

# **GUIDELINES**

## **Southern Tier Region Community Revitalization Program 2012**

### **Part B. NYSDOT Multi-Modal #4 Funding**

**Southern Tier Regional  
Economic Development Corporation**

**SOUTHERN TIER REGION  
COMMUNITY REVITALIZATION PROGRAM: 2012**

**PART B. NYSDOT Multi-Modal #4 Funding**

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## **SECTION 1. PURPOSE AND PROGRAM DESCRIPTION OF THE SOUTHERN TIER COMMUNITY REVITALIZATION PROGRAM**

The Southern Tier Regional Economic Development Council has received \$4,799,000 to establish the 2012 Southern Tier Region Community Revitalization Program. Of the total funding received \$2,500,000 represents funding from Empire State Development (Part A), with an additional \$2,299,000 allocated from the NYS Department of Transportation Multi-modal #4 Funding Program (Part B).

A project funded by the Southern Tier Region Community Revitalization Program may receive an award that consists of dollars from both of these funding sources. The respective funding sources have different applicant and eligibility requirements, therefore, an award recipient would be required to satisfy the eligibility requirements of each funding program as appropriate. The application form allows the applicant to indicate the intended use of each funding source; although an applicant may choose to request funding from only one source.

Please read each set of guidelines carefully to make certain the projects leverage the maximum opportunity from each funding source as it might apply.

**Part A. ESD Project Funding:** The ESD funding will support projects that utilize a collaborative approach to provide improved and diverse downtowns, mixed use options, and commercial and retail opportunities linked to discrete neighborhoods centers. Revitalization projects will create quality commercial space for commercial development and entrepreneurial enterprises and additional mixed use options, while building on existing infrastructure with upgrades and new construction in keeping with the downtown and neighborhood commercial center character. Funding is intended for redevelopment of key commercial buildings and infill of new buildings, and will be in the form of loan/grant packages.

**Part B. MM #4 Project Funding:** The NYSDOT Multi-Modal #4 (MM#4) Program funding provides reimbursement grants for five (5) specifically authorized transportation capital project “modes” found in New York State Transportation Law 14-k and NYSDOT Program Policy. Eligible modes include certain Rail, Port, Fixed Ferry Facility, Airport, and State and Local Highway and Bridge projects (excluding Transit and Maritime transportation projects).

## **SECTION 2. FUNDING PRIORITIES AND STRUCTURE**

### **Funding Priorities**

Strong emphasis will be placed on project feasibility and readiness. This includes demonstrating the following:

- Project Feasibility through engineering and/or architectural design and cost estimate, market feasibility, business plan with detailed pro forma, etc.
- Project Readiness through documentation of conformance with local planning and zoning, federal and state permits secured, etc.
- Environmental Readiness through completion of the SEQR process, SHPO consultation and approval, etc.
- Project financing has been secured, with letters of commitment on financing
- Project is ready to start within 3 months of a Community Revitalization program award

**Funding Structure**

The MM#4 funding award will be in the form of a reimbursement grant. Multi-Modal #4 funds may not be used to provide the Local (i.e. “Non-Federal”) Match to any Federally-funded highway or bridge mode project. Matching contributions for a project may be in the form of cash, and other sources of funding from federal (non-highway or bridge), state (other than Community Revitalization funds) and local government sources, and funds from private contributions. Match amounts must be “firmly committed” and will support the proposed Community Revitalization project. “Firmly committed” means that there must be a signed, written agreement with terms and conditions from each funding source. If the cash match includes municipal and/or agency funding, then a resolution stating the commitment must be included in the application packet. If the cash match includes bank financing, then original signature written commitment from all financing institutions must be included in the application packet. **A letter of interest does not constitute a firm commitment for financing or property acquisition.** The written commitment may be contingent upon an applicant receiving a Community Revitalization award.

**SECTION 3. APPLICANT AND PROJECT ELIGIBILITY**

**Project Eligibility**

<b>Part A. ESD Funding</b>	<b>Part B. NYSDOT Multi-Modal #4 Funding</b>
<p><b>Eligible Applicants:</b> Cities, towns, villages, local development corporations (LDC), industrial development agencies (IDA), business improvement districts, downtown development agencies and other economic development entities located in Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga or Tompkins Counties.</p>	<p><b>Eligible Applicants:</b> Applicants must be located in Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga or Tompkins Counties</p> <p><b>Roads:</b> State or Municipally owned by Cities, Counties, Towns and Villages as reported to NYSDOT</p> <p><b>Aviation:</b> Municipal owned airports and privately-owned public use airports</p> <p><b>Railroad:</b> Municipal and privately-owned public use rail freight facilities and intercity rail passenger</p> <p><b>Ports:</b> State, municipal, or privately-owned ports</p> <p><b>Fixed Ferry:</b> Municipal and privately-owned ferry lines used for public transportation purposes</p>
<p><b>Type of Funding:</b> Low-interest loan and grant packages</p>	<p><b>Type of Funding:</b> Reimbursement grants</p>
<p><b>Eligible Project Activities:</b> Building and property development projects intended to revitalize downtowns and neighborhood commercial centers, and stimulate private investment in mixed use development, and commercial and retail opportunities linked to downtowns and neighborhood centers. Eligible project activities include:</p> <ul style="list-style-type: none"> <li>• Demolition; only if demolition is a component of construction or rehabilitation</li> <li>• New construction</li> <li>• Building rehabilitation</li> <li>• Infrastructure and site preparation needs related to the project including, but not limited to excavation, grading, environmental clean-up, water, sewer, sidewalks and parking</li> <li>• Reasonable soft costs related to the project including professional service/consultant, engineering, inspections, fees, insurance, environmental assessment, legal costs and closing costs</li> </ul> <p><b>Ineligible Project Activities:</b> Part A. ESD funding is not intended to be the primary source of funding for downtown and/or neighborhood commercial center revitalization. Project funding is intended to offset the high redevelopment costs of urban construction or rebuilding of severely impacted commercial/retail properties and to fill funding gaps preventing projects from advancing. Projects will</p>	<p><b>Eligible Project Activities:</b> Construction, reconstruction, improvement, reconditioning and preservation of the following activities. <b>All projects must have a minimum 10 year service life.</b></p> <p><b>Roads</b></p> <ul style="list-style-type: none"> <li>• State or municipally owned highways, roads, streets, and parkways</li> <li>• Parking lots and garages that are State or Municipally-owned commuter parking facilities and directly benefit a State or Local highway. Parking Facilities must be adjacent to a commuter generator (such as a train station, airport, etc).</li> <li>• Traffic Control/Safety Devices</li> <li>• Sidewalks, Bicycle and Pedestrian paths/bridges must have a primary public transportation objective and demonstrate a direct benefit to a local highway or street.</li> </ul> <p><b>Aviation Projects</b></p> <ul style="list-style-type: none"> <li>• Hangars and T-hangars</li> <li>• Airfield pavements (runways, taxiways, aprons)</li> <li>• Terminal area development</li> <li>• Fuel facilities</li> <li>• Airfield lighting and navigational aids</li> <li>• Access roads</li> <li>• ROW fencing</li> <li>• Parking lots</li> <li>• Equipment (aircraft rescue and fire fighting, snow removal, ramp, fueling and emergency power generation)</li> </ul>

be required to be self-sustaining and supported by private sector investment.

The following are not definable projects, and will not be considered for project funding.

- Building and property acquisition is not an eligible expense for a Community Revitalization loan/grant package, but may be part of the total project cost and therefore used as a matching cost
- Working capital
- Rehabilitation of municipal buildings and properties for municipal reuse
- Demolition that is not a component of the proposed project. Demolition will only be considered as an eligible project cost if the applicant can demonstrate why demolition is a component of the overall project that will result in a commercial/retail revitalization project.

**Eligible Project Costs:**

The following costs are eligible for a Community Revitalization loan/grant package:

- Demolition; only if demolition is a component of construction or rehabilitation
- New construction
- Building rehabilitation
- Infrastructure and site preparation needs related to the project including, but not limited to excavation, grading, environmental clean-up, water, sewer, sidewalks and parking
- Reasonable soft costs related to the project including professional service/consultant, engineering, inspections, fees, insurance, environmental assessment, legal costs and closing costs

**Ineligible Costs for Reimbursement:**

The following costs are not eligible project costs, but may be considered in the total project cost. If land or building costs are included as equity, then the current assessed value must be stated in the application form.

- Property acquisition
- Building acquisition
- Expenditures incurred prior to the application due date
- Physical work on a project prior to completion of appropriate SEQRA review

**Railroad Projects**

- Design activity resulting in an eligible capital project with a 10 year service life.
- Construction of new track and railbed or spur, track and railbed rehabilitation, rehabilitation of switches and ties, construction or reconstruction of rail bridges, construction or rehabilitation of railroad grade crossings.
- Station improvements, parking lots for train stations, acquisition of right-of-way for rail, purchase of rail equipment and/or rail rolling stock.
- Engine houses/rail car facilities and freight handling equipment that is directly related to rail transportation (e.g., includes transload equipment used to load/unload product directly to and from rail freight rolling stock).

**State, Municipal, or Privately-owned Ports**

- Equipment (e.g., cranes) with a 10 yr. service life, design activity costs resulting in an eligible capital project with a 10 yr. service life
- Construction or reconstruction of docks, dredging, rail rehabilitation.
- Construction or reconstruction of storage buildings and/or staging areas.
- Construction or reconstruction of public access roads at commercial cargo ports

**Fixed Ferry**

- Design activities resulting in an eligible capital project with a 10 year service life
- Equipment (e.g., Lifts, cargo-handling and loading systems, weigh stations, or other land based equipment serving a ferry line, provided it meets a 10 year service life)
- Construction or reconstruction of docks
- Dredging
- Construction or reconstruction of terminal or storage buildings
- Construction or reconstruction of access roads and parking lots

**Eligible Project Costs:**

Eligible project costs consist of Sponsor disbursements for all phases of an eligible MM #4 project, including the construction cost for projects built by contract; or the cost of labor, equipment usage directly related to an approved MM #4 project, materials for work done by Sponsor's forces. Total project cost also includes purchase of necessary Right-of-way (ROW), design (whether in-house or by consultant) and construction inspection. Principal payments on short term bonds borrowed to pre-finance project expenses are an eligible project cost. Although charges for all phases of an approved individual capital project are eligible, they must relate directly to a specific Multi-Modal #4 funded capital project. See Section 8 for details regarding each category.

**Ineligible Costs for Reimbursement:**

- General administrative and overhead disbursements not directly related to the 10 year service life required of a capital project.
- Material or equipment purchases not associated with a specific MM #4 Capital Project.
- Interest or indirect costs (e.g., costs of issuance) on bonds or notes issued to finance projects.
- Reimbursement for costs incurred prior to December 2011..

**Definable Project**

Individual properties may be bundled into a definable “project.” To constitute a coherent and cohesive project, a group of properties will be selected because their reconstruction, rehabilitation, or new construction are inter-related and will collectively advance a strategic objective of an economic development, a local revitalization or an urban development plan. A site map must be included for each project clearly identifying all targeted properties.

The applicant and/or developer entity must demonstrate that it has current or pending ownership of the properties involved in the definable project. If the property is not owned by the applicant or developer entity at the time of application, a copy of a legal binding document in the form of a contract for sale or option must be included in the application.

