpose of this program is to provide grants to municipalities for the investigation and remediation of municipally owned properties known or suspected to be contaminated with hazardous substances or petroleum. The remediated properties may then be redeveloped for a variety of uses including industrial, commercial, residential, and recreational. The New York State Department of Environmental Conservation (NYSDEC) is soliciting ERP Grant applications from municipalities and municipalities in partnership with community-based organizations for the remediation of previously investigated ERP sites.

Inquiries and Designated Contact Information

The designated contact for this grant opportunity is:

2021 ERP Program Manager
derweb@dec.ny.gov
 518-402-9764

Include “2021 Environmental Restoration Program” in the subject line of the email.

Questions regarding this grant opportunity will be accepted by DEC until November 8, 2021.

All questions, and answers, will be uploaded in the Grants Gateway for all applicants to view on a bi-weekly basis. The last date for questions to be submitted is November 8, 2021, with final upload on November 12, 2021.

Grant Opportunity Information and Conditions

NYSDEC is pleased to announce funding for projects that will implement the 2021 ERP.

Eligibility of Projects

Eligible projects are those which have been the subject of an environmental investigation under the New York State Environmental Restoration Program and have a DEC-issued Record of Decision (ROD) for the site. The project's purpose must be to implement the ROD, or the ROD as subsequently modified based on new information in

accordance with DER-2, *Making Changes to Selected Remedies*.

The Municipality must agree for itself and for its lessees and successors in title that any proposed change to the Contemplated Use at a site shall be governed by the provisions of ECL §56-0511 and any implementing regulations.

The following criteria must be satisfied for a project to be considered eligible:

- a. The Municipality must own the property. Proof of ownership must be submitted with the application.
- b. Other than activities related to a previous ERP State Assistance Contract (SAC) for this site, the Municipality has not generated, transported or disposed of, nor arranged for or caused the generation, transportation or disposal of, contamination on the property; and has not undertaken, and will not undertake, any indemnification obligation respecting a party responsible under law for the remediation of the property.

NOTE: For eligibility purposes, a Municipality is not considered to be an arranger if the Municipality has leased the property to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of, contamination on that property, and the Municipality either did not know that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contamination, or so knew and took action to remediate, or cause the remediation, of such contamination. In addition, a Municipality is not considered to be a generator, transporter, or arranger merely for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a contaminant or the threat of same.

- c. The project satisfies the criteria of ECL §56-0505. At a minimum, the applicant must demonstrate that the project is intended to result in a benefit to the environment and is either an economic benefit to the State or a public recreational use of the property.
- d. The site is not listed in NYS's Registry of Inactive Hazardous Waste Disposal Sites as a class "1" or class "2" at the time of application.
- e. The Municipality complied with the requirements of a previous ERP SAC and responded to DEC's requests in a timely manner.

Applicant Eligibility

For the purposes of this grant program, the following entities are considered eligible applicants: Municipalities as defined by ECL §56-0502(5) and Municipalities acting in partnership with community-based organizations as defined by ECL §56-0101(15).

"Municipality" means a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or Indian nation or tribe recognized by NYS or the United States with a reservation wholly or partly within the boundaries of New York

State, or any combination thereof. Except that such term shall not refer to a municipality that generated, transported, or disposed of, arranged for, or that caused the generation, transportation, or disposal of contamination located at real property proposed to be investigated or to be remediated under an environmental restoration project. For purposes of this subpart, the term municipality includes a municipality acting in partnership with a community-based organization.

The Municipality can apply only if it has a Federal Employer Identification Number (FEIN) and a NYS Vendor ID number in its own name and is registered in the NYS Grants Gateway.

“Community based organization” means a not-for-profit corporation, exempt from taxation under §501(c)(3) of the internal revenue code, whose stated mission is promoting reuse of brownfield sites within a specified geographic area in which the community-based organization is located, which has twenty-five percent or more of its board of directors residing in the community in such area, and represents a community with a demonstrated financial need.

“Community based organization” shall not include any not-for-profit corporation that has caused or contributed to the release or threatened release of contamination from or onto the brownfield site, or any not-for-profit corporation that generated, transported, or disposed of, or that arranged for, or caused, the generation, transportation, or disposal of contamination from or onto the brownfield site. This definition shall not apply if more than twenty-five percent of the members, officers or directors of the not-for-profit corporation are or were employed by or receiving compensation from any person responsible for a site under ECL Article 27, Title 13 or Navigation Law Article 12 or under applicable principles of statutory or common law liability.

Applicants must possess the knowledge, skills, and/or track record to successfully implement the project.

If a proposed project involves a cooperative agreement or partners, only one eligible, designated lead applicant can submit the application for grant funding. The lead applicant must assume the responsibility for the project application, performance of work consistent with this Request for Application (RFA), and the State of New York Master Contract for Grants (MCG). Letters substantiating the collaboration from each partner are required. These letters are to be uploaded to the Grants Gateway in a single PDF under the appropriate Program Question for the application.

A Municipality is eligible only if it:

- Did not generate, transport, dispose of, arrange for, nor cause the generation, transportation or disposal of, any contaminant or contamination on the site. For these purposes, a Municipality is not considered a generator, transporter, or arranger:
 - for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a contaminant or the threat of same; or
 - for having leased a site to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of,

any contaminant on such site unless such Municipality knew that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contaminant and failed to take any action to remediate, or cause the remediation of such contaminant.

- Did not take title to a site from a Municipality not eligible to apply for State assistance under ECL Article 56, Title 5 by reason of its having generated, transported or disposed of, or having arranged for or caused the generation, transportation or disposal of, any contaminant on the site, and either Municipality is a local public authority or public benefit corporation, or improvement district and title was acquired on or after June 6, 1996.

Funding

State Finance Law Article 6, Chapter 97-b allows the use of up to \$10,000,000 of the Hazardous Waste Cleanup Account (HWCA) for ERP. NYSDEC anticipates using primarily HWCA for these projects. NYSDEC may potentially receive additional funding from other sources for qualifying projects. Should such funding become available, NYSDEC reserves the right to award all available funding for scored and ranked projects, consistent with the method of award described in this grant opportunity.

Proposed Project Timeframes

All projects must have defined objectives, tasks, and deliverables accounted for in performance measures that can be completed and invoiced within a *three-year* contract period/term. Applicants should not begin their projects or incur costs until a MCG has been fully approved by DEC and, if applicable, approved by the Attorney General and the State Comptroller. Time extensions of up to two years beyond the contract term end date will be considered by DEC based upon written justification from the Grantee. Applicants should not submit an application if they do not anticipate their project can be completed within the specified contract term.

The Grantee will be required to initiate field work within 12 months of the award. If the field work for a project is not initiated within 12 months of the award, the award will become null and void and DEC may reapply the project funding to the next highest scoring application. A Municipality may begin work once it has received written approval of the Remedial Action Work Plan.

The activity period for the request must fall within the start and end date of the contract term. Project expenditures prior to the MCG start date and after the MCG end date are not eligible for reimbursement.

Minimum and Maximum Award Amounts

Minimum grant amount is \$20,000; maximum grant amount is \$3,000,000. Applicants are encouraged to request the amount of funding they deem appropriate and reasonable for their project. Amendments of the award may be entertained if it is determined that costs necessary to complete the project exceed the award amount and funding is available. These

amendments will be awarded based upon the date we receive the request and until funding is exhausted.

Application Limit/Award Limit

Applicants may submit more than one application. Multiple applications may not be for the same project.

Reimbursement Rates – Municipality Lead

Where the Municipality chooses to be the lead on the remedial project, DEC will reimburse remediation design and construction costs as follows: on-site remediation tasks are eligible for up to 90% reimbursement; demolition or asbestos removals, up to 50% reimbursement; and off-site remediation directed by DEC, up to 100% reimbursement. The Municipality is responsible for at least 10% of on-site remedial costs and at least 50% for demolition or asbestos removal costs.

