

**NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS
RFP0138 - REQUEST FOR PROPOSALS**

for State Assistance Payments for

**ROUND 14
FARMLAND PROTECTION IMPLEMENTATION GRANTS PROGRAM**

2016

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TIMELINE

Release Request For Proposals (RFP)	early March 2016
Deadline for Questions	early April 2016
Final Questions and Answers Posted	early April 2016
Deadline for Proposals	mid-June 2016
Announce and Award Grants	mid-September 2016

I. PROPOSAL SUBMISSION REQUIREMENTS

Proposals for funding under the Round 14 Farmland Protection Implementation Grants (FPIG) Program must conform to the format provided in the Grants Gateway. **PROPOSALS MUST BE SUBMITTED via the Grants Gateway by 4:30 p.m. local time on June 13, 2016** to be considered for funding. Applicants, and not computers or servers, are responsible for the timely submission of proposals. *Proposals received after the scheduled date and time will not be accepted.* Faxed, mailed or e-mailed proposals will not be accepted.

II. QUESTIONS AND ANSWERS

All questions about requirements contained in this RFP must be submitted in writing (via mail or delivery service or by facsimile or e-mail) and must be received at the Department by noon local time, April 1, 2016. Please submit all written questions to:

David Behm
NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, New York 12235
Fax: (518) 457-3412
E-mail: david.behm@agriculture.ny.gov

To the degree possible, each inquiry should cite the RFP title, section and paragraph to which it refers. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the program which are received from potential applicants, and answers to those questions, as well as any changes, additions, or deletions to the RFP, will be posted by April 8, 2016, in the "Funding Opportunities" section of the **Department's** web site, www.agriculture.ny.gov under the heading "Frequently Asked Questions," along with the electronic version of this RFP. **Applicants are urged to check the Department's web site frequently for notices of any changes, additions or deletions to the RFP.** If you are unable to access the web site, please contact David Behm to arrange for alternate delivery. All questions and answers shall become a formal addendum to the RFP.

III. GENERAL PROGRAM INFORMATION

A. Intent of Request for Proposals (RFP)

The New York State Department of Agriculture and Markets (the "**Department**") invites proposals for financial assistance to implement certain farmland protection implementation activities described in or otherwise consistent with agricultural and farmland protection plans that have been adopted by counties or municipalities.

This grant opportunity is being offered to enable eligible applicants to specifically implement **Conservation Easement Projects** with owners of viable agricultural lands that are at risk of conversion to non-farm uses. Therefore, the following activities would be possible under this RFP subject to the stipulations described elsewhere in this RFP (and summarized in "Match Contribution Requirements and Associated Stipulations" table in Section V D.):

- Perpetual conservation easement resulting from the sale of development rights associated with a Purchase of Development Rights (PDR) transaction; **or**
- Perpetual conservation easement resulting from the sale of development rights associated with a Transfer of Development Rights (TDR) transaction; **or**
- Perpetual conservation easement resulting from the donation of the full value of development rights.

B. Background

Article 25-AAA of the Agriculture and Markets Law authorizes the Commissioner to maintain a State agricultural and farmland protection program to provide financial and technical assistance, within funds available, to assist locally-led efforts in developing agricultural and farmland protection plans and in the implementation of such plans.

C. Purpose

The purpose of this funding opportunity is to provide State financial assistance to enable local initiatives that are intended to maintain the economic viability of the State's agricultural industry and its supporting land base and to protect the environmental and landscape preservation values associated with agriculture.

IV. ELIGIBILITY

A. Applicant Eligibility

New York State vendors must register in the Grants Gateway to become established users in the system. Therefore, **each entity that intends to submit a proposal in response to this RFP must be registered.** If your entity has not registered prior to the submission of your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP. Furthermore, **all not-for-profit conservation organizations that intend to submit a proposal must also be pre-qualified prior to the submission of your proposal(s).** If your not-for-profit conservation organization has not pre-qualified with the Division of Budget by the time you submit your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP.

Proposals for funding will only be accepted from:

- (1) any county agricultural and farmland protection board in a county with an approved county plan developed pursuant to Section 324 of Article 25-AAA of the Agriculture and Markets Law; **OR**
- (2) any municipality which has in place a local farmland protection plan, provided the proposed project is endorsed for funding in a letter provided by the agricultural and farmland protection board for the county in which the municipality is located; **OR**
- (3) any not-for-profit conservation organization that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner, provided the proposed project is endorsed for funding in a letter provided by the county agricultural and farmland protection board for the county in which the proposed project is located and the proposed project must also be endorsed for

funding in a letter provided by the municipality in which the proposed project is located;
OR

- (4) any soil and water conservation district that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner, provided the proposed project is endorsed for funding in a letter provided by the county agricultural and farmland protection board for the county in which the proposed project is located and the proposed project must also be endorsed for funding in a letter provided by the municipality in which the proposed project is located.