**SECTION 4. EVALUATION CRITERIA**

If the applicant organization and project are determined to be eligible by Southern Tier Region Economic Development Corporation (STREDC), ESD and NYSDOT, the Southern Tier Regional Economic Development Council will evaluate and rank applications using the following criteria.

Points	Criteria
Up to 30	Leverage Other Resources such as Brownfield Redevelopment, and funds from Local, Private, State and Federal sources
Up to 25	Program Goals and Impact
Up to 35	Project Readiness / Feasibility
Up to 10	Support Southern Tier Regional Economic Development Council Strategies

**SECTION 5. APPLICATION AND APPROVAL PROCESS**

**Applicant Action**

Prior to making application, the applicant’s legal governing body must pass a resolution authorizing the implementation, and funding in the first instance of the State Multi-Modal Program-aid [and State administered federal program-aid] eligible costs, of a capital project, and appropriating funds. A sample copy of such a resolution is included as Attachment E. A true and complete copy of the resolution must be included in the application.

**Certification**

The application must be certified by the lead official of the applicant entity that it is complete, true and accurate.

**Submission Deadline**

The application submission deadline is **3 PM, Monday, July 2, 2012.**

**Application and Review Process**

Applications will be submitted to the Southern Tier Region Economic Development Corporation (STREDC) and reviewed for completeness, applicant and funding eligibility, qualifications and credit worthiness of the development team, project and financial feasibility and commitments for matching funds if applicable.

STREDC will forward the application package to the NYSDOT to determine eligibility. NYSDOT will make a Preliminary Eligibility Determination to confirm the project is eligible to receive Multi-Modal funds and notify STREDC. The NYSDOT determination will be of both organizational sponsorship and all project funding based upon Legislative intent, ten (10) year minimum service life, and NYSDOT Multi-Modal Program Policy.

NYS DOT will notify STREDC of project eligibility. STREDC will then prepare and submit a written evaluation of project strength based on all funding sources to the Southern Tier Regional Economic Development Council for its final evaluation against the program criteria and ranking. The final project award decision will be made by both the Southern Tier Regional Economic Development Council and the Southern Tier Regional Office of the Empire State Development Corporation.

Each application will be evaluated on a case-by-case basis to assess the request for grant funding. Careful and individual consideration will be given to each application, and the final funding award will be based on project feasibility, measurable impact, project readiness, leveraging of funds, support of Southern Tier Regional Economic Development Council strategies and availability of funds in the Southern Tier Community Revitalization Program. Final funding awards will be subject to approval by the Southern Tier Regional Economic Development Council, New York State Department of Transportation and the Southern Tier Office of Empire State Development Corporation.

The Southern Tier Regional Economic Development Council reserves the right to offer project awards to sponsors in different amounts than requested. The Council reserves the right to review and reconsider project and property selections in the event of material changes in the project plans or circumstances. Expenditures incurred prior to the application due date are not eligible for reimbursement by grant funds.

### **Acceptance of Award**

Within ten (10) calendar days of a project award notification, the award recipient will inform all entities involved in the project of the terms and conditions of the award. The award recipients will have fifteen (15) calendar days to inform STREDC and the NYSDOT in writing that it declines the award or is prepared to move forward with the project. STREDC will then inform NYSDOT to proceed and contact the developer entity to secure additional information required to prepare the grant documents. STREDC and NYSDOT will be responsible for coordinating the administration of the funding award based on the allocation of funding sources.

The Southern Tier Regional Council will inform NYSDOT of its award decision and sponsor acceptance. NYSDOT then will administer the required State/Local Agreement with the eligible Sponsor/Owner organization thru the State Attorney General (AG) and the State Comptroller (OSC) prior to beginning any reimbursement process. Any modifications in project scope would require review and approval by NYSDOT for MM#4 funds, and the original project would need to be closed out.

## **SECTION 6. PROGRAM IMPLEMENTATION**

### **Program Agreement**

An award recipient of NYSDOT MM#4 funding will enter into an agreement with NYSDOT. The sponsor, type of project and total project cost will determine whether a Universal Multi-Modal (MM) Capital Project Agreement or a Master Municipal (MM) Capital Project Agreement will be used.

### **Project Reimbursement**

The Multi-Modal (MM) funding is a reimbursement program which requires Sponsors to submit documented evidence of actual prior payments for eligible work (i.e., disbursements) to the NYSDOT Regional Office. This documentation is included in a Sponsor's submission of the applicable MM Program-specific NYSDOT Project Reimbursement Request form containing a Sponsor's certifications attesting to the mandated requirements listed. These documents are all required to meet State accounting standards and New York State Comptroller (OSC) audit purposes. Approval of any project reimbursement request is subject to the following requirements:

- (1) Approval of a NYSDOT State/Local Agreement (SLA) and Sponsor's Resolution (where applicable) by the New York State Comptroller.
- (2) Sponsor's submission of the required *Multi-Modal (MM) Sponsor's Project Payment Request* form appropriately certified and attested to by a duly authorized corporate officer or municipal official and (for all final payments), either the Sponsor-initialed final payment indication or a printable declaration of "no further claims" provided to the NYSDOT Region (either via e-mail or in writing). Before a final MM payment is authorized, NYSDOT Regional inspectors must complete and attach a Project Completion Report to the Sponsor's final payment request.
- (3) Sponsor's submission of evidentiary supporting documentation of actual prior payments for the exact amount of reimbursement requested (e.g., copies of cancelled checks or Sponsor electronic payment (EFT) disbursements to vendors or contractors, or payroll record copies of direct labor charges to the specific capital project).
- (4) Sponsor's submission of any documentation required by the NYSDOT Regional Office which demonstrates progress toward project completion and/or evidence of State value for reimbursement made to Sponsor. This is not limited to, but may require Sponsors to supply digital photographs of construction or other progress along with their formally certified NYSDOT Reimbursement Request forms (referred to above).
- (5) All MM funded capital projects are subject to on-site inspections and/or other progress monitoring, and all MM reimbursements and related documentation are subject to post audit, refund of all prior reimbursements to the State, and a liquidated damage fee under the specific terms of the required Multi-Modal SLA.
- (6) All Sponsor's must submit paid project costs to NYSDOT no later than 15 months prior to the Sponsor's execution of the current *MM Reimbursement Request Form* in order to comply with Federal Tax Law.

## **SECTION 7. APPLICATION SUBMISSION AND CHECKLIST**

Applications will be submitted to the Southern Tier Region Economic Development Corporation (STREDC) and reviewed for completeness, applicant and funding eligibility, qualifications and credit worthiness of the development team, project and financial feasibility and commitments for matching funds if applicable.

If the application is determined to be complete, STREDC will forward the application package to the NYSDOT to determine eligibility. NYSDOT will notify STREDC of project eligibility. STREDC will then prepare and submit a written evaluation of project strength based on all funding sources to the Southern Tier Regional Economic Development Council for its final evaluation against the program criteria and ranking.

The applicant will be notified if additional information is required.

### **Submission Deadline**

The application submission deadline is \_\_\_\_\_

Applicant will submit all documents listed on the Application Checklist to:

Southern Tier Regional Economic Development Corporation  
c/o REDEC/RRC  
8 Denison Parkway, E.  
3<sup>rd</sup> Floor—Suite 403  
Corning, NY 14830

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## Application Package

All items on the Application Checklist must be included. Incomplete applications will not be considered. The Southern Tier Regional Economic Development Corporation, at its sole discretion, reserves the right to accept minor amendments and additions to this application. The application package consists of the following.

- 7 copies
- All materials must be on 8.5 x 11 paper
- Assemble documents in a 3-ring binder no thicker than 2 inches and include all forms, enclosures and attachments. The binder with original signature and the Application Fee should be labeled "Original."
- Place the applicant's name on the cover and the spine of the binder

## Application Fee

A non-refundable check payable to Southern Tier Regional Economic Development Corporation in the amount of \$250 must be included with the application, and should be placed in an envelope marked "Application Fee" and placed in the front of the binder labeled "Original." This fee applies regardless of whether the applicant is seeking funding through Part A (ESD) and/or Part B (MM#4).

## Application Checklist

The Application Checklist form must be submitted at the time of application. The Southern Tier Region Economic Development Corporation and NYSDOT reserve the right to seek additional information or decline an application. The Application Checklist is contained in Part A of the Application Form.

## Questions and Inquiries

All inquiries and questions regarding the application process should be directed to the Southern Tier Region Economic Development Corporation at (607) 962-3021.

## SECTION 8. GENERAL REQUIREMENTS

### A. Project Eligibility

Reimbursable project expenditures made on or after December 2011 under this program must be solely for capital projects within or between modes consisting of rail freight and intercity rail passenger facilities and equipment, State, municipal, and privately owned ports, municipal and privately owned airports (excluding airports operated by the State or bi-state municipal corporate entity or public benefit corporation), State and local roads, highways, parkways and bridges, and fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes. Aviation projects must be consistent with an approved Airport Layout Plan.

In addition, all Multi-Modal #4 funded projects must meet the following general requirements:

- Authorized projects must be approved for funding by the Southern Tier Regional Council, the Southern Tier Regional Offices of Empire State Development Corporation and NYS Department of Transportation.
- Project owners must secure NYSDOT eligibility determination, enter into a formal SLA agreement upon final eligibility and budget approval, and submit formal reimbursement request, in a format prescribed by the NYSDOT.
- Sponsors must certify to NYSDOT that the project has been completed and has a continuous service life of 10 or more years.
- Sponsors must certify to NYSDOT that project work was performed in accordance with the State Environmental Quality Review Act (SEQRA).
- Program funds will be used solely to fund actual expenditures made within 15 months prior to the Sponsor's execution of the current *MM Reimbursement Request Form* for capital projects within or between modes including but not limited to costs of preliminary engineering, right-of-way acquisition, construction and construction supervision and inspection.
- Sponsor debt financing (i.e., bond or note issuance for project costs) must be short term so as to not

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overlap with the 20 year term of NYS Thruway Authority bonds which reimburse the State Comptroller administered funding source for reimbursing project costs.

- Interest costs on Sponsor-issued debt used to finance the project are not reimbursable.

## **B. Project Eligibility By Specific Transportation Mode**

All projects must be primarily for an eligible public transportation purpose and use. It is insufficient that certain transportation capital projects merely be “open to public access” or otherwise provide only partial or minor public use. In addition to the general requirements listed above, the following requirements apply solely to projects in each of the respective modes.

### **1. Highway/Bridge Mode Project Eligibility**

MM #4 funding is for project costs of construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of State, county, town, city and village roads, highways, parkways and bridges where the continuous service life is ten (10) or more years following project completion and NYSDOT reimbursement.

- MM #4 Program funds cannot be used for the required local match on Federally funded projects.
- The amount of municipal funds appropriated for transportation capital projects is not to be reduced due to the availability of Multi-Modal Program funds.
- Sponsor must be a municipality or the State.