Department of Environmental Conservation Lead

Per ECL §56-0503.3, upon the Municipality's request, DEC may undertake an environmental project on behalf of the Municipality. If DEC undertakes the project on behalf of the Municipality, the State shall enter into a written agreement with the Municipality and the agreement shall require the Municipality to periodically provide its share to the State for costs incurred during the progress of such project. The Municipality will be responsible for 10% of on-site remediation costs and 50% for demolition and/or asbestos removal costs. No reimbursement is required for off-site remediation directed by DEC. **If the Municipality would like to choose this option, it must be done at the time of application. A formal agreement arranging for the Municipality to provide its share will be required and processed outside of the Gateway.**

Department of Environmental Conservation Oversight

NYSDEC reserves the right to:

- Award additional and available funding for scored and ranked projects consistent with this grant opportunity.
- Award an agreement for any or all parts of the RFA in accordance with the method of award, or withdrawal of the RFA at any time at DEC's sole discretion.
- Award only one application for funding in the event there are multiple application submissions for a single project.
- Award to the next highest scoring application in the event a grantee fails to execute a grant contract with DEC within 60 days of a grant award.
- Monitor the progress of all grant awards and withdraw grant funding if the grantee fails to make significant and timely progress on the project or fails to receive the necessary permissions and permits for the project.
- Not fund projects that are determined not to be consistent with NYS's Smart Growth Public Infrastructure Policy Act.
- Not fund projects that are determined not to be consistent with the Climate Leadership and Community Protection Act or its implementing regulations.
- Periodically inspect the site to ensure that the use of the site complies with the terms and conditions of the MCG; such right of inspection shall survive termination of the MCG.
- Reject any or all applications in response to the RFA at DEC's sole discretion.
- Reduce the award from the amount requested in the application, so long as the reduced funding does not jeopardize the viability of the project to proceed at the reduced funding level.
- Reduce an award from the amount requested in the application, should the project budget contain costs considered ineligible under this grant program.

Applicant Prequalification and Registration

Applications must be submitted through the NYS Grants Gateway.
(<https://grantsmanagement.ny.gov/apply-grant>)

Paper applications will NOT be accepted. Applicants are strongly encouraged to submit their applications prior to the application deadline. Late applications will not be accepted.

Below is a summary of the steps that must be completed to meet registration and Prequalification requirements. The Vendor Prequalification Manual found on the [Grants Management Get Prequalified Website](#) details the requirements and an online tutorial is available to further explain the process. **Municipalities do not need to be prequalified.**

PLEASE NOTE: The information included here regarding Prequalification is not intended to be exhaustive, and Applicants should visit the Grants Management website (<https://grantsmanagement.ny.gov/>) or contact the Grants Management Team (grantsgateway@its.ny.gov) for more information about Grants Gateway and Prequalification. The Grants Management help desk/hotline can be reached at (518) 474-5595.

Please note: those logged in as Grantees may work on the application, only those logged in as a **Grantee Contract Signatory or a Grantee System Administrator can submit the application to the State.** When the application is ready for submission, click the Status Changes tab, then click the “Apply Status” button under “Application Submitted”.

All Applicants must be **Registered** with Grants Gateway to submit an application. In addition to registration, **not-for-profits** must also be **Prequalified** at the time and date that the application is due. If you are not Prequalified at that time and date, your application will not be considered. For more information about Grants Gateway and Prequalification, please visit the Grants Management website (<https://grantsmanagement.ny.gov/>) or contact the Grants Management Team at: grantsgateway@its.ny.gov. The Grants Management help desk/hotline can be reached at (518) 474-5595.

Register for the Grants Gateway

- On the Grants Management Website, download a copy of the [Registration Form for Administrator](#). A signed, notarized original form must be sent to the NYS Grants Management Team at the address provided in the instructions. You will be provided with a Username and Password allowing you to access the Grants Gateway.
- If you have previously registered and do not know your Username please mail grantsgateway@its.ny.gov. If you do not know your Password, please click the Forgot Password link from the main log in page and follow the prompts.

Complete Your Prequalification Application (not-for-profits only)

- Log in to the Grants Gateway. **If this is your first time logging in**, you will be prompted to change your password at the bottom of your Profile page. Enter a new password and click SAVE.
- Click the *Organization(s)* link at the top of the page and complete the required fields including selecting the State agency you have the most grants with. This page should be completed in its entirety before you SAVE. A *Document Vault* link will become available near the top of the page. Click this link to access the main Document Vault page.
- Answer the questions in the *Required Forms* and upload *Required Documents*. This constitutes your Prequalification application. Optional Documents are not required unless specified in this document.
- Specific questions about the Prequalification process should be referred to your agency representative or to the Grants Management Team at grantsgateway@its.ny.gov. The Grants *Management help desk/hotline can be reached at (518) 474-5595*.

Submit Your Prequalification Application (not-for-profits only)

- After completing your Prequalification application, click the **Submit Document Vault** link located below the Required Documents Section to submit your Prequalification application for State agency review. Once submitted, the status of the Document Vault will change to *In Review*.
- If your Prequalification reviewer has questions or requests changes you will receive email notification from the Gateway system.
- Once your Prequalification application has been approved, you will receive a Gateway notification that you are now Prequalified to do business with New York State.

Once you are Prequalified, please check the status of your document vault on a regular basis to ensure that none of your documents expire prior to the application due date.

Refer to Grants Management Guide entitled [Grants Management Prequalification website](#).

Expired documents will lead to the loss of Prequalification status.

To participate in this grant opportunity, Applicants are strongly encouraged to begin the prequalification process as soon as possible. Please do not delay in beginning and completing the prequalification process. The State reserves 5 days to review submitted Prequalification applications. Prequalification applications submitted to the State for review less than 5 days prior to the application deadline may not be considered. Applicants should not assume that their Prequalification information will be reviewed if they do not adhere to this timeframe.

If you are not yet registered with Grants Gateway, there are many resources available to help you understand how to register and become Prequalified:

- [The NYS Grants Management Website](#)
- [Video: Grants Gateway Registration](#)
- [Prequalification Information for Nonprofits](#)
- [NYS Grants Management Weekly Live Webinars](#)

The Grants Management Team offers regular live webinars for anyone who is interested in additional information about Grants Gateway, the Prequalification process, or submitting online applications. Learn more including times and dates for these webinars:

<https://grantsmanagement.ny.gov/live-webinars>. Any additional technical training related to this application will also be posted to the training calendar.

You can also contact the Grants Management Team for additional assistance:

Hours: Monday – Friday 8:00 a.m. to 4:00 p.m.

Phone: (518) 474-5595

Email: grantsgateway@its.ny.gov

An after-hours support desk is available weekdays between 4:00 p.m. and 8:00 p.m. for account lockouts and basic questions:

Phone: (800) 820-1890

Email: helpdesk@agatesoftware.com

Grant Application Requirements and Conditions

Please be sure to include with your application information on the following requirements if applicable to your project:

Applications must identify that the following will be performed to meet the following minimum requirements to be eligible:

The Remedial Action will involve all tasks necessary to implement the remedy in accordance with DEC's ROD. Specific tasks include, as necessary: pre-design activities to address any uncertainties from the Remedial Investigation/Alternatives Analysis (RI/AAR); preparation of a remedial design report; development of the Remedial Action Work Plan in accordance with Division of Environmental Remediation Guidance DER-10 (https://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf); preparation of plans and specifications; contractor procurement; project scheduling; acquisition of appropriate bonding and insurance; acquisition of required permits; implementation of the remedial program; granting of an Environmental Easement; preparation of a Site Management Plan (SMP), as required; submittal of a construction completion report and as-built drawings; and public participation.

In addition to items below, please respond to all questions in the Gateway. Please use n/a for items that do not pertain to your project. Review the Step 1 and Step 2 criteria and ensure your application is complete and provides sufficient descriptive information to allow for your project to be scored.