For purposes of this section, a “local farmland protection plan” may include a town, village or city comprehensive plan as defined in the Town Law, the Village Law, or General City Law, if such plan includes an element which considers agricultural uses and needs; an open space plan adopted by the municipality which presents strategies for the preservation of viable agricultural land; or any other formal agricultural and farmland protection planning document *provided that if* the plan was developed on or after January 1, 2006, it must comply with section 324-a of Article 25-AAA of the Agriculture and Markets Law. **Any applicant intending to submit a proposal for the first time for a proposed farmland protection implementation project is urged to contact the Department regarding the applicant’s eligibility prior to submitting its proposal. Any proposal submitted by an ineligible applicant shall not be considered for funding under this RFP.**

The applicant shall be the entity that is proposing the project. In other words, the Grantee (or “holder”) of the conservation easement must be the applicant of the proposal for that **Conservation Easement Project**. Furthermore, each such entity shall be the Lead Applicant for any joint proposal that is submitted for funding consideration under this RFP.

B. Project Eligibility

Projects eligible for an award through this RFP are limited only to those associated with viable agricultural land that will result in a perpetual conservation easement.

To be eligible for funding under this RFP, the location of each proposed project must, at a minimum, be consistent with the location of any land or areas proposed to be protected in a county’s or a municipality’s agricultural and farmland protection plan (i.e., pursuant to Section 324 or Section 324-a, as applicable, of Article 25-AAA of the Agriculture and Markets Law). Furthermore, each proposed project must be endorsed for funding in a letter provided by the agricultural and farmland protection board for the county in which the proposed project is located.

Each proposed project shall involve only **one** (1) Farm Operation (as that term is defined in Section 301 of Article 25-AA of the Agriculture and Markets Law). However, any given Farm Operation may be the subject of more than one proposal provided that requested funding does not overlap the same land. In other words, it is acceptable to segment the lands comprising a single Farm Operation into two or more distinct proposals.

Any proposal involving more than one (1) Farm Operation shall not be considered for funding under this RFP.

Publicly owned lands or lands subject to an existing conservation easement (regardless of its duration) are not eligible under this RFP.

V. DETAILED SPECIFICATIONS AND DELIVERABLES OF THE FUNDING AGREEMENT

A. Anticipated Time Frames

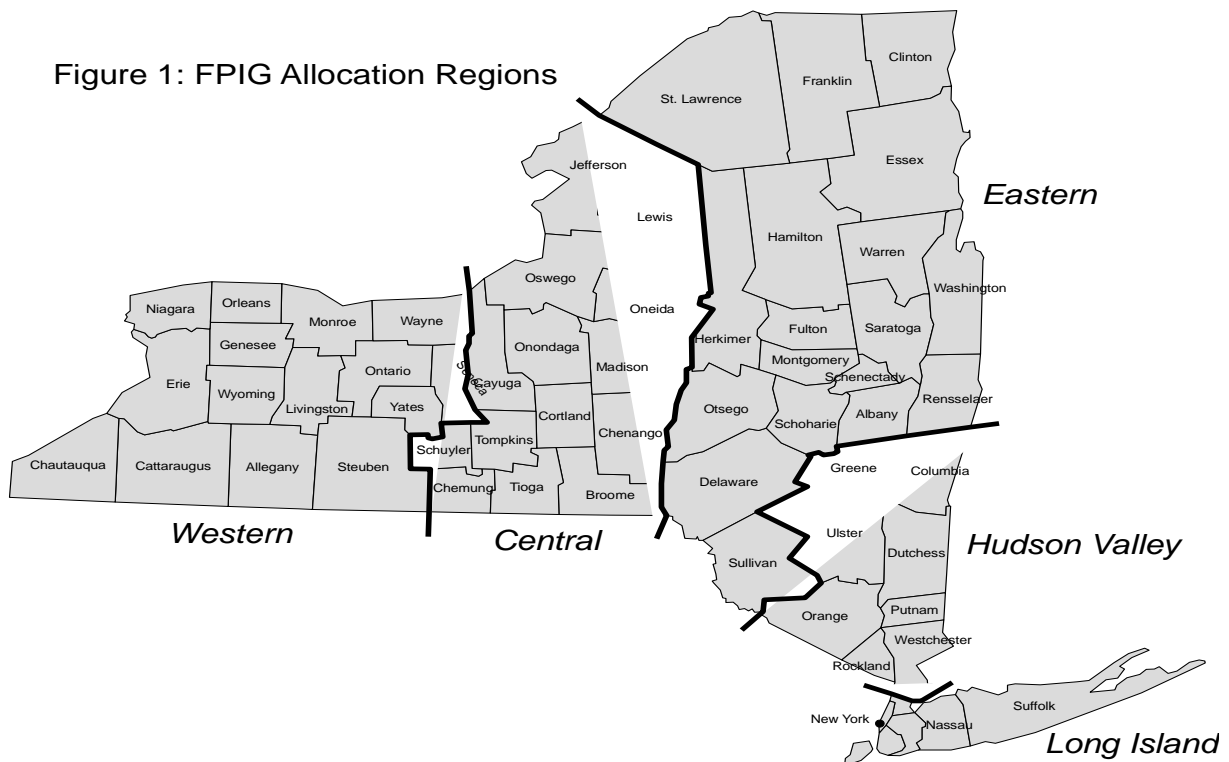
The start date for funding agreements (i.e., those FPIG contracts between the State and the awarded applicant entity) awarded through this RFP is anticipated to be on or before September 16, 2016, and awarded projects are expected to be completed within four (4) years, subject to the milestones/deliverables stipulated therein. Therefore, and as an example, if your project is awarded, the resulting funding agreement would have a contract period of approximately September 16, 2016 – September 15, 2020.