Eligible Projects	Not Eligible
<p><u>Roads:</u> Capital improvements are <u>limited to State and municipally owned highways, roads, streets, and parkways</u> reported to NYSDOT by Cities, Counties, Towns, and Villages in the official statewide Local Highway Inventory (LHI). Work within a highway right-of-way (ROW), including necessary highway storm drainage work, surveys and similar highway-related work. Specific types of eligible work include: hot mix asphalt overlay, cold asphalt overlay, pavement recycling, new concrete or asphalt pavement, widening, realignment, relocation of roads, highway embankment stabilization. Major rehabilitation or replacement of a bridge or culvert. State highways, including locally maintained State arterials in cities, principal on bonds or notes issued to finance project costs.</p> <p><u>Parking:</u> State or Municipally-owned commuter parking facilities which <u>directly</u> benefit a State or Local highway by supporting the public transportation purpose of <u>reducing</u> vehicular highway traffic volume. Parking Facilities must be adjacent to a commuter generator (such as a train station, airport, etc).</p> <p><u>Traffic Control*/Safety Devices:</u> New signs, traffic signals and other traffic control devices, replacement of guiderail, shoulder improvements, new drainage systems, storm sewers, highway lighting, curbs.</p> <p>* Must conform to <i>National Manual of Uniform Traffic Control Devices (MUTCD)</i> and <i>NYS Supplement</i>. See the following: <a href="https://www.dot.ny.gov/mutcd">https://www.dot.ny.gov/mutcd</a></p> <p><u>Sidewalks, Bicycle and Pedestrian paths/bridges:</u> Eligible projects must have a primary public transportation objective and demonstrate a direct benefit to a local highway or street.</p> <p><b>Note:</b> "Municipally-owned" is limited to highway ownership by a City, County, Town, Village or State entity.</p>	<p><u>Roads:</u> All Private roads. Publicly-owned roads not open for full time public transportation use <u>or</u> not listed in the NYSDOT LHI, bridge removals/demolitions when the removal or demolition is a stand alone project, municipal garages or storage buildings, planning studies, stand alone purchase of equipment not permanently affixed to a single capital project location, interest or indirect costs (e.g., costs of issuance) on bonds or notes issued to finance projects, general administrative overhead costs.</p> <p><u>Utility Costs:</u> (e.g., sanitary sewers, water lines, electric).</p> <p><u>Parking:</u> State or Municipally-owned parking facilities which <u>do not</u> primarily serve an eligible public transportation modal purpose, parking projects which are not State or Municipally-owned are not eligible, <u>ineligible</u> parking projects include, but are not limited to, municipal parking facilities which are <u>open</u> for public access or use<sup>o</sup> but <u>do not reduce overall highway traffic volume</u>, or those whose <u>primary use serves another municipal parking purpose</u> (e.g., school, park, ball field, municipal building, retail shopping, employment setting, or those providing only incidental access to a bus stop).</p> <p><u>Streetscape:</u> beautification/recreation projects, including promenades, plazas, parks, esplanades and other pedestrian enhancement or landscape amenities which are unrelated to core Highway/Bridge transportation infrastructure and a <u>primary</u> street/highway traffic mobility or safety improvement.</p> <p><u>Traffic Control/Safety Devices:</u> Any sign, traffic signal, or other traffic control device which does not conform to the <i>National Manual of Uniform Traffic Control Devices (MUTCD)</i> and <i>NYS Supplement</i>. See the following: <a href="https://www.dot.ny.gov/mutcd">https://www.dot.ny.gov/mutcd</a></p> <p><u>Sidewalks, Bicycle and Pedestrian paths/bridges:</u> Projects that <u>do not</u> meet a primary public transportation objective or <u>do not</u> demonstrate a direct benefit to an eligible Local highway or street.</p>

**2. Aviation Mode Project Eligibility**

MM #4 funding is for construction, reconstruction, improvement, reconditioning and preservation of capital facilities of Municipal owned Airports and Privately-owned public use airports. In addition to the general requirements, a qualified Aviation Capital project must result in a continuous service life of ten (10) or more years following project completion and reimbursement.

Project Sponsor Certification must include any information necessary to maintain, if applicable, the Federal tax exempt status of bonds, notes or other obligations issued by the New York State Thruway Authority for such purposes. The NYSDOT shall request the Project Sponsor to furnish such information as may be necessary. All Multi-Modal funded airport projects must also be consistent with a NYSDOT approved Airport Layout Plan for which Federal funding is not available.

Eligible Projects	Not Eligible
<p>Projects that aid in operating revenue generation for general aviation and small airports where commercial service is limited to commuter services.</p> <p>Projects that aid in compliance with state and federal regulations.</p> <p>Typical projects include the design and construction/rehabilitation or purchase of:</p> <ul style="list-style-type: none"> <li>• Hangars and T-Hangars</li> <li>• Airfield Pavements (runways, taxiways, aprons)</li> <li>• Terminal Area Development</li> <li>• Fuel Facilities</li> <li>• Airfield Lighting and Navigational Aids</li> <li>• Access Roads</li> <li>• ROW Fencing</li> <li>• Parking Lots</li> <li>• Equipment (aircraft rescue and fire fighting, snow removal, ramp, fueling and emergency power generation)</li> </ul>	<p>Airport Projects that are not for a public passenger or freight transportation purpose.</p> <p>Planning studies or design work that do not result in a program-funded capital project with a minimum 10 year service life.</p> <p>Maintenance or general repairs normally considered an operating expense.</p>

**3. Railroad Mode Project Eligibility**

MM #4 funding is for rail freight facilities and intercity rail passenger facilities and equipment where the completed project service life is at least ten (10) years. Capital project costs for construction, reconstruction, improvement, reconditioning and preservation are eligible for reimbursement.

Project Sponsor Certification must include any information necessary to maintain, if applicable, the Federal tax exempt status of bonds, notes, or other obligations issued by the New York State Thruway Authority for such purposes. The NYSDOT shall request the Project Sponsor to furnish such information as may be necessary.

Eligible Projects	Not Eligible
<p>Design activity resulting in an eligible capital project with a 10 year service life.</p> <p>Construction of new track and railbed or spur, track and railbed rehabilitation, rehabilitation of switches and ties, construction or reconstruction of rail bridges, construction or rehabilitation of railroad grade crossings.</p> <p>Station improvements, parking lots for train stations, acquisition of right-of-way for rail, purchase of rail equipment and/or rail rolling stock.</p> <p>Engine houses/rail car facilities and freight handling equipment that is directly related to rail transportation (e.g., includes transload equipment used to load/unload product <u>directly</u> to and from rail freight rolling stock).</p>	<p>Projects that are not for a public passenger or freight transportation purpose.</p> <p>Planning studies or design work that do not result in an eligible capital project with a minimum 10 year service life, maintenance expenditures.</p> <p>Design, land acquisition, storage and warehouse facilities, or equipment costs <u>not</u> physically and functionally related <u>directly</u> to rail. Such resources are normally acquired for a purpose which is related only indirectly to rail transportation (e.g., equipment within a privately owned building or facility) on an adjacent industrial site.</p> <p>Mobile materials handling or other portable equipment (regardless of service life).</p> <p>Construction or reconstruction of private access roads and/or driveways.</p>

**4. Port Mode Project Eligibility**

MM #4 Funding is for construction, reconstruction, improvement, reconditioning and preservation of all State, municipal, or privately-owned ports.

An eligible port is any shoreline-based commercial cargo operation used for import/export navigation by deep water vessels engaged in international trade or interstate commerce, or the shoreline-based facilities which support a public transportation service (e.g., public ferry or water taxi service).

Eligible Projects	Not Eligible
<p>Equipment (e.g., cranes) with a 10 year service life, design activity costs resulting in an eligible capital project with a 10 year service life.</p> <p>Construction or reconstruction of docks, dredging, rail rehabilitation.</p> <p>Construction or reconstruction of storage buildings and/or staging areas.</p> <p>Construction or reconstruction of public access roads at commercial cargo ports.</p>	<p>Projects that are not for a public passenger or freight transportation purpose.</p> <p>Planning studies or design which do not result in an eligible capital project with a minimum 10 year service life.</p> <p>Construction or reconstruction of private access roads and/or driveways.</p> <p>Maintenance or general repairs normally considered an operating expense.</p>

**5. Fixed Ferry Facility Mode Project Eligibility**

MM #4 Funding is for construction, reconstruction, improvement, reconditioning and preservation of fixed ferry landing based facilities of municipal and privately-owned ferry lines used for public transportation purposes.

Eligible Projects	Not Eligible
<p>Design activities resulting in an eligible capital project with a 10 year service life.</p> <p>Equipment (e.g., Lifts, cargo-handling and loading systems, weigh stations, or other land based equipment serving a ferry line, provided it meets a 10 year service life).</p> <p>Construction or reconstruction of docks.</p> <p>Dredging.</p> <p>Construction or reconstruction of terminal or storage buildings.</p> <p>Construction or reconstruction of access roads and parking lots.</p>	<p>Ferry vessels, boats, or other water carriers.</p> <p>Projects that are not for public transportation purposes.</p> <p>Planning studies or design work which do not result in a program-funded capital project with a minimum 10 year service life.</p> <p>Maintenance or general repairs normally considered an operating expense.</p>

### **C. Eligible Project Costs**

Eligible project costs consist of Sponsor disbursements for all phases of an eligible MM #4 project, including the construction cost for projects built by contract; or the cost of labor, equipment usage directly related to an approved MM #4 project, materials for work done by Sponsor's forces. Total project cost also includes purchase of necessary Right-of-way (ROW), design (whether in-house or by consultant) and construction inspection. Principal payments on short term bonds borrowed to pre-finance project expenses are an eligible project cost. Although charges for all phases of an approved individual capital project are eligible, they must relate directly to a specific Multi-Modal #4 funded capital project.

It is important to maintain good records of project costs, to meet reporting requirements and for future audit. Any cost or disbursement in excess of the MM #4 maximum allocation is the responsibility of the project sponsor.

### **D. Project Costs Not Eligible For Reimbursement**

- General administrative and overhead disbursements not directly related to the 10 year service life required of a capital project.
- Material or equipment purchases not associated with a specific MM #4 Capital Project.
- Interest or indirect costs (e.g., costs of issuance) on bonds or notes issued to finance projects.
- Reimbursement for costs incurred prior to December 2011.

### **E. Eligible Disbursements**

Eligible disbursements include previously made payments for materials, services and equipment used to construct a specific MM #4 capital project. Sponsor payments for materials, services, and equipment that are not associated with a specific MM #4 funded project are not eligible for reimbursement from MM #4 funds.

Reimbursement requests using the authorized *Multi-Modal (MM) Sponsor's Project Payment Request* form will only be for sponsor expenditures made to date for which you have not previously been reimbursed.

Sponsor project disbursements must be documented and maintained in project records which are subject to future audit. This documentation should include copies of checks to vendors and supporting receipts (bill of sales) for purchases of materials (delivered and accepted) or for the purchase or rental of equipment. It is also acceptable to have proper documentation by a municipality's official accounting system of the efforts of municipal forces for both labor and equipment and materials withdrawn from existing inventories.

### **F. Authorization**

Any work planned within the Right-of-Way (ROW) of a State road, highway, parkway or bridge may require highway work permits and must be coordinated with the appropriate NYSDOT Regional Office for project authorization.

### **G. Matching Funds**

MM #4 funds may not be used to provide the Local (i.e. "Non-Federal") Match to any Federally-funded highway or bridge mode project.

### **H. Multi-Modal #4 Program Payments**

The MM #4 Program requires the complete execution of a SLA agreement by the State Comptroller before NYSDOT can accept monthly applications for reimbursement. Such project sponsor requests must be made using the official NYSDOT *Multi-Modal (MM) Sponsor's Project Payment Request* form used by NYSDOT to authorize reimbursement(s) by the New York State Comptroller. These forms are available from your Regional NYSDOT MM Program Representative.