Expenditure Based Budget

Applicants must complete an itemized budget in the NYS Grants Gateway that provides details of the proposed project-related expenses. Budget detail must clearly distinguish between expenses to be claimed under the State grant share and non-eligible expenses. The detail should provide a task breakdown by maximum reimbursement rate (please refer to 6 NYCRR Part 375-4.3d), such as on-site remediation tasks eligible for up to 90% reimbursement, demolition or asbestos removals for up to 50% reimbursement and off-site remediation directed by DEC for up to 100% reimbursement.

The cost listed in the ROD may be adjusted by a rate equal to the change in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for All Urban Consumers, New York All Items, for the previous year, provided, however, that no annual adjustment may exceed five percent (5%).

The initial budget for remediation projects should be based on the estimate for the Remedial Design/Remedial Action (RD/RA) in the ROD issued by DEC. However, upon completion of the Remedial Design, the applicant may apply for an amendment to the MCG, subject to the limitations of available funding for Amendments as discussed on page 8, to adjust the project budget based on a construction estimate certified by a licensed Professional Engineer with current New York State registration.

Work Plan

The Municipality must complete a work plan (considered a Scope of Work) in the Grants Gateway that provides a clear overview of the project. Applications must include proposed project objectives, tasks associated with meeting each objective, and the performance measures associated with each task (performance measures can include desired project outcomes or deliverables). The work plan may include anticipated time frames in meeting project objectives, tasks, and deliverables. Time frames must be consistent with the timeline applicants are required to upload (if applicable) in the Grants Gateway.

Note: A Work Plan 'worksheet' is available for applicants in the Grants Gateway (under Pre-submission Uploads). The 'worksheet' can be downloaded and used as a tool to help applicants organize their proposed project objectives, tasks, and performance measures. A completed 'worksheet' should NOT be uploaded back into the Grants Gateway. The intent of the 'worksheet' is to assist applicants in developing their application work plan in the Grants Gateway.

SEQRA and Permits

The implementation of remedial actions under DEC-approved work plans may be exempt from obtaining State permits if it is conducted in a manner which satisfies all substantive technical requirements applicable to the activity. Pursuant to ECL Article 56, Title 5, such actions are also not subject to the SEQRA process set forth in ECL Article 8 and its implementing regulation (6 NYCRR Part 617) if design and implementation of the remedy do not:

- commit DEC or any other agency to specific future uses or actions; and

- prevent evaluation of a reasonable range of alternative future uses of or actions on the remediation site.

In the event that the use of the site, as set forth in the ROD for the site, changes during the implementation of the remedial program, DEC may make a new determination whether such remedial action remains protective of public health and the environment. If DEC makes a finding that the remedial action is no longer protective, it will require that the remedial action be modified to be protective of public health and the environment.

For activities not related to the implementation of the site remedy, the applicant is responsible for assuring that any SEQR determinations, permits, approvals, lands, easements and rights-of way that may be required to carry out the activities of the project are obtained. Please upload approved permit cover letters (in a single PDF file) into the Grants Gateway. Any required SEQR determinations (positive or negative declaration or findings statement) must be submitted as part of the application. (Please see upload in the Grants Gateway.)

Liability Limitation

The Municipality will have the liability limitation benefits identified in ECL §56-0509 beginning on the date the Municipality receives state assistance, provided that the Municipality fully complies with the terms of the award, including completion of the project. The Municipality should refer to ECL §56-0509 to determine the extent of the liability limitation. If the Municipality or its successor or assigns fails to comply with the Environmental Easement and/or the Site Management Plan (SMP) for the Site after the issuance of the Certificate of Completion (COC), DEC reserves its right to revoke the COC and rescind any release of liability granted to the Municipality pursuant to ECL Article 56.

If the Municipality, or a Municipality successor in title to the property, wishes to subdivide the property into separate parcels before the property's remediation is complete, a contaminated parcel of the subdivided property cannot be used until DEC-determined remedial objectives for that parcel are met to DEC's satisfaction within such time period as DEC may require; and the Municipality must complete remediation under this program.

A non-municipal successor in title to the property who wishes to subdivide the property into separate parcels before the property's remediation is complete must first enter into a legally-binding agreement with DEC prior to subdivision, to remediate all such parcels and remediate each parcel in need of remediation before that parcel may be used.

Prior to transfer of title of any portion of the property, the Municipality shall create and file any Environmental Easements (as discussed below).

Citizen Participation

To facilitate the remedial process and enable citizens to participate more fully in decisions that affect their health, DEC **will require opportunities for citizen involvement** and will encourage consultation with the public early in the process.

A **Citizen Participation Plan which provides details about the citizen participation activities** that will occur at several milestones during a project must be submitted within 20 days of the executed award and must be approved by DEC before any other Remedial Action Work Plan or reports can be approved. See DER-23 / Citizen Participation Handbook for Remedial Programs (PDF). A link to this document may be found at: https://www.dec.ny.gov/docs/remediation_hudson_pdf/der23.pdf. The handbook provides details of the requirements of the ERP citizen participation program. Section 3 of DER-23 addresses the minimum requirements for public notice and comment at the various stages of a project.

Environmental Justice

DEC demonstrates a commitment to Environmental Justice (EJ) and remedies for communities that may be burdened by negative environmental consequences. Environmental Justice is defined by DEC as the fair treatment and meaningful involvement of all people, regardless of race, color, or income, with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. A proposed project that is located in an EJ community or will directly benefit an EJ community, or a project that gives appropriate consideration to under-served urban neighborhoods will receive points in the evaluation of an application. Maps of EJ areas in NYS are available at: <https://www.dec.ny.gov/public/911.html>.

To qualify for EJ points, your application must include one of the following details:

1. To demonstrate location in an EJ area – the exact street location(s) where the project is to be implemented (no. P.O. Box) or where the benefit will be provided; or
2. To demonstrate location in an underserved neighborhood – a brief description of how the project will benefit underserved populations that experience disproportionate adverse environmental impacts such as pollution from multiple industrial facilities, sub-standard water quality, concentrated diesel emissions from bus depots, or other heavy vehicle traffic, adverse health effects related to environmental impacts (high asthma), lack of access to green benefits such as open space, environmental education or parks, or other such impacts.

Temporary Use of Property

The Municipality may have an opportunity to use or lease the property, or a portion of the property, before the remediation is complete. Because of the State indemnification, any temporary use of the property requires careful DEC review and prior written approval. Sixty days prior to the anticipated use, the Municipality must submit a written request that outlines the nature and duration of the use, the area of the site to be used, and any restrictions to be placed on such use to protect public health and the environment.

Technical Requirements: Remediation Phase

The remediation phase of an ERP project includes the detailed design and construction of the remedy conceptualized in the ROD. Additional sampling may be necessary in the design phase to resolve any uncertainties remaining from the investigation phase, and to establish

design parameters for the detailed design. Examples include additional soil sampling to determine the precise limits of excavation areas and pilot testing of treatment technologies to determine full-scale design parameters.

In addition, DEC is requiring sampling of all environmental media and subsequent analysis for the emerging contaminants 1,4-Dioxane and Per- and Polyfluoroalkyl Substances (PFAS) as part of all remedial programs implemented under 6 NYCRR Part 375.

If the Municipality's initial consultant contract does not provide for design and construction oversight services, a competitive selection process must be performed. Because the remedial design document and construction oversight/final engineering report require certification by a New York State licensed Professional Engineer, it is essential to select a remediation phase consultant that can provide professional engineering services.

A Predesign or Pilot Work Plan, if one is required, or a Remedial Action Work Plan, (in the event a Predesign or Pilot Work Plan is not required), must be submitted within 40 days of the executed award. The need for a predesign or pilot work plan must be outlined in the general work plan submitted with the application (found under pre-submission uploads) and must include a project schedule. The Remedial Action Work Plan will then be required 30 days after DEC approval of the Predesign or Pilot Work Plan Report. If DEC requests modification of a Remedial Action Work Plan, within fifteen (15) days after receiving written notice of such request, the contractor shall elect in writing to modify the work plan within thirty (30) days of the request or complete any other DEC-approved Work Plan(s) or terminate the MCG.