B. Available Funds

The Department has made available \$26 million for awards under this RFP as follows:

- Up to \$24.7 million for **Conservation Easement Projects** shall be allocated equally for each of five (5) regions across the state (see Figure 1 below); and
- Up to \$1.3 million for **Conservation Easement Projects** as potential contingency awards as authorized (see “Contingency Awards” of Section VIII, “Proposal Review and Awarding of Successful Proposals”).

Figure 1: FPIG Allocation Regions



The following general limitations apply to all proposals:

- No award shall exceed \$2.0 million, but any project seeking Federal farmland protection funding shall not be awarded more than \$500,000 of State financial assistance.
- State contribution toward easement stewardship shall be \$10,000 per easement, subject to the maximum award amounts noted immediately above.

C. Project Costs

(1) Eligible Project Costs

The following items are **eligible project costs** associated with **Conservation Easement Projects**:

- (1) value of the development rights being acquired, provided such value associated with any perpetual conservation easement is from an appraisal deemed acceptable to the Department; and
- (2) transactional costs acceptable to the Department, provided those are limited to the following –
 - title reports (including associated continuation fees until such time that title insurance is purchased);
 - title insurance;
 - property surveys;
 - appraisals;
 - applicant's legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, prepare title curatives;
 - applicant's and other project partners' staff time to negotiate/close the conservation easement transaction, manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - preparation of a baseline documentation report regarding the proposed Conservation Easement Project;
 - recording fees;
 - easement stewardship fee; and
 - conservation easement defense liability insurance.

(2) Ineligible Project Costs

Any costs incurred prior to the start date of a funding agreement shall not be deemed eligible costs under this RFP. Furthermore, none of the following are eligible project costs and no State funds shall be used toward any of the following costs:

- landowner's cost for legal or financial advisors;
- state or local real estate transfer taxes;
- any fee or other contribution deposited to a legal defense fund other than a conservation easement defense liability insurance policy;
- applicant's or project partners' indirect or overhead costs (i.e., office rent, office utilities, and any other cost that is indirectly incurred by the applicant or a project partner through employment of its respective staff or that is indirectly incurred by the applicant or a project partner due to consultant(s) or other contracted help that will be involved with the proposed project); and
- Option to Purchase at Agricultural Value (OPAV) or Preemptive Purchase Right (PPR) or Right of First Refusal (RFR) or similar provision contained in any document (e.g., purchase agreement, conservation easement, etc.) associated with any project awarded through this RFP.

D. Match Requirements

The following general requirements apply to **all** proposals:

- Any governmental entity providing a cash contribution must provide a letter from an authorized representative formally acknowledging its proposed contribution¹.
- As applicable, any other entity (including participating landowners) providing a local cash match must provide a letter from an authorized representative formally acknowledging the amount of its contribution.
- None of the local cash contribution(s) shall be from a State source of financial assistance.
- Cash and in-kind match must be for items that are eligible costs and may be provided by the applicant or other supporters of the project.
- Local match may include in-kind contributions, but the amount of in-kind contributions shall be limited to no more than 80% of total administrative costs of the proposed project, or \$25,000, whichever is less.