## I. Financial Audits

As further described in MM #4 SLAs, the Multi-Modal Project Sponsor shall permit the authorized representative of NYSDOT and/or the State Comptroller to inspect and audit all books, records and accounts of the Sponsor pertaining to the Project. It is important to keep consistent and accurate records on the MM #4 Program.

Project Costs claimed or previously reimbursed which cannot be supported are subject to audit disallowance by NYSDOT, the State Comptroller, or Office of the Inspector General. Amounts paid to the Sponsor by NYSDOT which are subsequently disallowed are subject to recovery by NYSDOT from the Sponsor or, at the option of the State, will be offset or reduced against current or future reimbursement claims on the same or other projects.

## J. Program Reviews

NYSDOT may periodically review a sampling of MM #4 Projects for which reimbursement has been requested. This review effort could include site visits to completed projects. The Project Sponsor shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review.

## K. Quality Assurance (QA) Process

### 1. MM Payment Processing

- a. **Reimbursement Request Processing** (from Sponsors to the NYSDOT Regional Office): NYSDOT requires supporting documentation (e.g., paid invoices, cancelled checks, EFT payment vouchers, etc.) to be submitted to the Regional MM Representative for verification before the MM Sponsor's Payment Request Form with Certification can be submitted for payment to the Accounting Bureau. Sponsor disbursements must be made in the first instance, and all local costs claimed for reimbursement must be within the scope of the contract and MM eligibility guidelines. All Sponsor's must submit paid project costs to NYSDOT no later than 15 months prior to the Sponsor's execution of the current *MM Reimbursement Request Form* in order to comply with Federal Tax Law.
- b. **Final Payment Processing:** Final payment requests must be indicated by initialing the appropriate section of the MM Sponsor's Payment Request Form along with the Project Completion Report and will not be accepted or processed without both of these documents.
- c. **Records Retention:** Although supporting documentation is not required for submission to either the Local Programs Bureau or the Accounting Bureau with each payment request, all supporting documentation must be retained by the Regional Office for six (6) years beyond the date of final payment (the same period required in the State/Local Agreement with NYSDOT) for audit purposes.

### 2. Project Monitoring

Each Regional Office will conduct project monitoring and reporting as follows.

For Non-Municipal government Sponsored MM capital projects, Regions will designate staff responsible for monitoring all MM-funded Rail, Port, Fixed Ferry Landing Facilities and Private Airport projects, and to document the result with a written report. A copy of all site visits will be submitted to the Regional MM Representative who processes all reimbursement requests and retains a copy of the project report with the Region's MM project file. Assistance from the respective Main Office Railroad or Aviation Bureaus may be requested by the Region as needed.

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For Municipally-Sponsored MM capital projects, Regional MM Representatives must perform monitoring of all MM funded Highway/Bridge, Ferry Landing and Municipal Airport projects where MM funding is \$1,000,000 or more, and maintain a record of site visits in the Region's MM project file.

The project Sponsor is responsible for providing adequate oversight and inspection of construction work to ensure compliance with contract plans and specifications, state laws, regulations and requirements. Documentation must be kept to satisfy possible future audits. Final inspection of the project is performed by the Sponsor. The Regional Multi Modal Local Program Representative (RLPL) should be invited to attend the final inspection and may make periodic inspections during the construction phase to monitor project progress.

The Multi-Modal Quality Assurance Checklist (See Appendix D) is a useful tool for both the Sponsor and the NYSDOT Regional staff to complete these tasks: tracking project elements, cost and schedule, construction monitoring and scheduling, material quality assurance testing, project documentation and compliance with M/WBE/EEO goals.

### **3. Post Audits**

Local Programs Bureau will request the Contract Audit Bureau to perform post audits of MM project payments annually to insure Sponsor compliance and consistent Regional Office administration. Contract Audit Bureau will select projects based on MM dollar value, overall project cost if different than MM, and availability of prior audit coverage (e.g. Federal and State Single Audit coverage).

### **L. Cancellation of Funding Commitment**

It is expected the project will proceed in the time frame set forth by the applicant. If the implementation of a project fails to proceed as planned and is delayed for a significant period of time and there is, in the exclusive judgment of NYSDOT, doubt as to its viability, NYSDOT reserves the right to cancel its funding commitment to such project.

## **SECTION 9. SPECIAL MULTI-MODAL MM #4 REQUIREMENTS**

### **A. Sponsor Certification**

As required by the MM #4 legislation, the project owner must certify to NYSDOT that the service life of the project following completion and State reimbursement is 10 or more years, and that all such project work was performed in accordance with the State Environmental Quality Review Act (SEQRA).

In addition, sponsors of the following project types must also certify the following:

- Airports and aviation facilities - federal funding is not available to the project, and the project is consistent with an approved airport layout plan.
- State or local roads, highways and bridges - the MM #4 funding is not used for the mandated non-federal share of a federally funded project, the amount of MM #4 funds requested is and shall be no greater than prior unreimbursed municipal project expenditures for work completed or materials incorporated in a qualifying project(s), and the amount of municipal funds appropriated for transportation capital projects is not and shall not be reduced because of the MM #4 funding.
- The Sponsor shall certify in each payment request that individual project work was performed in accordance with the design and contract requirements of Sponsor and the Sponsor's design professional, and such request does not duplicate reimbursement of costs and services received from other sources.
- Certification by the project sponsor shall include the responsibility to furnish the NYSDOT with any written information as may be necessary to maintain, if applicable, the federal tax exempt status of bonds, notes, or other obligations issued by the New York State Thruway Authority for such purposes.

These certifications, as applicable, will be included in all MM #4 Capital Project(s) Agreements and Reimbursement Forms.

## **B. Project Design Standards By Mode**

### **Highway and Bridge Projects**

Appropriate local design standards must be employed and generally acceptable engineering practices should be followed. All legally mandated requirements or standards prescribed in the National Manual of Uniform Traffic Control Devices and NYS Supplement, Highway Law, Vehicle and Traffic Law, and other applicable State and local laws, codes, and regulations must be followed. For the design of county, town, city and village roads, highways, parkways and bridges, the municipality may use The American Association of State Highway and Transportation Officials (AASHTO) standards for local streets and highways, NYSDOT highway standards, or other standards which are considered appropriate. For project segments on State Highways, the municipality must use NYSDOT highway standards only.

### **Special Highway/Bridge Mode Criteria for Bicycle/Pedestrian (including Sidewalk) project eligibility:**

- Project **Location** must be within an eligible Local street or highway right-of-way (ROW), or otherwise bisect, transect, begin or end at a State or qualified Local highway.
- Project **Purpose** must be principally for meeting a public transportation objective (e.g. street or highway traffic safety) and be identified as such in its description. Other valid non-transportation objectives (e.g., health, recreation, cultural or social benefits) must be secondary to the primary transportation need above.
- Project **Description** must rationally demonstrate a recognized traffic, safety, or other transportation benefit to an eligible street, highway, parkway or bridge, and describe the project's logical termini in a manner which reveals the primary transportation benefit.
- Project **Sponsorship** should be the State or municipal (i.e., specific County, Town, City, or Village) entity with ongoing jurisdictional authority over the eligible street, highway, parkway or bridge which specifically enables the Bike/Ped project to be considered for any Multi-Modal funding eligibility (except in cases where a NYSDOT Region has granted permission to a municipal entity to perform work on or within its own State highway or bridge right-of-way).

**MM Highway/Bridge Mode Definitions:** An "Eligible Municipal highway/street/parkway" is limited to those public thoroughfares open to motor vehicles on a 24/7 basis whose municipal lane mileage is reported to the NYSDOT Local Highway Inventory (LHI) unit for calculating annual CHIPS funding apportionments to all of New York State's municipalities. The LHI includes eligible parkways for both State and Non-State Jurisdictions which are designated in NYSDOT Highway Sufficiency Rating publications throughout New York State. "Eligible Municipal bridges" are identified within the NYSDOT Bridge Inventory which is maintained by its Structures Division.

An "Eligible Municipal Sponsor" of MM Highway/Bridge funding for qualified Non-State highway, street, parkway, or bridge projects is limited to those municipal entities with ongoing jurisdictional authority over the eligible public thoroughfare listed in the NYSDOT LHI as outlined above.

### **Aviation Projects**

Where applicable, work shall be in accordance with the Federal Aviation Administration (FAA) and/or NYSDOT design standards.

### **Rail, Ports, and Fixed Ferry Projects**

Work shall be in accordance with applicable local, State, and Federal design standards.

### C. Compliance With Applicable Laws And Multi-Modal #4 Contract Requirements

All procurement activity associated with MM #4 projects must be in conformance with applicable Federal, State and local laws and the requirements of the MM #4 State/Local Agreement between NYSDOT and the Project Sponsor.

#### 1. Minority and Women's Business Enterprise (M/WBE) Requirement

The New York State Legislature enacted major changes to the State's Minority and Women's Business Enterprise (M/WBE) Laws, effective October 13, 2010. Appropriate M/WBE participation goals will be required to be assigned to each project. (See appendix A)

**Construction Contracts:** For every project which has an Engineer's Estimate of at least \$500,000 and involves the construction, demolition, replacement, major repair or renovation of real property, M/WBE goals will be applied based on the project scope and location. Please refer to Chapter 21 of the NYSDOT's Highway Design Manual to determine M/WBE goals for qualifying projects. The M/WBE goal tables and related guidance are available online at:

<https://www.dot.ny.gov/divisions/engineering/design/dqab/hdm/chapter-21/dmwbe-goals>.

M/WBE goals must be developed at the time the Plans, Specifications and Estimates are developed. Requests for goal waivers or reductions must be made at this time as well. Projects must be advertised with M/WBE goals. M/WBE goals and specifications must be included in project proposals and contracts. Sponsors should refer to NYSDOT's Standard Specifications Section 102-12 D/M/WBE Utilization for contract requirements. NYSDOT's Standard Specifications are available online at:

<https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us>.

Bidders must submit M/WBE utilization plans to Project Sponsors between letting and award. The utilization plans include but are not limited to the following forms:

- AAP 10LL NYS- M/WBE Solicitation Log
- AAP 15LL NYS - Designation of AA Representatives (one for the prime contractor as well as each subcontractor)
- AAP 19LL NYS - M/WBE Schedule of Utilization
- AAPHC 20LL NYS - Part 1 M/WBE Utilization Worksheet, Part 2 Subcontractor Approval
- AAP 22LL NYS - M/WBE Material Supplier Commitment Information
- AAP 23LL NYS - M/WBE Trucking Commitment Information
- AAP 26LL NYS - Monthly Training Progress Report
- AAP 33LL NYS - Employment Utilization Report
- AAP 35LL NYS - Workforce Participation Plan

These forms are available online at: <https://www.dot.ny.gov/divisions/operating/opdm/local-programs-bureau/multi-modal/forms>.

If the apparent low bidder did not meet one or both of the goals, he/she must submit evidence of good faith efforts to obtain the goal(s). Submitting a complete and accurate utilization plan with bid documents is a condition of award, as well as meeting the goals or demonstrating good faith efforts to do so.

**Consultant Engineering Agreements:** There is no dollar threshold for the inclusion of M/WBE goals on consultant engineering agreements. These agreements utilize an industry accepted minimum 9% MBE and 9% WBE utilization level which in certain circumstances can be adjusted based on the scope of the project as well as the availability of M/WBEs to perform the work. The value of utilization level is calculated based on Direct Technical Labor (DTL).