The following must be addressed in the plans and specifications for the project:

Construction Schedules: Construction schedules are required for all projects. The type of schedule should fit the project (i.e., bar schedule or a critical path schedule), and must be used to ensure that the construction proceeds in an orderly manner without costly delays. The schedule is a tool for effective construction management if it is maintained and updated on a regular basis. Many construction claims arise due to scheduling failures. Failure to adhere to the schedule could cause the Municipality to jeopardize payment.

Safety Precautions: Occupational Safety and Health Act (OSHA) and applicable State and local requirements must be followed. A health and safety plan describing the minimum acceptable goals for protection must be included in the Remedial Action Work Plan. A Community Air Monitoring Plan must also be included. The contractor is required to provide a detailed health and safety plan that is certified by a Certified Industrial Hygienist or equivalent.

Mitigative Measures: Mitigative Measures required by the environmental assessment must be implemented. Examples include: soil erosion control, hours of operation, backfilling and seeding, structural design for buildings in a floodplain, etc.

Final Inspections

In addition to the items noted above, the following must be certified by the Municipality's engineer and DEC reserves the right to inspect for the following:

1. The project is complete, operating and, for projects with a point source discharge, are meeting the required effluent limitations;
2. The construction conforms to approved plans, specifications, and change orders;
3. All equipment is operational and performing satisfactorily;
4. The operation and maintenance staff have been hired, trained in the start-up and operational procedures, and are capable of properly operating the facility;
5. The SMP is accessible at the property and its procedures are being followed; and
6. The accounting records are up-to-date and available for audit in conformance with record keeping requirements and supported by appropriate documentation.

Quality Assurance

For projects that involve the assessment or monitoring of water quality, all monitoring and measurement activities conducted in the field or laboratory shall be:

1. Performed in accordance with an effective Quality System for planning and assessing environmental measurements and tests, and for conducting required quality assurance and quality control procedures to promote and maintain the accuracy and reliability of environmental measurements and test results. Quality System Documentation includes a Quality Assurance Project Plan (QAPP) based on guidance provided by the USEPA *Guidance for Quality Assurance Project Plans (QA/G-5 May 2006)* or a similarly structured and purposed protocol;
2. Performed by a laboratory certified by the New York State Department of Health (NYSDOH) under the Environmental Laboratory Approval Program (ELAP) pursuant to Section 502 of the Public Health Law. This requirement shall not apply to specific parameters when ELAP has not issued a certificate for the specific parameter; and
3. Performed in a manner that ensures all requisite quality control and calibration requirements of the method are met including field testing, sample collection, preservation, and record keeping. When the method does not detail requirements for any or all of these items, the basic quality assurance and quality control requirements defined in 40 CFR Part 136.7 shall be followed.

Cost Recovery

The State reserves the right to seek to recover the full amount of any State Assistance provided under the MCG through litigation brought under Article 56 of the ECL, CERCLA, or other statute or under the common law, or through cooperative agreements, with responsible parties, other than the following:

- a. Municipality, and
- b. Any successor in title to the site, any lessee of the Site, and any person that provides

financial assistance to the Municipality, such successor in title, or such lessee relative to the remediation, restoration, or redevelopment of the Site, that did not generate, arrange for, transport, or dispose, and did not cause the generation, arrangement for, transportation, or disposal of any contaminants located at the Site and did not own the Site before the Municipality acquired title to the Site.

The Municipality shall assist DEC and/or the State in compelling responsible parties to bear the cost of the Project by providing, upon request by DEC, all information that exists as of the start of the term of the MCG that identifies the Site's responsible parties and all other information acquired during the course of the Project's implementation.

The Municipality may make efforts to recover response costs from responsible parties. The Municipality agrees to provide DEC with timely advance written notice of any negotiations, proposed agreements, proposed settlements, or legal action by which recovery is sought. The Municipality further agrees not to commence such legal action nor enter into any such proposed agreement or settlement without the approval of DEC.

If any responsible party payments and/or other responsible party consideration become available to the Municipality which were not included in the calculation of State Assistance pursuant to the calculation of Eligible Costs under the MCG, the Municipality shall immediately notify DEC of such availability, and DEC shall recalculate the amount of State Assistance. DEC has the option of either reducing the MCG amount if the project is ongoing or requesting reimbursement of the amount owed to the State, for deposit in appropriate account. The State will calculate the amount owed by the Municipality based on the recalculated State assistance amount and the amount the State has reimbursed the Municipality as of the date the recalculation is made. If the Municipality shall fail to make such repayment within sixty (60) days of notification, DEC may take measures provided for by the law of the State of New York relating to the recovery of unrepaid State Assistance. The Municipality agrees that it will immediately notify DEC in writing of its receipt of reimbursement from other sources for any expenditure for which State Assistance may be provided under the MCG.

Alignment with Regional Economic Development Council Priorities

Governor Andrew Cuomo directed the establishment of Regional Economic Development Councils (REDCs) to analyze the most significant business clusters in their respective areas. Any grants awarded by NYS shall take into consideration the recommendation of the relevant REDC or the Commissioner's determination that the proposed project aligns within the regional strategic priorities of the region where the proposed project is located.

The Applicant can provide a brief narrative describing the economic benefits of the proposed project and how the project aligns with the strategies of the REDC plan for the project's region. The narrative must be included with the Application to receive points in the application review.

Each region has a unique plan. Visit <https://regionalcouncils.ny.gov/> for information on your region's Economic Development Council.

Pre-Submission Upload: Smart Growth Infrastructure Policy Act (Mandatory)

NYS's Smart Growth Public Infrastructure Policy Act (ACT), ECL Article 6, requires NYSDEC and all State infrastructure agencies to assess whether each public infrastructure project that receives state funding is consistent with the State Smart Growth Public Infrastructure criteria specified in the Act, or that compliance is considered to be impracticable, before making any commitment to fund such project(s).

In the Grants Gateway pre-submission upload section of the application, ALL applicants must download, complete and save the Smart Growth Assessment form, prior to uploading the completed form back into the Grants Gateway. Important note: Be sure to check the form after uploading to ensure the correct file is uploaded and is completed as required.

Pre-submission Upload: Applicant Checklist (Mandatory)

The Applicant Checklist must be completed and uploaded as a pre-submission upload. The Checklist is provided as a document template and is available in the Pre-Submission Upload area in the Grants Gateway. The Checklist is intended to assist applicants in ensuring all RFA requirements are met and uploaded to the Grants Gateway.

Pre-Submission Upload: Sexual Harassment Prevention Certification (Mandatory)

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

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

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

Applicants are required to sign and upload the Sexual Harassment Prevention Certification form or upload a signed statement with their application detailing the reasons why the

certification cannot be made into the pre-submission uploads folder.

Pre-Submission Upload: Municipal Resolution/Authorization (Mandatory)

The application must include a certified copy of the municipal authorization which designates by title (Mayor, Town Supervisor, etc.) the representative authorized to act on behalf of the Municipality in all matters related to finances. The authorization must empower the representative to submit the application, execute the Agreement, and otherwise act for the Municipality in all finance-related matters.

The resolution/authorization must be on Applicant's letterhead and, if in the form of a resolution, must include a Certificate of Recording Officer with original signature. Such authorization must acknowledge the Municipality's responsibility for at least 10% of on-site remediation costs and at least 50% of demolition and/or asbestos removal costs. Applications that do not contain the certification will not be considered for award.

Environmental Easement

If DEC's issuance of a ROD relies upon one or more institutional and/or engineering controls, DEC will request certain information from the Municipality in order to develop an Environmental Easement for the site. The Municipality must provide the required information to DEC to prepare the environmental easement, which will often include a real property survey. The authorized representative for the Municipality shall, within sixty (60) days of receipt of the Environmental Easement, sign and submit it to DEC for execution. The Municipality's submittal shall satisfy the statutory and regulatory requirements of law as set forth in ECL Article 71, Title 36 and 6 NYCRR Part 375. Within 30 days of final signature, the executed Environmental Easement shall be recorded by the municipality with the recording officer for the county in which the Site is located.