¹ If the applicant is a governmental entity and its proposal receives an award through this RFP, that governmental entity must submit a copy of a resolution from its governing body formally obligating its cash match before the State will approve a funding agreement with that successful applicant.

Furthermore, there are particular match stipulations for each of the differing levels of State contribution awarded as noted below and in the table on the next page.

(1) Proposals seeking a State contribution of 87.5% of total eligible project costs:

- Landowner shall **exclusively** provide the local match contribution of 12.5% of total eligible project costs. No other source shall provide any cash or an in-kind contribution of any amount toward the proposed project.

(2) Proposals seeking a State contribution of **up to** 75% of total eligible project costs:

- Local match contribution shall be at least 25% of total eligible project costs, which must include a cash match of 5% of total project costs or \$5,000, whichever amount is less. However, this local cash match requirement is waived whenever a participating landowner donates the *full value* of development rights for the conservation easement(s) comprising the entire proposed project.
- None of the local cash contribution(s) shall be from any Federal source of financial assistance.
- Local cash contribution may be provided, but only in part, by the participating landowner(s).

(3) Proposals seeking a State contribution of **up to** 25% of easement purchase price plus eligible transaction costs:

- Local match contribution must cover **all** of the remaining eligible total project costs and may be provided, but only in part, by the participating landowner(s).
- Applicant must obtain Federal farmland protection funding (e.g., Agricultural Conservation Easement Program administered by U.S. Department of Agriculture-Natural Resources Conservation Service; Readiness and Environmental Protection Integration Program administered by U.S. Department of Defense; or any other Federal source of funding that may be used on farmland protection implementation activities) within the funding agreement term or prior to notification of a State award associated with this RFP. Such Federal farmland protection funding awarded to the applicant shall be deemed part of the required local match contribution.

Match Contribution Requirements and Associated Stipulations for Conservation Easement Projects					
Maximum State Award	Maximum State Contribution	Other "Caps" on State Contribution	Minimum Local Match		Other State Requirements
			%	Cash	
\$2,000,000	87.5% of total project costs	\$10,000 per easement toward easement stewardship	12.5% of total project costs <i>(solely from landowner)</i>	None specified	Use of Department conservation easement
\$2,000,000	75.0% of total project costs	\$10,000 per easement toward easement stewardship	25.0% of total project costs	5.0% of total project costs or \$5,000, whichever is less, and entire amount shall not be provided by landowner <i>(waived if development rights value fully donated)</i>	Use of Department-required conservation easement provisions provided remainder of conservation easement "shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML"
\$500,000	25.0% of purchase price plus all transaction costs	\$10,000 per easement toward easement stewardship	remainder of all project costs	Federal farmland protection grant award	Purpose of conservation easement will (minimally) ensure that the land remains available for agricultural use

E. Policy Guidance

The **Department** is providing the following guidance documents to assist in the compilation of a grant proposal and all required project deliverables (resulting from an awarded project) pursuant to this RFP:

- [“Farmland Protection and Agricultural Districts \(GD#1\)”](#)²;
- [“Developing a Land Plan for an Agricultural Conservation Easement \(GD#3\)”](#)³;
- [“Conservation Easements – Title Curative Letter”](#);
- [“2016 Model Agricultural Conservation Easement”](#) (only for easement projects awarded a State contribution of 87.5% of eligible total project costs);
- [“Farmland Protection Implementation Grants \(FPIG\) Program Required Easement Provisions \(2016 version\)”](#) (only for easement projects awarded a State contribution of up to 75% of eligible total project costs, EXCEPT those awarded 25% of easement purchase price plus all transaction costs); **AND**
- [“Appraisals for Conservation Easements \(GD#6\)”](#).

² Please note page 2 of GD#1: “The critical right to farm protections of the Agricultural Districts Law (Article 25-AA including Sections 303, 305 and 308) guide NYSDAM in its administration of the farmland protection program and in its review of various aspects of farmland protection projects including land use planning and conservation easement drafting. **Consequently, NYSDAM will review proposed easement language to determine that proposed projects are not *unreasonably restrictive of farm operations.*”**

³ Please note page 1 of GD#3: “The land plan and conservation easement should:

- Provide opportunities for active, economically viable Farm Operations on protected farmland now and in the future.
- Establish adequate flexibility for farmers operating on protected farms to grow, adapt and change to new market conditions.
- Create opportunities for farmers to own protected farms with the ability to develop housing for farm families and farm labor, agricultural buildings and structures that support rural businesses compatible with agriculture.
- Reduce the likelihood of conflicts between farmers operating on protected farms and their non-farm neighbors.
- Facilitate the protection of natural resources in a manner compatible with commercial Farm Operations, consistent with the provisions of the Agricultural Districts Law and reasonably within the stewardship capacity of the conservation easement holder.