Projects must be advertised with M/WBE goals. M/WBE goals and requirements must be included in project proposals and contracts; sponsors should refer to the *Guidelines for Commercially Useful Functions (CUF)*. The *Guidelines* are available online at:

<https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/cuf.pdf>.

Bidders must submit M/WBE utilization plans to the Sponsor between letting and award. The utilization plans include but are not limited to: form AAP 15LL Designation of AA Representatives (one for the prime consultant as well as each subconsultant) and a listing of M/WBE firms.

**Monitoring and Reporting:** M/WBE participation shall be monitored by the Sponsor as the project progresses. For construction contracts, attainments shall be reported by the prime contractor to the Sponsor by the 15<sup>th</sup> of the month for the previous month, utilizing form AAP 21LL Contractor Report of Contract Payments. For consultant engineering agreements, attainments shall be reported by the prime consultant to the Sponsor each time a payment request is submitted utilizing form AAP 7LL Summary of Consultant Payments to Subconsultants. The Sponsor is responsible for reporting M/WBE commitment and actual utilization to the Empire State Development Corporation's Division of Minority/Women's Business Development. Copies should be submitted to the MM Regional Representative.

## 2. Equal Employment Opportunity (EEO) Requirement

**Construction Contracts:** For every project which has an Engineer's Estimate of at least \$100,000 and involves the construction, demolition, replacement, major repair or renovation of real property, EEO goals will be applied based on the project location. Please see Appendix A to determine EEO goals for qualifying projects.

EEO goals and specifications must be included in project proposals and contracts. Sponsors should refer to NYSDOT's Standard Specifications Section 102-11 *Equal Employment Opportunity Requirements* for these contract requirements. Bidders must submit form AAP 35LL *Workforce Participation Plan* to indicate the projected combined workforce during the pre-construction meeting.

**Consultant Engineering Agreements:** There are no specific EEO goals assigned to consultant engineering agreements, however, firms must provide equal opportunity in all aspects of employment. EEO specifications must be included in project proposals and contracts. Sponsors should refer to NYSDOT's Standard Specifications Section 102-11 *Equal Employment Opportunity Requirements* paragraphs D, E and F only, for these contract requirements. Standard Specifications are available at:

<https://www.dot.ny.gov/2006-standard-specs>

**Monitoring and Reporting:** EEO participation shall be monitored by the Sponsor as the project progresses. For construction contracts, attainment shall be reported by the prime contractor to the Sponsor by the 15<sup>th</sup> of the month for the previous month, utilizing form AAP 33LL Employment Utilization Report. An AAP 33LL shall be submitted as follows: a report for the prime contractor's workforce, a report for each subcontractor's workforce, and a composite report for the combined workforce. The Sponsor is responsible for reporting M/WBE commitment and actual utilization to the Empire State Development Corporation's Division of Minority/Women's Business Development. Copies should be submitted to the MM Regional Representative. Reporting forms are available online at:

<https://www.dot.ny.gov/divisions/operating/opdm/local-programs-bureau/multi-modal/forms>.

Questions regarding the M/WBE and EEO requirements may be directed to the NYSDOT Local Programs Bureau, 50 Wolf Road, 6<sup>th</sup> Floor, Albany, NY 12232 by phone at (518) 485-9959 or E-mail the Statewide Multi-Modal Program Manager at: [cfa.nysdot@dot.state.ny.us](mailto:cfa.nysdot@dot.state.ny.us)

### 3. Smart Growth Act Requirement

In addition to the project eligibility criteria, each grant application submitted for consideration must comply with the enacted New York State Smart Growth Public Infrastructure Policy Act. This law became effective on September 29, 2010 and stipulates NYSDOT cannot approve, undertake, support or finance an infrastructure project, including grants, to the extent practicable, unless it is consistent with the relevant Smart Growth Public Infrastructure Criteria. The Smart Growth criteria identified in the legislation are as follows:

- a. To advance projects for the use, maintenance or improvement of existing infrastructure.
- b. To advance projects located in municipal centers.
- c. To advance projects in developed areas or areas designated for concentrated infill development in a municipally approved comprehensive land use plan, local waterfront revitalization plan and/or brownfield opportunity area plan.
- d. To protect, preserve and enhance the State's resources, including agricultural land, forests, surface and groundwater, air quality, recreation and open space, scenic areas, and significant historic and archeological resources.
- e. To foster mixed land uses and compact development, downtown revitalization, brownfield redevelopment, the enhancement of beauty in public spaces, the diversity and affordability of housing in proximity to places of employment, recreation and commercial development and the integration of all income and age groups.
- f. To provide mobility through transportation choices including improved public transportation and reduced automobile dependency.
- g. To coordinate between state and local government and inter-municipal and regional planning.
- h. To participate in community based planning and collaboration.
- i. To ensure predictability in building and land use codes.
- j. To promote sustainability by strengthening existing and creating new communities which reduce greenhouse gas emissions and do not compromise the needs of future generations, by among other means encouraging broad based public involvement in developing and implementing a community plan and ensuring the governance structure is adequate to sustain its implementation.

The intent of this legislation is to maximize social, economic and environmental benefits from public infrastructure development and minimize unnecessary sprawl. While there may be limited application of the above criteria, the Smart Growth Act requirements apply to all projects funded by State agencies and require that the criteria be considered for funding or project approval purposes.

Appendix B provides guidance on the applicability of each Smart Growth criterion to projects funded with Multi-Modal funds and assists in completing the Smart Growth checklist (see Appendix C).

## SECTION 10. STATE HISTORIC PRESERVATION OFFICE (SHPO) CONSULTATION INSTRUCTIONS

Under the New York State Historic Preservation Act, Section 14.09 and its associated rules and regulations, State funded (in whole or in part) activities that have the potential to affect historic properties, either directly or indirectly, must be evaluated by the State Historic Preservation Office (SHPO) of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). Regulations associated with this law define a Historic and/or Cultural Place or Property as "any building, structure, district, area, site or object including underground and underwater sites, that is of significance in the history, architecture, archeology or culture of this state, its community or the nation."

**The SHPO process does not need to be completed prior to the submission of the Southern Tier Community Revitalization application; however, it MUST be completed prior to the approval by the ESDC Southern Tier Regional Office and closing on the award by the Southern Tier Regional Economic Development Corporation.**

In order to expedite the SHPO review process, the applicant must provide the information outlined below for the appropriate project category. It is recommended that the applicant contact NYSHPO's regional staff associated with its area during the application process. Regional staff contact information can be found at <http://nysparks.state.ny.us>. Click on Historic Preservation; next click on Territorial Assignments. Staff members are listed by the counties they service.

### **Demolition**

For demolition projects on a small scale (fewer than 20 individual buildings), provide the following for each:

- An individual Building/Structure Inventory Form (at <http://nysparks.state.ny.us> under Environmental Review/Forms).
- Color photographs (digital are acceptable). These should depict the building on the exterior (1-3 views), representative interior views if accessible (2-5 views) and at least one image of the building in its streetscape (showing the buildings to either side).
- Map depicting the location of the project.

### **Rehabilitation Projects**

For individual rehabilitation projects, provide the following:

- An individual Building/Structure Inventory Form (at the OPRHP web site under Environmental Review /Forms).
- Color photographs (digital are acceptable). These should depict the building on the exterior (1-3 views), representative interior views if accessible (2-5 views) and at least one image of the building in its streetscape (showing the buildings to either side).
- Map depicting the location of the project.
- Project narrative explaining work to be proposed. For small façade improvement projects, sketch plans and materials descriptions are very helpful. For large scale projects, plans may be requested.

### **New Construction Projects**

For new construction projects, provide the following:

- Color photographs (digital are acceptable). These should depict the lot on which the building is being placed. Additional photographs should depict the setting of the new construction.
- Document what had previously been on the site if demolition project is not part of the proposal.
- Map depicting the location of the project.
- Depiction of proposed construction including a site plan and at least one elevation.

To check for National Register listed properties, historic districts and archaeologically sensitive areas that may include or involve a project, please go to <http://nysparks.state.ny.us>, then select HISTORIC PRESERVATION, then select On Line Resources, then go to the Public GIS Program.

Send SHPO forms directly to the address below. Direct questions to (518) 237-8643.

New York State Historic Preservation Office  
Peebles Island Resource Center  
Delaware Avenue  
Cohoes, NY 12047

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## SECTION 11. SEQR PROCESS INSTRUCTIONS

New York's **State Environmental Quality Review Act (SEQR)** requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. This means these agencies must assess the environmental significance of all actions they have discretion to approve, fund or directly undertake. SEQR requires the agencies to balance the environmental impacts with social and economic factors when deciding to approve or undertake an "**Action**".

If an action is determined not to have significant adverse environmental impacts, a determination of nonsignificance (Negative Declaration) is prepared. If an action is determined to have potentially significant adverse environmental impacts, an "**Environmental Impact Statement**" is required.

The SEQR process uses the EIS to examine ways to avoid or reduce adverse environmental impacts related to a proposed action. This includes an analysis of all reasonable alternatives to the action. The SEQR "**decision making process**" encourages communication among government agencies, project sponsors and the general public.

The law was implemented by regulations which were fully effective on November 1, 1978 and revised effective June 1, 1987 and January 1, 1996.

SEQR applies to all state or local government agencies including districts and special boards and authorities whenever they must approve or fund a privately or publicly sponsored action. It also applies whenever an agency directly undertakes an action. Applicants who seek project approval or funding may be responsible for preparing an EIS.

When actions consist of several steps or sets of activities, the entire set must be considered the action, even if several separate agencies are involved. Segmentation of an action into components for individual review is contrary to the intent of SEQR. No agency involved in the overall action can make a final decision until the SEQR process is completed.

Actions that NEVER require an EIS are Type II actions. Type II actions listed in the statewide and agency SEQR regulations are determined not to have a significant adverse impact on the environment. Some examples:

- rebuilding or replacement of facilities, in kind, on the same site
- minor structures, such as garages, barns or home swimming pools, routine permit and license renewals with no substantial change in permitted activities
- construct or expand either primary or accessory nonresidential structures in an appropriate zone with less than 4,000 square feet of gross floor space construct or expand a single, two or three family residence on approved lot
- routine activities of educational institutions, including expansions of existing facilities by less than 10,000 square feet
- nondiscretionary (ministerial) approvals
- maintenance and repair activities
- emergency actions
- actions of the New York State Legislature and the Governor or of any court enforcement actions
- actions subject to environmental review under the Adirondack Park Agency or Public Service Laws.

For an outline of SEQR's basic requirement and additional information on the SEQR process, see [Guiding the Process](http://www.dec.ny.gov) at <http://www.dec.ny.gov>.