The Municipality or the owner of the Site may petition DEC to modify or extinguish the Environmental Easement filed pursuant to the MCG at such time as it can certify that the Site is protective of human health and the environment with the modified restrictions, or without reliance upon the restrictions, set forth in such instrument. Such certification shall be made by a Professional Engineer. DEC will not unreasonably withhold its consent.

NYSDEC Access to Site and Records

The Municipality, owner and their lessees and successors in title must provide DEC with access to the site and to all relevant information regarding activities in accordance with the provisions of ECL §56-0515. Such access shall be for purposes of ensuring that the site is remediated in accordance with DEC-approved plans, that any SMP for the conditions on the site is being implemented satisfactorily, that the engineering and/or institutional controls are continually maintained in the manner DEC may require, that no person has engaged or is engaging in any activity that is not consistent with restrictions placed upon the use of the site or that will or that reasonably is anticipated to: prevent or interfere significantly with a proposed, ongoing, or completed project, or expose the public health or the environment to a significantly increased risk of harm or damage from such site. DEC may carry out any measures necessary to return the site to a condition sufficiently protective of human health, in accordance with ECL §56-0509; and neither the Municipality nor any of its successors in title, lessees, or lenders shall interfere with such access.

Site Lease/Transfer Conditions

The Municipality shall not enter into any lease or transfer title to the Site, or any portion of it, until the Municipality binds itself and its lessees and its successors in title, to the following conditions:

- a. The Site will not be used for the purpose stated in the ROD, or any less restrictive use, until it is remediated. The Site may continue to be used for the purpose for which it is being used as of the start of the term of the MCG, providing DEC or DOH has not found that the existing state of contamination is such as to prohibit such use from continuing, giving due regard for public health and environmental protection; and
- b. If, before an Environmental Easement for the Site is executed and recorded, the Municipality wishes to subdivide the Site into separate parcels, it may do so only after submitting a change of use notice pursuant to 6 NYCRR 375-1.11(d) and DEC has approved the subdivision.
- c. If a Municipality wishes to sell all or part of a Site before it is remediated, the Municipality's successor in title must first enter a written agreement to remediate all such parcels under DEC oversight in accordance with DEC's ROD. Any such parcel cannot be used for the purpose stated in the ROD, or any less restrictive use until it is remediated. The Site may continue to be used for the purpose for which it is being used as of the start of the term of the MCG providing DEC or DOH has not found that the existing state of contamination is such as to prohibit such use from continuing, giving due regard for public health and environmental protection.
- d. Prior to transfer of title of any portion of the property, the Municipality shall execute and file any Environmental Easements (as discussed above).
- e. If any monies received from the disposition of the site exceed the Municipality's cost of such site, including taxes owed to the Municipality upon acquisition, and the Municipality's cost of the environmental restoration project, the Municipality must pay to the State the amount of such excess necessary to reimburse the State's share of project costs.

Communications

All post-award written communications shall be transmitted by electronic mail unless otherwise specified by the DER project manager.

Completion or Termination of Master Contract for Grants

If the Municipality complies with the requirements of applicable State and federal laws and regulations and with the terms of the MCG, DEC shall issue a COC. The MCG shall end when DEC issues the COC, or when the contract term ends, whichever occurs first.

DEC may terminate a MCG made under the application without prejudice or waiver of any other rights the State has if the Municipality fails to comply with any of the requirements of applicable State or federal laws and regulations or with any of the requirements of this RFA. DEC shall provide written notification to the Municipality of its breach of contract, setting

forth in writing the basis for termination of the MCG and allowing the Municipality a reasonable and specific amount of time within which to cure its breach. If the Municipality does not cure its breach of contract within the period of time allowed by DEC, the MCG shall terminate on the date set forth in the letter ("Termination Letter").

The Municipality, a successor in title, lessee and lender are not entitled to claim any liability limitation benefits provided under ECL §56-0509 when the Municipality has failed to satisfy the requirement of ECL §56-0509 (1)(a)(I) to comply with all the terms and conditions of the MCG.

If the MCG is completed or terminated, the following requirements shall survive such completion or termination: Disposition of Site, Cost Recovery, and Site Lease/Transfer Conditions.

If the MCG is terminated, the following additional requirements shall survive such termination: Allowable Use, Entry Upon Site, Change of Use, Environmental Easement, and Communications.

Application Evaluation, Scoring and Selection

All applications will be reviewed and scored by a review team in accordance with the evaluation and scoring criteria contained in this RFA. Applicants are strongly encouraged to read and address the Application Review and Scoring Standards in the process of developing an application. Knowledge of the scoring criteria is valuable for designing and proposing a relevant and quality project.

All eligible applications will be individually evaluated and scored by at least three (3) technical review team members. Example: technical reviewer scores will be averaged, and statewide priority points will be added to the average score to determine a final composite score.

Step 1: Application and Project Eligibility Determination

Pass/Fail criteria

The following checklist will be used to assist applicants in ensuring their applications meet program eligibility requirements and all applicable application information and required uploads have been completed in the Grants Gateway. Incomplete applications will not be evaluated for funding. An application that receives a 'fail' in any of these criteria will be deemed incomplete and will not be further evaluated for funding.

- E1. Applicant is a Municipality, as defined by ECL §56-0502(5) and §56-0101(15) (includes a Municipality acting "in partnership" with a community-based organization).
- E2. The Municipality **IS NOT** responsible for contamination at the site.
- E3. The Municipality has not indemnified a responsible party or previous owner when they

obtained the property.

- E4. Applicant currently owns the property, and proof of ownership is attached. Proof of ownership includes: deed for the site; attorney letter of certification; lease agreements; municipal cooperation agreements; partnership agreements; and tax foreclosure certifications.
- E5. Application includes each of the following: county tax map with identifier numbers; site map(s); USGS 7.5-minute quad map in which the site is located; and, if available, metes and bounds description of the site.
- E6. Application includes acceptable Resolution/Authorization on Applicant's letterhead and Certificate of Recording Officer with signatures (uploaded to the Gateway). Such authorization must acknowledge the Municipality's responsibility for at least 10% of on-site remediation costs and at least 50% of demolition and/or asbestos removal costs. Do not include specific dollar amounts; only percentage(s) of remedial costs.
- E7. A ROD has been issued for the site.
- E8. The site is not listed as a Class 1 or Class 2 site on the NYS Registry of Inactive Hazardous Waste Disposal Sites.
- E9. Applicant has identified whether the Applicant or NYSDEC will undertake the work of the project.
- E10. Applicant has signed and uploaded the Sexual Harassment Prevention Certification form or uploaded a signed statement with their application detailing the reasons why the certification cannot be made into the pre-submission uploads folder.
- E11. Applicant has completed and uploaded the Smart Growth Assessment Form.

Step 2: Project Evaluation, Scoring and Selection

If your application meets all eligibility pass/fail criteria, it will be further evaluated and scored by a review team in accordance with the Evaluation and Scoring Standards contained in this RFA. These include:

Section 1: Benefit to Public Health and the Environment – total of 50 points available

Section 2: Economic Benefit to the State – total of 50 points available

Section 3: Location in a Designated Brownfield Opportunity Area - total of 25 points available

Section 4: Public Recreational Use and Restoration – total of 50 points available

Section 5: Other Available Funding – total of 15 points available

A successful proposal is not necessarily expected to meet all the grant evaluation criteria. All eligible applications will be scored on all criteria categories.

All eligible applications will be individually evaluated and scored by at least three (3) technical review team members. The individual reviewer scores will then be averaged to produce the average technical score. Note that the scoring reflects the availability of other funding sources for the remediation of the property including, but not limited to: enforcement actions against responsible parties (other than the Municipality to which State assistance was provided; or a successor in title, lender, or lessee who was not otherwise a responsible party prior to such Municipality taking title to the property), State assistance payments set forth in ECL Article 27, Title 13; and the existence of private parties willing to remediate the property using private funding sources.