Ultimately, the right to farm protections of Article 25-AA of the Agricultural Districts Law (including Sections 303, 305 and 308) will guide NYSDAM in its review of various aspects of farmland protection projects including land planning and conservation easement drafting (See Guidance Document #1, “Farmland Protection and Agricultural Districts”).”

F. Project Deliverables

Preliminary Review

All Conservation Easement Projects must receive the Department's preliminary approval before proceeding to compile a complete project file. The project deliverables required for a preliminary review are described in Attachment A-1 of the sample funding agreement, attached to this RFP as Appendix F. Those project deliverables should be submitted within three (3) months of Department notification to the successful applicant of state approval of the funding agreement.

Preliminary review of the proposed project may include the Department's Farmland Protection Program Manager conducting a site visit with the Grantee and participating landowner(s) to review the proposed site plan. If the site visit reveals information or landscape conditions that are either inconsistent with the Department's guidance documents or deemed otherwise unacceptable to the Department **and** any such matters cannot be resolved to the satisfaction of the Department, the Department may terminate the funding agreement and withdraw the State award.

Project File

After the Department has given its preliminary approval of the proposed **Conservation Easement Project**, the local project manager should submit to the **Department** (within eighteen (18) months of Department notification to the successful applicant of state approval of the funding agreement) a compilation of required project deliverables (referred to as a project file) as described in Attachment A-1 of the sample funding agreement, attached to this RFP as Appendix F.

Final Report

Within one hundred twenty (120) calendar days of receipt interim payment #2, the local project manager must submit to the Department a compilation of required project deliverables (referred to as a final report) as described in Attachment A-1 of the sample funding agreement, attached to this RFP as Appendix F.

VI. ADMINISTRATIVE REQUIREMENTS AND RELATED CONSIDERATIONS

A. Issuing Agency

This RFP is issued by the New York State Department of Agriculture and Markets. The **Department** is responsible for the requirements specified herein and for the evaluation of completeness of all proposals.

B. The Department's Reserved Rights

The **Department** reserves the right to:

1. Reject any or all proposals received in response to this RFP.
2. Withdraw the RFP at any time, at the **Department's** sole discretion.
3. Make an award under the RFP in whole or part.
4. Award more than one funding agreement to the same successful applicant resulting from this RFP.
5. Disqualify any applicant whose conduct and/or proposal fails to conform to the requirements of the RFP.
6. Seek clarifications and revisions of proposals.
7. Amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available and with appropriate written notice to all potential applicants by posting amendments on the **Department** web site (www.agriculture.ny.gov) and on the New York State Grants Gateway (https://grantsgateway.ny.gov/IntelliGrants_NYSSGG/module/nysgg/goportal.aspx).
8. Direct applicants to submit proposal modifications addressing subsequent RFP amendments.
9. Change any of the scheduled dates.
10. Waive any requirements that are not material.
11. Waive or modify minor irregularities in proposals received after prior notification to the applicant.
12. Require clarification at any time during the grant process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the RFP.
13. Negotiate with successful applicants any matter within the scope of the RFP in the best interests of the State.
14. Eliminate any mandatory, non-material specifications with which all applicants cannot comply.
15. The value of in-kind services must be reasonable and documented to the satisfaction of the Department, and such value and documentation are subject to adjustment by the Department.
16. Make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant.

C. Term of Funding Agreement

Proposed **Conservation Easement Projects** should be completed within four (4) years from the start date of the funding agreement.

Continued funding throughout this period is contingent upon satisfactory contractor performance and availability of funds. The **Department** also reserves the right to revise the funding amounts for awards as necessary due to changes in the availability of funds.

D. Payment & Reporting Requirements of Successful Applicants

Each funding agreement will contain a table of milestones, which shall include a schedule of payments authorized under that awarded funding agreement (refer to “Payment and Reporting Schedule” table, on next page).