**APPENDIX A - GOALS FOR EQUAL EMPLOYMENT OPPORTUNITY (EEO) PARTICIPATION**

**GOALS FOR MINORITY PARTICIPATION**

<b>COUNTY</b>	<b>%</b>	<b>COUNTY</b>	<b>%</b>	<b>COUNTY</b>	<b>%</b>
Albany .....	3.2	Herkimer .....	2.1	* Richmond	
Allegany.....	6.3	Jefferson .....	2.5	Rockland .....	22.6
Broome .....	1.1	* Kings		St. Lawrence .....	2.5
* Bronx		Lewis .....	2.5	Saratoga .....	3.2
Cattaraugus .....	6.3	Livingston .....	5.3	Schenectady .....	3.2
Cayuga .....	2.5	Madison .....	3.8	Schoharie .....	2.6
Chautauqua .....	6.3	Monroe .....	5.3	Schuyler .....	1.2
Chemung .....	2.2	Montgomery .....	3.2	Seneca .....	5.9
Chenango .....	1.2	Nassau .....	5.8	Steuben .....	1.2
Clinton .....	2.6	* New York		Suffolk .....	5.8
Columbia .....	2.6	Niagara .....	7.7	Sullivan .....	17.0
Cortland .....	2.5	Oneida .....	2.1	Tioga .....	1.1
Delaware .....	1.2	Onondaga .....	3.8	Tompkins .....	1.2
Dutchess .....	6.4	Ontario .....	5.3	Ulster .....	17.0
Erie .....	7.7	Orange .....	17.0	Warren .....	2.6
Essex .....	2.6	Orleans .....	5.3	Washington .....	2.6
Franklin .....	2.5	Oswego .....	3.8	Wayne .....	5.3
Fulton .....	2.6	Otsego .....	1.2	Westchester .....	22.6
Genesee .....	5.9	Putnam .....	22.6	Wyoming .....	6.3
Greene .....	2.6	* Queens		Yates .....	5.9
Hamilton .....	2.6	Rensselaer .....	3.2		

\* The following goal ranges are applicable to the indicated trades in the Counties of Bronx, Kings, New York, Queens and Richmond.

Electricians.....	9.0 to 10.2	Bricklayers.....	13.4 to 15.5
Carpenters .....	27.6 to 32.0	Asbestos workers.....	22.8 to 28.0
Steam fitters .....	12.2 to 13.5	Roofers .....	6.3 to 7.5
Metal lathers.....	24.6 to 25.6	Iron workers (ornamental).....	22.4 to 23.0
Painters.....	26.0 to 28.6	Cement masons.....	23.0 to 27.0
Operating engineers .....	25.6 to 26.0	Glaziers.....	16.0 to 20.0
Plumbers .....	12.0 to 14.5	Plasterers .....	15.8 to 18.0
Iron workers (structural) .....	25.9 to 32.0	Teamsters.....	22.0 to 22.5
Elevator constructors .....	5.5 to 6.5	Boilermakers .....	13.0 to 15.5
		All others .....	16.4 to 17.5

**GOAL FOR PARTICIPATION OF WOMEN**

The last publication of a goal for the participation of women was April 7, 1978 (43 FR 14888, 14900). Pursuant to 41CFR 60-4.6, the 6.9% goal published on that date is hereby made the goal for all contracts and grant agreements, until further notice.

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## **APPENDIX B – GUIDANCE ON THE APPLICABILITY OF SMART GROWTH PUBLIC INFRASTRUCTURE CRITERIA FOR MULTI-MODAL PROJECTS**

The New York State Smart Growth Public Infrastructure Act is intended to maximize the social, economic and environmental benefits from public infrastructure development through minimizing unnecessary costs of sprawl development including environmental degradation, disinvestment in urban and suburban communities and loss of open space induced by the funding of development of new or expanded transportation, sewer and waste water treatment, water, education, housing, and other publically supported infrastructure inconsistent with smart growth infrastructure criteria.

In order to judge how well a proposed infrastructure project complies with the intent of the legislation, the following Smart Growth (SG) Criteria have been developed. Each criterion is followed by a definition which in some cases is taken directly from the Act. In other cases, the definitions are based on commonly held interpretations used by the NYSDOT, other state agencies and/or industry experts.

To complete the SG criteria checklist, applicability to projects funded with Multi-Modal funding and instructions has been provided with each criterion. The guidance contained here is presented as the NYSDOT's best interpretation of the requirements and does not constitute legal opinion. If you disagree with the guidance, please answer each requirement as necessary and provide reasons and documentation as needed.

### **A. To advance projects for the use, maintenance or improvement of existing infrastructure.**

This criterion will apply to many eligible projects supported with Multi-Modal funding that maintain existing infrastructure such as hot mix asphalt overlay, cold asphalt overlay, pavement recycling, widening or realignment of roads, highway embankment stabilization, major rehabilitation of a bridge or culvert.

GUIDANCE: Check "YES" unless the application is for new infrastructure. If you are building new infrastructure, check "NO" and provide justification which explains the need to build new infrastructure instead of using or improving existing infrastructure.

### **B. To advance projects located in municipal centers**

A Municipal Center is an area of concentrated and mixed land use which serves as a center for various activities, including but not limited to, central business districts, main streets, downtown areas, Brownfield Opportunity Areas, downtown areas within Local Waterfront Revitalization Program areas, transit oriented development, Environmental Justice areas and hardship areas.

GUIDANCE: Check the appropriate box and provide any additional relevant information.

### **C. To advance projects in developed areas or areas designated for concentrated infill development in a municipally approved comprehensive land use plan, local waterfront revitalization plan and/or Brownfield opportunity area plan.**

The definition for "developed area" is the same as municipal center. Areas designated for concentrated "infill development" would include new development on vacant, bypassed, and underutilized land within built up areas of existing communities, where infrastructure is already in place.

GUIDANCE: Check the appropriate box and provide any additional relevant information.

### **D. To protect, preserve and enhance the State's resources, including agricultural land, forests, surface and groundwater, air quality, recreation and open space, scenic areas, and significant historic and archeological resources.**

This criterion closely parallels the requirements of the State Environmental Quality Review Act (SEQRA). In most cases, stating that the proposed project is subject to the provisions of SEQRA and will receive the appropriate environmental scrutiny should be sufficient.

GUIDANCE: Check the appropriate box and provide any additional relevant information.

- E. To foster mixed land uses and compact development, downtown revitalization, Brownfield redevelopment, the enhancement of beauty in public spaces, the diversity and affordability of housing in proximity to places of employment, recreation and commercial development and the integration of all income and age groups.**

GUIDANCE: Check the appropriate box and provide any additional relevant information.

- F. To provide mobility through transportation choices including improved public transportation and reduced automobile dependency.**

GUIDANCE: Check the appropriate box and provide any additional relevant information.

- G. To coordinate between state and local government and inter-municipal and regional planning.**

GUIDANCE: Check the appropriate box and provide any additional relevant information.

- H. To participate in community based planning and collaboration.**

GUIDANCE: Check the appropriate box and provide any additional relevant information.

- I. To ensure predictability in building and land use codes.**

Building and land use codes are usually regulated by local government.

GUIDANCE: For most transportation projects, this criterion will not apply and should be answered N/A. However, there could be instances when it does (e.g., changes in driveway access restrictions to a State highway that could prompt local zoning or code changes). Check the appropriate box and provide any additional relevant information.

- J. To promote sustainability by strengthening existing and creating new communities which reduce greenhouse gas emissions and do not compromise the needs of future generations, by among other means encouraging broad based public involvement in developing and implementing a community plan and ensuring the governance structure is adequate to sustain its implementation.**

This criterion is aimed at community level planning, incorporating “green” projects to promote sustainability.

GUIDANCE: Check the appropriate box depending on whether your project promotes sustainability, encourages broad based public involvement, and/or reduces greenhouse gases.

**Appendix C – SAMPLE - Smart Growth Checklist**

<b>A. APPLICANT INFORMATION</b>	
<b>1. APPLICANT'S FULL LEGAL NAME</b>	
<b>2. TITLE OF PROPOSED PROJECT</b>	
<b>3. PROJECT LOCATION (Facility Name):</b>	<b>4. COUNTY:</b>
<b>5. AMOUNT OF STATE GRANT REQUESTED:</b>	
<b>B. SMART GROWTH ASSESSMENT</b>	
<p>For each of the criteria below check:</p> <ul style="list-style-type: none"> <li>Yes – if the project is compliant with the criterion, explain why;</li> <li>No – if impracticable, and explain why in detail; or</li> <li>N/A – if not applicable, and explain why not.</li> </ul> <p>If the rationale for claiming non-applicability or justification for continuing with the project despite non-compliance is longer than the space provided, additional sheets may be attached; please clearly mark which criterion is being answered in the additional sheets.</p>	
<p><b>A. Does the proposed project maintain existing infrastructure?</b></p> <p style="text-align: center;"> <input type="checkbox"/> Yes             <span style="margin-left: 150px;"><input type="checkbox"/> No</span> <span style="margin-left: 150px;"><input type="checkbox"/> N/A</span> </p> <p><i>Explanation:</i></p> <p>-----</p> <p>-----</p>	
<p><b>B. Is the proposed project located in a municipal center?</b></p> <p style="text-align: center;"> <input type="checkbox"/> Yes             <span style="margin-left: 150px;"><input type="checkbox"/> No</span> <span style="margin-left: 150px;"><input type="checkbox"/> N/A</span> </p> <p><i>Explanation:</i></p> <p>-----</p> <p>-----</p>	

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**C. Is the proposed project located in a developed area or an area designated for concentrated infill development in a municipally approved comprehensive land use plan, local waterfront revitalization plan and/or Brownfield opportunity area plan?**

Yes

No

N/A

*Explanation:*

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**D. Will the proposed project protect, preserve and enhance the State's resources, including agricultural land, forests, surface and groundwater, air quality, recreation and open space, scenic areas, and significant historic and archeological resources?**

Yes

No

N/A

*Explanation:*

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**E. Will the proposed project foster mixed land uses and compact development, downtown revitalization, Brownfield redevelopment, the enhancement of beauty in public spaces, the diversity and affordability of housing in proximity to places of employment, recreation and commercial development and the integration of all income and age groups?**

Yes

No

N/A

*Explanation:*

-----  
-----

**F. Will the proposed project provide mobility through transportation choices including improved public transportation and reduced automobile dependency?**

Yes

No

N/A

*Explanation:*

-----  
-----

**G. Will the proposed project involve coordination between state and local government and inter-municipal and regional planning?**

Yes

No

N/A

*Explanation:*

-----  
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**H. Has there been participation in community based planning and collaboration on the project?**

Yes

No

N/A

*Explanation:*

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-----

**I. Will the proposed project ensure predictability in building and land use codes?**

Yes

No

N/A

*Explanation:*

-----  
-----

**J. Will the proposed project promote sustainability by strengthening existing and creating new communities which reduce greenhouse gas emissions and do not compromise the needs of future generations, by among other means encouraging broad based public involvement in developing and implementing a community plan and ensuring the governance structure is adequate to sustain its implementation?**

Yes

No

N/A

*Explanation:*

-----  
-----

**CERTIFICATION**

I hereby certify, to the best of my knowledge, all of the above to be true.