Section 1: Benefit to Public Health and the Environment	Maximum 50 Points
<p>PE1. Select ONE type of contamination attributable to the site from the options below by copying and pasting selection in the narrative box. Points are assigned as indicated.</p> <p>INS1: Note Only ONE option can be selected. If more than one is selected, the lowest score will be assigned:</p> <ul style="list-style-type: none"> A. Off-site public or private water supply has been contaminated, or is threatened, by contamination attributable to the site. (20 points) B. Off-site groundwater has been contaminated above standards or an off-site surface water body has been impacted by contamination attributable to the site. (10 points) C. On-site groundwater has been contaminated above standards or an on-site surface water body has been impacted by contamination attributable to the site. (5 points) 	20
<p>PE2. Endangered, threatened, or rare species, State protected streams or State regulated wetlands have been impacted by releases from the site.</p>	3
<p>PE3. Select ONE of the options below that best describes the current condition of the site by copying and pasting selection in the narrative box. Points are assigned as indicated.</p> <p>INS3: Note only ONE option can be selected. If more than one is selected, the lowest score will be assigned:</p> <ul style="list-style-type: none"> D. Public use is occurring within areas on-site where surficial soil contamination exists exceeding 6 NYCRR Part 375 restricted residential soil cleanup objectives. (10 Points) E. Contaminants are present in on-site soils at levels that exceeds 6NYCRR Part 375-6 Soil Cleanup Objectives (SCOs) for the intended use of the property. (5 Points) F. On-site surface soils are impacted with site contamination above restricted residential soil cleanup objectives, although public use is not occurring. (3 Points) G. On-site soils are above unrestricted SCOs. (2 points) 	10
<p>PE4. An on-site "source area" or "source" has been documented, as defined by 6NYCRR Part 375-1.2(a).</p>	5
<p>PE5. The New York State Department of Health (NYSDOH) has determined that significant levels of vapor contamination emanating from the site exist that exceed NYSDOH guidance values and require mitigation.</p>	10
<p>PE6. Will the proposed project mitigate future physical climate risk due to sea-level rise, and/or storm surges and/or flooding, based on available data predicting the likelihood of future extreme weather events, including hazard risk analysis data, if applicable?</p>	2

Section 2: Economic Benefit to the State	Maximum 50 Points
PE7. The proposed use of the property aligns with Regional Economic Development Strategies.	5
PE8. The property is in an environmental zone (En-Zone) pursuant to Tax Law 21(b)(6). Please see DEC's website for more information: http://www.dec.ny.gov/chemical/102075.html	5
PE9. The lead applicant or partner Municipality is a "Potential Environmental Justice Area." (see https://www.dec.ny.gov/public/911.html for more information)	5
PE10. The lead applicant or partner Municipality is a "Climate-Smart Community" (see https://climatesmart.ny.gov/actions-certification/participating-communities/ for more information).	2
PE11. Select ONE of the options below to determine the time site has been idle/abandoned by copying and pasting selection in the narrative box. Upload documentation validating period of time property idle/abandoned. Points are assigned as indicated. INS11: Note only ONE option can be selected. If more than one is selected, the lowest score will be assigned: H. Property has been idle/ abandoned for at least 10 years. (5 Points) I. Property has been idle/ abandoned for at least 5 but less than 10 years. (3 Points) J. Property has been idle/ abandoned for at least 2 but less than 5 years. (1 Point)	5
PE12. The unemployment rate of the Municipality where the project is located exceeds NYS averages.	3
PE13. The pre-remedial property value for the site is lower than the remedial cost estimated in the ROD.	10
PE14. The population in the Municipality where the project is located is 20,000 or less based on 2010 census.	5
PE15. The applicant has signed an agreement with a private party to reuse the site once it is remediated.	10

Section 3: Brownfield Opportunity Area (BOA)	Maximum 25 Points
PE16. The Property is in a designated Brownfield Opportunity Area.	25

Section 4: Public Recreational Use and Restoration	Maximum 50 Points
<p>PE17. The future development of the site will include rehabilitation of historical property or mills.</p>	15
<p>PE18. Describe if the applicant has legally committed to either (ONLY ONE MAY BE SELECTED):</p> <p style="margin-left: 40px;">K. a new public recreational use of all or part of the property; or</p> <p style="margin-left: 40px;">L. continuing the public recreational use of the property.</p> <p>INS18: Also include in the narrative the percent (%) of total property area that will be allocated. Upload approved plans or other references to substantiate percentage claimed.</p> <p>INS18A: Points will be assessed as follows:</p> <p style="margin-left: 40px;">M. Percent of total property area that will be allocated for new public or recreational use ____%. (% as decimal X 35 = _____ Points); or</p> <p style="margin-left: 40px;">N. Percent of total property area that will continue the public or recreational use ____% (% as decimal X 15 = _____ Points)</p>	35

Section 5: Other Available Funding	Maximum 15 Points
<p>PE19. Calculate the percentage of the total estimated project cost for which other funding is available.</p> <p>INS19: Multiply that percentage by 15. Subtract that amount from 15. The maximum number of points is 15. See examples below:</p> <p><u>EXA-1:</u> Total project cost is \$3,000,000 and “other available funding is \$1,000,000 Percentage of total project that is funded by “other available funding” is 33% (.33 * 15) = 5 15 – 5 = 10 points would be added</p> <p><u>EXA-2:</u> Total project cost is \$5,000,000 and “other available funding” is \$2,000,000 Percentage of total project that is funded by “other available funding” is 40% (.40 * 15) = 6 15 – 6 = 9 points would be added</p> <p><u>EXA-3:</u> Total project cost is \$10,000,000 and “other available funding” is \$0 Percentage of total project that is funded by “other available funding” is 0% (0 * 15) = 0 15 – 0 = 15 points would be added</p>	15

METHOD OF AWARD:

Scored applications will be ranked in order beginning with the highest down to the lowest scored applications. Applications having the highest final composite scores will be selected for funding, beginning with the highest down to the lowest ranked proposal, until available funding is exhausted. The total number of possible points an application can receive is 190. DEC reserves the right to withhold funding from projects that do not receive a minimum composite score of 50.

Tie Breaker

If there is a numerical tie in applications' final scores, and there are insufficient funds to award grants to all the tied applications, DEC will select the application(s) having the earliest application electronic submission date and time.

Grant Program Payment

Advance Payments

Advance Payments are not available for these MCGs.

Project costs eligible for reimbursement must be incurred between the MCG term start and end dates. Costs incurred prior to the MCG term start date or after the MCG term end date will not be considered eligible for grant reimbursement. Copies of supporting cost documentation (paid invoices, receipts, cancelled checks, etc.) must be audited and approved by DEC for costs to be eligible for reimbursement.

Eligible and Ineligible Expenditures

Eligible Project Expenditures

- Contractual Services: The value of services provided by responsible professional and technical personnel and consultants (i.e. engineering and architectural services, surveys, plans and specifications, research, design and development of a project, consultant and legal services directly related to a project, feasibility study for a facility, archaeological field work, report writing, curation of artifacts and interpretation, etc.)
- Supplies and materials: directly needed to implement the project.
- Equipment: (purchase/rental) directly required to implement the project. Note that any equipment purchased with funding provided by this grant program cannot be sold, transferred, or used for other purposes without prior written approval from DEC.
- Travel costs: directly required to implement the project.