Conservation Easement Projects - PAYMENT AND REPORTING SCHEDULE

TIMING	MILESTONES / DELIVERABLES ⁴	SCHEDULED PAYMENT ⁵ (State Contribution)		
Contract Approval Date	Department notification to successful applicant of approval of funding agreement by New York State.	Advance Payment includes: <ul style="list-style-type: none"> • \$1,500 title report stipend • 50% of total cost for applicant’s & other project partners’ staff time • 50% of total cost for applicant’s legal fees 		
Month 1 to 3 (After Department notification of State approval of funding agreement)	Submission for Preliminary Review: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 			
Month 4 to 5 (After Department notification of State approval of funding agreement)	Department Preliminary Approval of project.	Interim Payment #1 includes: <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Total cost of appraisal • Total cost of baseline documentation report • Balance of total cost of applicant’s and other project partners’ staff time </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Total cost of survey • Balance of total cost of applicant’s legal fees </td> </tr> </table>	<ul style="list-style-type: none"> • Total cost of appraisal • Total cost of baseline documentation report • Balance of total cost of applicant’s and other project partners’ staff time 	<ul style="list-style-type: none"> • Total cost of survey • Balance of total cost of applicant’s legal fees
<ul style="list-style-type: none"> • Total cost of appraisal • Total cost of baseline documentation report • Balance of total cost of applicant’s and other project partners’ staff time 	<ul style="list-style-type: none"> • Total cost of survey • Balance of total cost of applicant’s legal fees 			
Month 6 to 18 (After Department notification of State approval of funding agreement)	Submission of Project File: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 			
- -	Department approval of Project File.	Interim Payment #2 includes: <ul style="list-style-type: none"> • Balance of contract award less final payment amount. 		
120 Calendar Days (After receipt of Interim Payment 2)	Submission of Final Report: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 			
- -	Department approval of Final Report.	Final Payment includes: <ul style="list-style-type: none"> • \$10,000 per conservation easement • Conservation easement defense liability insurance 		

⁴ Successful applicant must adhere to the anticipated dates for the specified milestones and project deliverables to ensure prompt completion of the projects associated with funding agreements awarded through this RFP; doing so will enable efficient and predictable State disbursements. Failure to achieve the noted milestone may result in termination of that funding agreement upon the Department’s examination of the circumstances surrounding the delay. Please see Attachment A-1 of the sample funding agreement for further details (Appendix F of this RFP).

⁵ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller.

E. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

Pursuant to New York State Executive Law Article 15-A, New York State Department of Agriculture and Markets recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of **Department** funding agreements.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the **Department** establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State funding agreements.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the New York State Department of Agriculture and Markets hereby establishes an overall goal of 0% for MWBE participation, 0% for Minority-Owned Business Enterprises ("MBE") participation and 0% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("**Contractor**") on the subject funding agreement ("Agreement") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Agreement and **Contractor** agrees that the **Department** may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how the **Department** will determine a **Contractor's** "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, **Contractor** acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Agreement, such finding constitutes a breach of Agreement and the **Department** may withhold payment from the **Contractor** as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the **Contractor** achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Agreement.

By submitting a bid or proposal, a bidder on the Agreement (“Bidder”) agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan (Form MWBE/EEO4) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Agreement award and during the term of the Agreement must be reported on a revised MWBE Utilization Plan and submitted to the **Department**.
- B. The **Department** will review the submitted MWBE Utilization Plan and advise the Bidder of acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the New York State Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, New York 12235, or by email to mwbe@agriculture.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the **Department** to be inadequate, the **Department** shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. (Form MWBE/EEO5) Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. The **Department** may disqualify a Bidder as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit a MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If the **Department** determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Agreement. Requests for a partial or total waiver of established goal requirements made subsequent to Agreement Award may be made at any time during the term of the Agreement to the **Department**, but must be made no later than prior to the submission of a request for final payment on the Agreement.

Contractors are required to submit a **Contractor’s** Quarterly MWBE **Contractor** Compliance & Payment Report (Form MWBE/EEO6) to the New York State Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, New York 12235, by the 10th day following each end of quarter over the term of the Agreement documenting the progress made toward achievement of the MWBE goals of the Agreement.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/**Contractor** agrees with all of the terms and conditions of the New York State Master Contract pertaining to Equal Employment Opportunities for Minorities and Women. The **Contractor** is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the **Contractor**, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race,

creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Agreement; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form MWBE/EEO2) identifying the anticipated work force to be utilized on the Agreement and if awarded an Agreement, will, upon request, submit to the **Department** a workforce utilization report (Form MWBE/EEO3) identifying the workforce actually utilized on the Agreement if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the **Contractor** and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

F. Vendor Access to Grants Gateway

New York State vendors must register in the Gateway and establish users in the system. To start this process, from the Grant Opportunity Portal (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportal.aspx), under Registration, click "Request Access Now!" to view your options.