Preparer of This Document:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Responsible Local Official:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**APPENDIX D – SAMPLE – MULTI-MODAL QUALITY ASSURANCE CHECKLIST**

**Note: To be completed the first month of Construction for all projects and repeated as necessary based on risk analysis of Sponsor's abilities and findings documented on this form.**

PIN and Description: \_\_\_\_\_ Sponsor(s): \_\_\_\_\_  
Date: \_\_\_\_\_ Contractor: \_\_\_\_\_  
Sponsor Official (or representative) Present during Review?  YES  NO  
Attendees include: \_\_\_\_\_

**Project Cost and Schedule:**

Award Date: \_\_\_\_\_ Orig. Completion Date: \_\_\_\_\_ Award Amount: \$ \_\_\_\_\_  
Current/Final Contract Amount: \$ \_\_\_\_\_ % Growth: \_\_\_\_\_ % Complete: \_\_\_\_\_  
Amount Paid to Date: \$ \_\_\_\_\_

**Construction Monitoring and Staffing:**

Consultant Inspection (ACTUAL on-site construction inspection staff):  
 Sponsor Forces  Consultant  EIC  Project Manager  Inspectors  
Does the Sponsor conduct independent construction inspections?  YES  NO  
Are the findings of these inspections documented by the Sponsor?  YES  NO

**Project Documentation:**

Is a project daily diary kept and updated?  YES  NO  
Are Daily Work Reports (DWRs) being kept and updated for all work activities?  YES  NO  
Are the DWRs being signed by the inspector AND checked/verified/signed by the EIC?  
 YES  NO  
Are pay items properly documented with quantities and supporting documentation?  
 YES  NO  
Are material test results properly referenced and provided to verify acceptability?  YES  NO  
Are material certifications kept on file?  YES  NO if YES, but kept offsite \_\_\_\_\_  
Additional Details: \_\_\_\_\_

**MWBE/EEO Goals:**

Contract goal for MWBEs: \_\_\_\_\_ % Current MWBE % \_\_\_\_\_ Projected MWBE % \_\_\_\_\_  
EEO Minority Utilization Goal: \_\_\_\_\_ % Current % \_\_\_\_\_ Comments: \_\_\_\_\_  
EEO Women Utilization Goal: 6.9 % Current % \_\_\_\_\_ Comments: \_\_\_\_\_

**Notes:**

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

**Recommendations:**

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

**Review by:** \_\_\_\_\_

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

**Copies to:** \_\_\_\_\_

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**ATTACHMENT E. SAMPLE RESOLUTION BY MUNICIPALITY**

(Multi Modal Program Project)

RESOLUTION NUMBER: \_\_\_\_\_

Authorizing the implementation, and funding in the first instance of the State Multi-Modal Program-aid [and State administered federal program-aid] eligible costs, of a capital project, and appropriating funds therefor.

WHEREAS, a Project for the \_\_\_\_\_, P.I.N. \_\_\_\_\_ (the Project") is eligible for funding [under Title 23 U.S. Code, as amended, and ] New York State=s Multi-Modal Program administered by the NYS Department of Transportation (NYSDOT); and

WHEREAS, the \_\_\_\_\_ of \_\_\_\_\_ desires to advance the Project by making a commitment of advance funding of the non-local share and funding of the full local share of the costs of the Project; and

NOW, THEREFORE, the \_\_\_\_\_ Board, duly convened does hereby

RESOLVE, that the \_\_\_\_\_ Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the \_\_\_\_\_ Board hereby authorizes the \_\_\_\_\_ of \_\_\_\_\_ to pay in the first instance 100% of the federal and non-federal share of the cost of \_\_\_\_\_ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \_\_\_\_\_ is hereby appropriated from \_\_\_\_\_ [or, appropriated pursuant to \_\_\_\_\_] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the \_\_\_\_\_ of \_\_\_\_\_ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the \_\_\_\_\_ thereof, and it is further

RESOLVED, that the \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Multi-Modal Program Funding on behalf of the \_\_\_\_\_ of \_\_\_\_\_ with NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and all Project costs that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, that a Certified Copy of this Resolution be filed with the Commissioner of Transportation of the State of New York by attaching it to any required and/or appropriate Agreements executed in connection with the project between \_\_\_\_\_ and the State of New York; and it is further

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RESOLVED, that this Resolution shall take effect immediately.

STATE OF NEW YORK )

) SS:

COUNTY OF )

I, \_\_\_\_\_, Clerk of \_\_\_\_\_, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office, and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said \_\_\_\_\_ at a meeting duly called and held at the \_\_\_\_\_ on \_\_\_\_\_ by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of \_\_\_\_\_, New York, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_ (Clerk)

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**EXHIBIT A**  
**Work Requirements**

The work of the project shall be performed in accordance with the following requirements:

1. The Sponsor shall comply with all applicable statutes, permits, ordinances, rules and regulations relative to the development of the project including those for projects which may have a significant effect on the environment (e.g. the National Environmental Policy Act (“NEPA”), State Environmental Quality Review Act, and Smart Growth Public Infrastructure Policy Act, significant effect on agricultural districts (Agriculture and Markets Law, Article 25AA), the preservation of historic structures, the quality of water and potential for flood hazards and losses (Environmental Conservation Law, Articles 8 and 36) and certify such compliance in a form acceptable to NYSDOT.
2. Contract work with any person, firm, corporation or agency, either governmental or private, to accomplish the Project will be in accordance with applicable State and Federal law. The contract between the Sponsor and its contractor(s) must comply in every way with applicable laws, rules, and regulations. NYSDOT shall not be a party to any such third party contract between the Sponsor and its contractor(s).
3. For Consultant Services – When a Sponsor manages and administers consultant contracts (see Exhibit C for Consultant Selection Procedures) it must ensure that a complete and acceptable product is received on time, within standards, and within budget.

Sponsor must conduct contract administration activities to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:

- Monitoring project progress and compliance with contract requirements.
  - Receiving, reviewing and assessing reports, plans and other required products.
  - Reviewing invoices and approving payments.
  - Record-keeping and report.
  - Controlling costs and schedule.
  - Identifying changes to the scope of work and preparation of supplemental agreements.
  - Completing performance evaluations.
4. For Construction Projects – Plans, Specifications and Estimates must comply with the following:
    - a. As may be required by NYSDOT and for all federal-aid projects: (i) all construction materials and construction methods shall be in accordance with NYSDOT Standard Specifications; (ii) the Sponsor shall design and construct the Project, or cause it to be designed and constructed, in accordance with standards agreed to by NYSDOT under the supervision of a professional engineer, or architect or other professional as agreed to by NYSDOT. Construction supervision work shall be performed by the Sponsor or by contract.
    - b. As may be required by NYSDOT and for all federal-aid projects, the record sampling program, independent testing and quality assurance procedures applicable to federal-aid Projects performed by the Sponsor shall be in accordance with NYSDOT Standard Specifications whether or not such procedures are required for the receipt of Federal-Aid.
    - c. Any contract plans and specifications submitted to NYSDOT for approval shall be stamped with the seal of a design professional licensed in this State and shall be signed by such professional as approved by NYSDOT. As may be required by NYSDOT and for all federal-aid projects, the plans and specifications shall be filed with NYSDOT.

5. As required by law, construction contract procurements shall be based on competitive bidding, and shall be subject to the approval of NYSDOT, in the following manner:
- a. As may be required by NYSDOT and for all federal-aid projects, prior to advertising for bids, one copy each of the proposed contract, plans, specifications and all related bidding documents shall be submitted to NYSDOT for approval. The bid invitation and the contract to be let shall contain a statement that the contract will be awarded by the Sponsor subject to the approval of NYSDOT.
  - b. Advertisement for competitively bid projects must be placed in newspapers, bulletins, trade journals and/or minority publications *for a minimum of three weeks* to insure free and open competition, unless a different period is approved, in writing, by NYSDOT.
  - c. The following contract award items shall be maintained and submitted to NYSDOT upon request:
    1. Proof of publication of advertising for bids.
    2. Certification of all bids received with tabulation of up to six lowest.
    3. Copy of the proposal signed by the bidder selected for award of the contract.
    4. If the award is not to be made to the lowest bidder, a statement of explanation.
    5. Bid amount broken down by fiscal shares.
    6. Competitive bidding statement.
    7. Recommendations for award.
    8. Analysis of low bid, including identification of unbalanced bids.
    9. Certification of quantities of items bid 25% or greater over the estimate.
    10. Non-collusive Bidding Certification.
    11. Bidder Debarment History Certification.
    12. For contracts over \$100,000 or as otherwise required (For Federal Aid projects, defer to DBE requirements):
      - Schedule of proposed MWBE participation; and
      - NYS Uniform Contracting Questionnaire (CCA-1).
6. Force Account Payments – a method of performing construction work using the Sponsor’s employees and pre-purchased/delivered materials. The Sponsor must keep supporting documentation for personnel service and non-personnel service costs including the following material:

Payroll Time Sheets – The employee’s approval and the employee’s supervisor’s approval is required on each time sheet. These approvals attest to the employee’s assignment and hours worked on the projects indicated, and demonstrate that periods of paid leave are charged to appropriate leave categories or accounts. The individual employee’s paid leave time (i.e. holidays, vacation, etc.) cannot be charged to a PIN on a time sheet. Leave time charges are allocated to projects based on an approved methodology. Time sheets must correspond with applicable payroll records and amounts paid for each employee based on a comprehensive payroll/labor cost distribution system.

Non-Personnel Service Costs – Copies of invoices or documentation showing amounts and notations, as may be required to clearly identify the purpose of each item, must be retained and reflect a job cost number for the project.

Project Detail Cost Ledgers – For audit purposes, a Project Detail Cost Ledger, which is reconciled to the Sponsor’s General Ledger, is required as the official accounting record of the Sponsor to record and accumulate all cost transactions applicable to the project.

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**EXHIBIT B**  
**Record Keeping Guidelines**

The following are the record keeping requirements for State reimbursement of Multi-Modal Funding-eligible Project costs:

1. *Project Account Cost Classifications.* Sponsor shall establish and maintain, in accordance with requirements established by NYSDOT and approved by the State Comptroller, separate accounts within its existing accounting system or set up independently, to be known as the Project Account. Sponsor will segregate and group Project costs so that Sponsor can furnish on reasonable notice, cost information in the following cost classifications:
  - (a) Purchase price or value of land;
  - (b) Incidental costs of land acquisition;
  - (c) Costs of contract construction;
  - (d) Engineering costs of plans and designs;
  - (e) Engineering costs of supervision and inspection;
  - (f) Other administrative costs;
  - (g) Costs of equipment acquisition;
  - (h) Miscellaneous cost not otherwise included.
2. *Project Account Ledger.* For audit purposes, the Project Account Ledger will record and accumulate all cost transactions applicable to the Project. All costs recorded in the Project Account should be for 100% of such costs without reduction for the non-Federal share, and for any applicable Federal share.

Every transaction listed on the Project Account Ledger will be recorded in the same level of detail as the total from each supporting source document (no summarization of source documents amounts). All transactions listed on the detail ledger will identify the source document for the transaction by referencing contract/estimate numbers, vendor or payee numbers for vouchers, etc. The applicable accounting system record date will also be included for each transaction.

The ledgers for the Project will include totals for all transactions recorded during: 1) each accounting month, (2) the fiscal year of the Sponsor, and (3) for the Project life to date.

3. *Eligible Project Costs.* Eligible Project Costs shall consist of costs within the Project Account Cost Classifications that are approved by NYSDOT within a Project Budget. The Project Account shall be charged all Eligible Project Costs actually paid for the Project. All costs charged to the Project Account, including any approved services contributed by the Sponsor or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail that nature and propriety of the charges, in accordance with the requirements of NYSDOT as approved by the State Comptroller.
4. *Source Documents.* The Sponsor will retain an official copy of all original source documents for transactions listed on the Project Detail Ledger. These will be systematically filed in an order that will facilitate retrieval. All expenditure vouchers or other cost documents must also be traceable through the Sponsor's disbursement process to copies of warrants or checks issued and to corresponding documentation maintained in the official accounting records of the Sponsor's central finance office.

5. *Checks, Orders and Vouchers.* Any check or order drawn by the Sponsor with respect to any item which is or will be chargeable against the Project Account will be drawn only in accordance with a properly signed voucher then on file in the office of the Sponsor stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or part to the Project shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all other such documents.
  