The following are eligible costs and their reimbursement rates:

- Costs eligible at a reimbursement rate of up to 90 percent are those:
 - authorized by the Municipality and DEC that are directly related to the project's implementation;
 - to implement DEC-approved design-phase investigation work plans;

- to implement DEC-approved on-site remediation work plans;
 - incurred to implement activities identified by the ROD with DEC's approval that would, in a cost-effective manner, address an off-site source of contamination to the site in order to prevent further contamination of the site, rather than mitigate the effect of that off-site contamination on the use of the site; or
 - incurred for the implementation of an active treatment remedy for up to five years after commencement of the active element of the remedy.
- The eligible costs identified to investigate or remediate off-site contamination attributable to the environmental restoration project may be reimbursed at a rate of up to 100 percent.
 - The costs to demolish structures and dispose of the resulting demolition debris are eligible, at a reimbursement rate of up to 50 percent. In no event, however, will DEC reimburse the cost of a project consisting exclusively, or almost exclusively, of demolition of a structure.
 - Costs associated with the disposal of any demolition debris, which must be disposed in a disposal facility subject to Part 373 of the ECL, may be reimbursed at a rate of up to 90 percent.
 - The cost for asbestos abatement projects that consist of any measure designed to reduce exposure to, remove, or eliminate asbestos or asbestos-containing material from inside a structure, are eligible at a reimbursement rate of up to 50 percent. In no event, however, will DEC reimburse:
 - the cost of a project consisting exclusively, or almost exclusively, of asbestos abatement inside a structure; or
 - greater than 50 percent of the cost of the asbestos abatement activities inside a structure.
 - Costs associated with the disposal of any asbestos may be reimbursed at a rate of up to 90 percent provided that the asbestos:
 - must be disposed in a disposal facility subject to 6NYCRR Part 373 or
 - is present in an environmental media outside of a structure.
 - The eligibility and reimbursement rate of any cost a Municipality may incur that is not identified in this RFA, may be considered on a case-specific basis. In making such determinations, DEC will consider whether:
 - incurring the cost is necessary for implementation of the approved project;
 - it is a reasonable cost that was incurred under contract or municipal force account pre-approved by DEC, provided, however, that costs incurred for legal services are eligible only to the extent that they are necessary for actual project implementation; and
 - it is properly documented.

Force Account

The Grantee shall seek prior DEC approval of any proposal to use the Municipality's employees to perform Project-related activities. Municipal administrative costs associated with the project are not eligible for reimbursement. DEC will not approve

such proposals unless the Municipality can demonstrate that the Municipality's employees possess the necessary competence to perform the work in question, and that the work can be more economically performed and done on a timely basis using the Municipality's employees. The cost of any work performed by the Municipality's employees which has not yet received prior written DEC approval shall be excluded from the Project's Eligible Cost used to calculate the MCG. If written DEC approval is given to use the Municipality's employees for a specified task or activity, the Municipality shall maintain such records as DEC may require the grantee to document the costs of such use.

For those MCG recipients utilizing force account services, the qualified value of the force account work will reduce the State Assistance Amount used to calculate affirmative action program goals. In effect, the dollar value of the affirmative action goals will be reduced due to a reduction in the amount of State assistance used in the calculation.

Ineligible Project Expenditures

- Indirect costs: overhead or operating expenses (space, rent, utilities).
- Administrative salaries: administrative salaries are NOT eligible for grant reimbursement. For the purposes of this RFA, administrative salaries are defined as follows:
 - Preparation of equal employment opportunity and women and minority business enterprises documentation.
 - Preparation of quarterly narrative and expenditure reports.
 - Preparation of payment reimbursement request forms and backup cost documentation.
 - Preparation of Final Cost Report upon project completion.
- State and/or federal funding: project costs funded from other NYS and/or federal funding sources are not eligible for grant reimbursement.

The following costs, which are ineligible for being considered in the calculation of State assistance, are those incurred:

- Before the start date identified in the MCG, including those to prepare and submit the State assistance application and those to procure and retain legal, engineering, and other services to undertake the project;
- To undertake site management at the site after construction of DEC-approved remedy and COC issuance, with the exception of costs to operate active treatment systems for the first five years of operation;
- To redevelop the site that are not necessary to remediate the site;
- That are reimbursed by, or recovered from, any other responsible party or insurance carrier or the federal government;
- Outside the scope of, or in violation of, the MCG;
- In violation of applicable statutes or regulations;

- For which appropriations are not available;
- For lead abatement projects consisting of measures designed to reduce exposure to lead-contaminated dust or paint, including any treatment, disposal, or testing associated with such measures, **unless** costs associated with lead abatement projects consisting of measures designed to reduce lead in or on environmental media are eligible; or
- If the site is already subject to an existing enforceable federal, State, or local requirement reflected in an order, agreement or State assistance contract directing a remedial party other than the Municipality to investigate or remediate the site, DEC will consider eligible for State assistance, in the form of a MCG, only that portion of the remedial tasks which such order, agreement or State assistance contract does not cover.

Site Management

Site Management costs are generally not eligible under the ERP. However, for remediation projects that will require site management, a draft SMP, inclusive of an Operations and Maintenance Manual as may be necessary, that specifies the operation, maintenance and monitoring procedures, reports, laboratory testing, institutional controls, etc., should be part of the project design. A Transition Plan should be included that lists the actions needed and a schedule to ready the property and personnel for site management when construction is complete, including staffing and training requirements. The SMP should provide personnel with detailed instructions for assuring efficient operation and proper maintenance of all components as well as monitoring requirements. It should discuss how to maintain the property to meet State requirements. A final SMP which incorporates any discoveries and modifications made during construction is required just prior to the completion of construction.

In selecting equipment and components, the contractor should consider those which can be operated and maintained with the least effort and greatest reliability.

During all field activities, the contractor shall have on-site a representative who is qualified to supervise the activities undertaken. Such representative may be an employee, or a consultant retained to perform such supervision.

The contractor, or its successors and assigns, will provide the required Periodic Review Reports (PRR) as set forth in the SMP.

In the event that the remedy for the Site, or any Work Plan for the Site, requires a SMP as a consequence of operation, maintenance, and monitoring requirements, including reliance upon institutional or engineering controls, the Municipality shall file the initial PRR in the 16th month following the anniversary of the start of the SMP and continuing at the DEC designated period until DEC notifies the Municipality in writing that such PRR may be discontinued.

Such PRR shall be signed by a Professional Engineer or by a qualified environmental

professional as defined in 6 NYCRR 375-1.2(ak) approved by DEC to perform that function and certified under penalty of perjury that the institutional and/or engineering controls are unchanged from the previous certification and that nothing has occurred that would impair the ability of such controls to protect public health and the environment or constitute a violation or failure to comply with the approved SMP.

The Municipality shall notify DEC within twenty-four (24) hours of discovery of any breach, upset, interruption, or termination of one or more controls without the prior approval of DEC. Further, the Municipality shall take all actions required by DEC to maintain conditions at the Site that achieve the objectives of the remedy and/or the Work Plan and are protective of public health and the environment. An explanation of such upset, interruption, or termination of one or more controls and the steps taken in response shall be included in the foregoing notice and in the PRR required by this.

The Municipality can petition DEC for a determination that the institutional and/or engineering controls may be terminated. Such petition must be supported by a Professional Engineer stating that such controls are no longer necessary. DEC shall not unreasonably withhold its approval of such petition.

Other Funding Sources

In addition to the State assistance provided under the ERP, the Municipality may use any federal funding, and other State funds, such as legislative member items, to fund the project.

Responsible Party Funds: Any funding from Responsible Parties, including insurance payments, is divided between the Municipality and the State in proportion to the percentage of State assistance applied to the project as a whole. This proportion may be a mixture of 90% funding for on-site remediation, 100% funding for off-site remediation, and 50% funding for building demolition.

Proceeds from Property Sale or Lease: Proceeds from the sale or lease of a property are distributed in the following sequence:

The Municipality retains the amount it has spent for back taxes owed and its share of the Environmental Restoration Project. The State is reimbursed for funds it has provided under the State Assistance Contract. The Municipality keeps the remainder.

Grant Program Reporting

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

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

Quarterly MCG payment reimbursement requests will be accepted prior to submission

of a final closeout reimbursement request. Approved project design, required permits, and landowner permissions must be in place to submit a reimbursement request.

Final Report must be submitted and approved by DEC prior to the release of the final contract payment to the Grantee. The Contractor must submit the Final Report no later than 60 days after the end of the contract period. The Final Report should report on all aspects of the program and detail how grant funds were utilized in achieving the goals set forth in the approved MCG Attachment C Work Plan. Copies of appropriate documents (i.e. SMP, Environmental Easement, COC) must be submitted and approved or executed by DEC. In addition, the Environmental Easement and COC need to be recorded and proof of recording provided to DEC. A DEC on-site inspection may be required to confirm all work was completed in accordance with the approved project work plan (including the installation of interpretive signage, if applicable, at the project site).