For existing NYS vendors, there is only one step. You must submit a Registration Form for Administrators identifying a Delegated Administrator responsible for managing your organization's profile and users.

To find out if your organization has already registered, enter its SFS Vendor ID number and search. If your organization is registered, the search result will include contact information for its delegated administrator, and you can contact this individual to request access to the system. If your organization is not registered, the search result will provide a link to the Request Form for Administrator, which you will need to complete and submit pursuant to the instructions provided.

If your organization is not currently doing business with NYS, you will need to submit a Substitute W-9 Form to obtain a NYS SFS Vendor ID, in addition to the Registration Form for Administrators, in order to register.

Therefore, **each entity that intends to submit a proposal in response to this RFP must be registered.** If your entity has not registered prior to the submission of your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP.

Furthermore, **all not-for-profit conservation organizations that intend to submit a proposal in response to this RFP must also be pre-qualified prior to the submission of your**

proposal(s). If you have not pre-qualified with the Division of Budget by the time that you submit your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP. For more information regarding the pre-qualification process, please view [FAQs About Prequalification](#) as provided by the New York State Grants Reform Team.

G. General Specifications

1. **Contractors** will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this funding agreement will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
2. Submission of a proposal indicates the applicant's acceptance of all conditions and terms contained in this RFP, including the terms and conditions of the funding agreement. Any exceptions allowed by the **Department** during the question and answer phase (Section II) must be clearly noted in a cover letter attached to the proposal.
3. Provisions Upon Default
 - a. In the event that the Applicant, through any cause, fails to perform any of the terms, covenants or promises of any funding agreement resulting from this RFP, the **Department** acting for and on behalf of the State, shall thereupon have the right to terminate the funding agreement by giving notice in writing of the fact and date of such termination to the Applicant.
 - b. If, in the judgment of the **Department**, the Applicant acts in such a way which is likely to or does impair or prejudice the interests of the State, the **Department** acting on behalf of the State, shall thereupon have the right to terminate any funding agreement resulting from this RFP by giving notice in writing of the fact and date of such termination to the **Contractor**. In such case the **Contractor** shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the **Contractor** up to the date of the termination of this funding agreement, which such compensation shall not exceed the total cost incurred for the work which the **Contractor** was engaged in at the time of such termination, subject to audit by the State Comptroller.

H. Miscellaneous Considerations

1. New York State Environmental Quality Review Act Requirements (SEQRA). Some projects may be subject to review under SEQRA. Municipalities should go to the New York State Department of Environmental Conservation web site (www.dec.ny.gov) for further information regarding applicability.
2. Freedom Of Information Law (FOIL). All proposals submitted and all related funding agreements and reports may be subject to disclosure under the Freedom of Information Law.
3. Liability. The **Department** shall not be held liable for any costs incurred by any party for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a funding agreement.

VII. COMPLETING THE PROPOSAL

A. Proposal Format

Proposals must be submitted through the New York State Grants Gateway. All sections of the application must be completed in order for you to be enabled to submit your digital proposal. Material that is not required or otherwise specifically requested to be included in the proposal should not be submitted.

Please be advised that there are space limits for each section of the proposal. Proposal evaluators are obligated to review and consider only the information contained in section(s) of the proposal that address each criterion, as specified by and within the limitations described in this RFP and in the Proposal Rating Sheet (please refer to Appendix E of this RFP).

B. Proposal Content

Applicants must respond to each of the sections as provided in the Grants Gateway to create each proposal to be submitted to the **Department**. Please complete, sign and submit the "Applicant Checklist for Proposal Completeness" (sample shown in Appendix C of this RFP) with your application to ensure all proposal requirements have been met.

C. Number of Proposals

Each applicant (whether as a single or joint applicant or in combination thereof) **may submit up to a total of six (6) proposals in response to this RFP.**

VIII. PROPOSAL REVIEW AND AWARDING OF SUCCESSFUL PROPOSALS

A. Review Process

1. Receipt of Proposals

Proposals must be submitted via the New York State Grants Gateway by 4:30pm local time on June 13, 2016. Proposals will be assigned a unique number based on the order of its creation in the Grants Gateway.

All proposals will be screened for eligibility and completeness according to the "Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points" (refer to Appendix D of this RFP).