6. *Audit/Disallowances.* Project Costs claimed or previously reimbursed which cannot be supported as outlined herein, are subject to audit disallowance by NYSDOT, the State Comptroller or Officer of the Inspector General. Amounts paid to the Sponsor by NYSDOT which are subsequently disallowed are subject to recovery by NYSDOT from the Sponsor, or at the option of the State, will be offset or reduced against current or future reimbursement claims on the same or other projects.

**EXHIBIT C**  
**Consultant Selection Procedures**

Unless alternative procedures are approved by NYSDOT, the municipality/Sponsor will employ the following procedures for the selection of any consultant to perform work on their project.

The procedures listed below apply to the procurement of professional services. As shown, differentiations are made at certain stages between architectural/engineering/land surveying (collectively referred to as A/E@) services, and other (Anon-A/E@) professional services. In addition, the procedures outlined for A/E services only apply to those services with a total dollar value greater than \$25,000. For A/E services valued less than \$25,000, the non-A/E procedures may be followed. If there is a question as to which procedure is applicable for a given project, the municipality/Sponsor should contact the Local Consultant Selection Coordinator, Contract Management Bureau, NYSDOT, for guidance prior to the initiation of procurement activities.

For illustrative purposes, the procedures below assign functional responsibilities and titles for the various steps. The municipality/Sponsor may substitute their own functional equivalents for these titles, but no substantive changes in the procedure may be made without prior written approval from NYSDOT.

ACTION/TASK PERFORMED BY	ACTION/TASK
Municipality/Sponsor Requiring Consultant	1. Assign a Project Manager (PM) to coordinate and oversee all procurement and consultant activities.
Project Manager	2. Prepare a service contract requirement package. The package should include: (a) a scope of services describing in detail the services to be performed; (b) a schedule for completion of critical tasks in the project; (c) an estimate of the value of the services to be provided, including anticipated staff hours, overhead, profit, and non-salary costs; (d) all other technical data that may be included in the solicitation for professional services, such as minimum qualifications or requirements, maps, plans, etc. 3. Designate at least three (3) individuals to serve on a consultant selection committee. Committee members should be familiar with the project and/or knowledgeable in the field of professional services being solicited. 4. Assign a contract number to the assigned contract, (if available, this can be the Project Identification Number (PIN) assigned to the project by NYSDOT).

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Project Manager

5. As needed, Contact NYSDOT to discuss proposed procurement methodology to insure that proper procedures are understood for the type of services to be procured.

Project Manager and  
Selection Committee

6. Discuss desirable qualifications of consultant, and establish selection criteria to be utilized in the evaluation of consultant proposals or Expressions of Interest (EOI=s). Establish relative weights for each criterion based upon its relative importance to the committee. Examples of commonly used selection criteria include: experience of firm with similar projects; experience of proposed staff with similar projects; experience with municipality/Sponsor; reasonableness of proposed approach and schedule; familiarity with area; etc. A/E PROCUREMENTS MUST BE AWARDED ON A "HIGHEST QUALIFIED" BASIS. THEREFORE THE COSTS AND PRICING OF THESE SERVICES CANNOT BE USED AS A SELECTION CONSIDERATION FOR A/E PROCUREMENTS WITH A VALUE OVER \$25,000. COST AND PRICING INFORMATION CAN BE UTILIZED FOR NON-A/E PROCUREMENTS AND FOR A/E PROCUREMENTS WITH A CONTRACT VALUE LESS THAN \$25,000.

Project Manager

7. Establish Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) participation goals, as appropriate.

8. FOR A/E PROJECTS

Prepare a Request for Qualifications (RFQ) package to be sent to all prospective consultants. The RFQ must include the following: (a) a project identification number and indication that the project is federally funded; (b) a statement of the work to be performed; (c) the anticipated project schedule; (d) an estimate of the total project cost; (e) selection criteria, listed in order of decreasing importance (do NOT include criteria weights); (f) DBE requirements, if any; (g) material to be submitted in the Expression of Interest and desired format of submission; (h) number of copies of EOI to be sent, EOI due date, and address where EOIs should be mailed; (i) name, address, and phone number of contact person; (j) any additional project information that may be useful to the consultants in their EOI preparation (i.e.: availability of plans or maps for inspection, time and date of any planned site tours, etc.); (k) a statement indicating that responding firms must be licensed to practice engineering in New York State. **THERE MUST NOT BE ANY REQUEST FOR COST OR PRICING INFORMATION IN THE RFQ.**

8. FOR NON-A/E PROJECTS

Prepare a Request for Proposals (RFP) package to be sent to all prospective consultants. The RFP must include the following: (a) a project identification number and indication that the project is federally funded; (b) a statement of the work to be performed; (c) the anticipated project schedule; (d) an estimate of the total project cost; (e) selection criteria, listed in order of decreasing importance (do NOT include criteria weights); (f) DBE requirements, if any; (g) material to be submitted in the proposal and desired format of submission; (h) number of copies of proposals to be sent, proposal due date, and address where EOIs should be mailed; (i) name, address, and phone number of contact person; (j) any additional project information that may be useful to the consultants in their proposal preparation (i.e.: availability of plans or maps for inspection, time and date of any planned site tours, etc.); (k) a cost proposal consisting of a lump sum/specific hourly rate for performing the work as outlined in the RFP. Each cost proposal should contain the following elements: (1) Salaries - A salary schedule listing descriptive job titles for the staff to be assigned to

the project and their present hourly rates; (2) Non-Salary Costs - A direct non-salary cost schedule shall list all out-of-pocket expenses expected to be incurred during the performance of the project. Travel, meals, and lodging shall be limited to the prevailing maximum rates as established by the NYS Comptroller, (available from NYSDOT Contract Management Bureau); (3) Cost Summary - A final schedule that summarizes the direct labor, overhead rate, fixed fee (profit), and direct non-salary costs for the project.

Project Manager

9. Make all necessary arrangements for advertisement of the RFQ/RFP. Advertisements must be for one day in the New York State Contract Reporter, except for projects located in the metropolitan New York City area, which must be advertised in the New York State Contract Reporter AND/OR the New York City Record. It is at the municipality/Sponsor's discretion whether to advertise in local newspapers or publications in addition to the required publications.

If the RFQ/RFP is of short length (less than two pages), the entire request can be placed in the advertisement. Proposers will respond directly to the advertisement to the municipality/Sponsor with their EOIs or proposals. If the RFQ/RFP contains more information than is practical to place in an advertisement, the advertisement should ask for interested firms to submit a one page Letter of Interest (LOI) to the municipality/Sponsor. Firms sending a LOI in response to the advertisement will then be sent a copy of the RFQ/RFP when available. Advertisements requesting LOIs should contain the following information: (a) a project identification number; (b) an indication of the funding sources; (c) a brief description of the project scope; (d) an estimate of total project cost; (e) anticipated project start and completion dates; (f) name, address, and phone number of contact person; (g) LOI due date with a statement informing interested firms that those submitting an LOI will receive a copy of the RFQ/RFP.

10. Issue RFQ/RFP to all responding firms (if requesting Letters of Interest) and any other firms that otherwise request a copy. No copies should be advertised due date of the LOI=s.
11. Respond to questions from prospective proposers regarding clarifications, omissions, etc.
12. If as a result of such questions any part of the RFP/RFQ requires clarification, change, or augmentation, issue an addendum to the RFP/RFQ to ALL respondents and, if necessary, extend the response deadline appropriately.
13. If applicable, coordinate site visits for prospective proposers. Arrange for appropriate safety personnel to be present as necessary (i.e.: flaggers).
14. Make available any plans, maps, reports, and other written material pertinent to the project referred to in the RFP/RFQ for viewing by all interested proposers.
15. Receive all proposals/EOI=s and review for proper format and completeness.
16. Prepare score sheets for use by selection committee in their evaluation of proposals/EOI=s. Score sheets should list all evaluation criteria and summarize the applicable scoring methodology. Generally, scoring should be on a scale of 0 -10 for each evaluation factor,, using whole numbers only.
17. Distribute score sheets and one copy of each proposal/EOI for each firm to all committee members and establish a date for the selection committee to meet and discuss their reviews and scores.

Selection Committee

18. FOR A/E PROJECTS

Each committee member individually reviews each Expression of Interest received and assigns scores for each selection factor. Upon completion of all reviews, returns score sheets to Project Manager for tabulation of rankings.

18. FOR OTHER PROJECTS

Each committee member individually reviews each proposal received and assigns scores for each selection factor. Upon completion of all reviews, returns score sheets to Project Manager for tabulation of rankings

Project Manager	19.	Tabulates scores from all committee members (multiplying scores by their factor weights) Summarizes composite scores in rank order and returns a summary of scoring to committee members for discussion at committee meeting.	19.	Tabulates scores from all committee members. (multiplying scores by factor weights). Summarizes composite scores in rank order and returns a summary of scores to committee members for discussion at committee meeting. Also, summarizes pricing information for all firms and distributes to committee members
Selection Committee	20.	<b>FOR A/E PROJECTS</b>  Each committee member reviews their scores and the overall rankings. Committee meets to discuss the scores for the top ranked firms. Members should discuss the strengths and weaknesses of each of the top firms, and revise their scores as appropriate as a result of discussions. At the conclusion of the meeting, all final scores are returned to the Project Manager for tabulation.	20.	<b>FOR OTHER PROJECTS</b>  Each committee member reviews their scores and the overall rankings. Committee meets to identify those firms that are technically qualified to perform project work. Those firms that are determined to be qualified have their cost information reviewed. Discussions should be held amongst the committee members to determine which firm(s) offers the best combination of technical merit and cost. Members have the opportunity to revise their scores as a result of discussions.

Project Manager

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|  | <p>21. Tabulates final scores. Contacts NYS NYSDOT of Transportation for approval of recommended firm (go to step 24) <u>OR</u> invites top ranked firms to prepare oral presentations. Firms should be provided with a list of questions that they will be expected to answer at the oral presentation as well as the factors the committee will be using to evaluate their presentations. <i>The use of oral presentations is optional for all projects and at the discretion of the locality/Sponsor.</i></p> | <p>21. Contacts NYS NYSDOT of Transportation for approval of recommended firm (go to step 24) <u>OR</u> invites top ranked firms to prepare oral presentations. firms should be provided with a list of questions that they will be expected to answer at the oral presentation as well as the factors the committee will be using to evaluate their presentations. <i>The use of oral presentations is optional for all projects and at the discretion of the locality/Sponsor.</i></p> |
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Selection Committee  
*(if oral presentations are to be held)*

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|  | <p>22. Attends oral presentations and evaluates each firm based on the predetermined factors. Committee members should take written notes for each firm, highlighting the relative strengths and weaknesses of each firm in terms of the evaluation factors.</p> | <p>22. Attends oral presentations and evaluates each firm based on the predetermined factors. Committee members should take written notes for each firm, highlighting the relative strengths and weaknesses of each firm in terms of the evaluation factors and cost considerations.</p> |
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Project Manager *(if oral presentations were held)*

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|  | <p>23. Summarizes committee comments and recommendation.</p> |
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Project Manager

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|  | <p>24. Contacts winning firm to initiate contract negotiations and informs all other proposers upon successful negotiations that they have not been selected. If unable to reach agreement with the first firm, end negotiations with notification. Repeat with second firm.</p> |
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