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

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

What to Expect If You Receive an Award

Notification of Award

Applicants selected to receive a grant award will be notified by email and in an official DEC award letter. The Grants Gateway will also provide you with an award status.

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

State of New York Master Contract for Grants

Applicants selected to receive a grant award will be required to execute an MCG **within 60 days** from the time of their award notification. Failure to submit timely required MCG documents could cause a grantee to lose their grant award. Applicants should review and be prepared to comply with all MCG terms and conditions should grant funding be awarded. The MCG and attachments can be reviewed and/or downloaded in the Grants Gateway HRE application under the screen named 'Contract Document Properties'. The MCG and attachments include:

- MCG Face Page
- Standard Terms and Conditions (NYS standard terms and conditions)
- Attachment A-1 Program Specific Terms and Conditions (*Agency and Program specific terms and conditions*)

- Attachment B-1 Expenditure Based Budget (*project expense categories and detail*)
- Attachment C Remedial Work Plan (project objectives, tasks and performance measures)
- Attachment D Payment and Reporting Schedule (claims for reimbursement and grant reporting provisions)
- **IMPORTANT NOTE:** Project related costs must be incurred within the term of the MCG to be considered eligible for reimbursement. Contract payments will not be approved or processed by DEC until a MCG is fully approved by DEC and, as applicable, the Attorney General and the State Comptroller. All contracts must be approved by the contract start date which will be determined at the time of an official award.

Master Contract for Grants Requirements

An Applicant is referred to as a “Contractor” following award of Grant Contract and should be prepared to comply with the following requirements:

a. Insurance Requirements

Contractor will be required to carry appropriate insurance as specified in the MCG or LOA, Attachment A-1 Program Specific Terms and Conditions, and agree that each project consultant, project contractor and project subcontractor secures and delivers to the contractor appropriate policies of insurance issued by an insurance company licensed to do business in the State of New York. Policies must name the contractor as an additional insured, with appropriate limits, covering contractor’s public liability and property damage insurance, contractor’s contingency liability insurance, “all-risk” insurance and workers compensation/disability benefits coverage for the project.

b. Permit Requirements

Contractors agree to obtain all required permits, including but not limited to, local, state, and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state, and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.

c. State Environmental Quality Review (SEQR) Documentation

With respect to the project, the Contractor certifies that it has complied, and shall continue to comply with all requirements of the State Environmental Quality Review Act (SEQRA). The Contractor agrees to provide all environmental documents as may be required by DEC. The Contractor has notified, and shall continue to notify, DEC of all actions proposed for complying with the environmental review requirements imposed by SEQRA.

Remedy selection and implementation of remedial actions under DEC-approved work plans set forth in ECL Article 56, Title 5 are not subject to review set forth in ECL Article 8 and its implementing regulation (6 NYCRR Part 617), provided that design and implementation of the remedy do not:

- commit DEC or any other agency to specific future uses or actions; and
- prevent evaluation of a reasonable range of alternative future uses of or actions on the remediation site.

In the event that the use of the site, as set forth in the ROD for the site, changes during the implementation of the remedial program, DEC may make a new determination whether such remedial action remains protective of public health and the environment. If DEC makes a finding that the remedial action is no longer protective, it will require that the remedial action be modified to be protective of public health and the environment.

d. Vendor Responsibility Questionnaire

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

e. Iran Divestment Act

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

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

DEC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

Applicants subject to executing a future NYS MCG agree, in addition to any other nondiscrimination provision of the MCG and at no additional cost to DEC, to fully comply and cooperate with DEC in the implementation of New York State Executive Law Article 15-A. This requires contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR 142.8 shall be a part of this requirement. This provision shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state, or local laws.

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

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

- The local government is responsible for designating someone to serve as their Affirmative Action representative. The governing body should make this designation through official means.
- A list of certified M/WBE enterprises can be obtained via the internet from the NYS Department of Economic Development at <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XD=9885>
- Contracts which meet the established M/WBE thresholds require the Contractor to submit Quarterly Reports, https://www.dec.ny.gov/docs/administration_pdf/quarterlyversion7.pdf, detailing payments made by the Prime Contractor to NYS Certified M/WBEs.

Procurement of Contractors/Subcontractors

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

Note: Prior to receiving reimbursement for work done under the MCG, the description of the procurement, a statement that it complies with the provisions of General Municipal Law, and municipal/consultant contract and executive subcontracts, and any necessary information to justify the reasonableness of costs must be submitted to DEC. At the time of execution of the MCG, DEC will provide the Municipality with payment procedures.

Americans With Disabilities Act

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

Attachments

Attachment S

Sexual Harassment Prevention Certification Form

By submission of this application, each applicant and each person signing on behalf of any applicant certifies, and in the case of a partnering application each party thereto certifies as to its own organization, under penalty of perjury, that the applicant has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

Company Name: _____

Signature: _____

Print Name and Title: _____

Date: _____

If the above certification cannot be made, the applicant must submit a signed statement below detailing the reasons why the certification cannot be made.

Company Name: _____

Signature: _____

Print Name and Title: _____

Date: _____

Municipal Resolution

Resolution (or other authorizing document) authorizing the items listed below pursuant to 2021 Environmental Restoration Program funding.

WHEREAS,

(Legal Name of Municipality)

herein called the "Municipality", after thorough consideration of the various aspects of the problem and study of available data, has hereby determined that certain work, as described in its application and attachments, herein called the "Project", is desirable, is in the public interest, and is required in order to implement the Project; and

WHEREAS, Article 56 of the ECL authorizes State assistance to municipalities for environmental restoration projects by means of a contract and the Municipality deems it to be in the public interest and benefit under this law to enter into a contract therewith;

WHEREAS, the enacted Executive Budget for State Fiscal Year 2021-2022 as reflected in Chapter 54 of the Laws of 2013 as amended by Chapter 55, section 1, of the Laws of 2016 ("The Law") provided 2021 Environmental Restoration Program funding for services, expenses, and indirect costs related to various environmental projects including, but not limited to, environmental restoration projects. The Law allows the Department of Environmental Conservation (DEC) to enter into agreements with municipalities to undertake environmental restoration projects on behalf of a municipality upon request, provided that the municipality shall provide at least ten percent of the total project costs (hereinafter referred to as "2021 ERP"); and

NOW, THEREFORE, BE IT RESOLVED BY

(Municipal Authority)

1. That

(Name and Title of Designated Authorized Representative)

is the representative authorized to act in behalf of the Municipality's in all matters related to State assistance under ECL Article 56, Title 5. The representative is also authorized to make a request to DEC (by applying for participation in the 2021 ERP) to enter into an agreement to undertake an environmental restoration project on behalf of the Municipality, execute the 2021 ERP Agreement, submit Project documentation, and otherwise act for the Municipality's governing body in all matters related to the Project and to State assistance.

- 2. That the Municipality agrees that it will fund its portion of the cost of the Project by reimbursing NYSDEC at least ten percent (10%) of Project costs and that funds will be available to reimburse NYSDEC within ninety (90) days after receipt of an invoice from the Department.
- 3. That one (1) certified copy of this Authorization be prepared and sent to the Albany office of the New York State Department of Environmental Conservation.
- 4. That this Authorization takes effect immediately.

CERTIFICATE OF RECORDING OFFICER

(If authorization is in the form of a municipal resolution)

That the attached Resolution is a true and correct copy of the Resolution, as regularly adopted at a legally convened meeting of the

(Name of Governing Body of Applicant)

duly held on the ____ day of _____, _____; and further that such Resolution has been fully recorded in the

(Title of Record Book)

In witness thereof, I have hereunto set my hand this ____ day of _____, _____.

Signature of Recording Officer

Printed Name of Recording Officer

Title of Recording Officer

If the Applicant has an Official Seal, impress here.