If any proposal exhibits one or more of the following fatal flaws, that proposal shall not be considered for funding under this RFP:

1. proposal was not submitted prior to the submission deadline of 4:30pm local time on June 13, 2016;
2. ineligible applicant;

3. a letter⁶ signed by all participating landowners or a signed letter from each participating landowner was/were omitted;
4. letter of endorsement from the County Agricultural & Farmland Protection Board was omitted; or
5. Financial Worksheet was omitted from the proposal.

If any other required information is determined to be missing or incomplete or requires further clarification, the applicant will be notified by email and provided 5 business days to submit the requested information. If the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and not be considered for funding. If the requested information is received by the designated subsequent deadline, the proposal will be considered for funding.

Each proposal deemed complete as originally submitted and not in need of any further clarification or additional information shall be awarded 50 points. All other proposals to be considered for funding shall be awarded 0 points.

2. Advisory Council on Agriculture (ACA)

A summary of the proposals to be scored shall be provided to the ACA; ACA members may provide comments on those proposals to the Department's Program Manager. Any comments received by the Program Manager shall be provided to each evaluator.

3. Scoring

Proposals deemed to be complete and eligible will be forwarded to the evaluators for scoring. Scoring is based on selection criteria contained in the Proposal Rating Sheet (see attached sample). Evaluators will review each proposal in relation to how well each proposed Conservation Easement Project will address four funding priorities and four selection criteria.

Projects that are deemed worthy of funding will be those that reflect one or more of the following funding priorities –

- preserve “viable agricultural land” as defined in section three hundred one of the New York State Agriculture and Markets Law;
- are in areas facing significant development pressure;
- serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics; or
- have considered future physical climate risk due to sea level rise, storm surges, and/or flooding due to extreme weather events.

⁶ Please attach a letter that has been composed by and signed by all landowners who will participate in the proposed project. (Alternatively, each landowner may submit his/her own letter, provided that a signed letter is submitted for all participating landowners.)

Each letter must clearly address the following items:

1. Why each landowner is participating in the proposed project; and
2. Rationale for why each landowner has chosen a perpetual conservation easement as the means to protect his/her agricultural land.

Selection criteria include:

1. Project clearly addresses identified need or opportunity (Maximum Score = 250 points x 4 evaluators);
2. Adequate capacity to complete the required work (Maximum Score = 50 points x 4 evaluators);
3. Evidence of local support is documented (Maximum Score = 20 points x 4 evaluators); and
4. Project is cost effective (Maximum Score = 80 points x 4 evaluators).

(a) Aggregate Score – Each evaluator will use a rating sheet to record a score of up to four hundred (400) points for each proposal; each evaluator shall consider any comments received from the ACA into their respective scoring of each proposal.

The four evaluators' scores will be aggregated to determine if the proposal has attained or exceeded the threshold score of twelve hundred (1200) points prior to the assessment of bonus or proposal completeness points. Proposals receiving an aggregate score of less than 1200 points shall not be considered for funding.

Maximum possible aggregated score for any proposal is sixteen hundred (1600) points.

(b) Bonus Points – If applicable, bonus points will be assessed to the aggregate total score by the Program Manager based on the submission of the required information pursuant to the RFP. If the required information for bonus point consideration is not received, no bonus points shall be assessed. Furthermore, if the required information for bonus points is determined to be incomplete, the applicant shall not be afforded any further opportunity to submit the omitted documentation.

Maximum possible bonus points that may be assessed to any proposal is 200.

(c) Proposal Completeness Points – Each proposal deemed complete as originally submitted and not in need of any further clarification or additional information shall be awarded 50 points for proposal completeness. If any required information is determined to be missing from any proposal or requires further clarification, the applicant will be notified by email from the Program Manager and provided 5 business days to submit the requested information. If the requested information is received by the designated subsequent deadline, the proposal will be considered for funding. However, if the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and shall not be considered for funding. All other proposals, except those exhibiting at least one fatal flaw, that were subsequently deemed complete shall be awarded 0 points for proposal completeness.

(d) Final Score – A final score for each proposal shall be determined as follows: (a) aggregated total score + (b) bonus points (if applicable) + (c) proposal completeness points = (d) final score.

Maximum possible final score is 1850 points for any proposal deemed initially complete or 1800 points for any proposal deemed subsequently complete. Minimum possible final score that may be considered for funding is a score of 1200 points without any adjustment through assessment of bonus or proposal completeness points.

B. Determination of Awardees and Non-Awardees

The Department shall compile a list of eligible projects for award consideration. Awards shall be determined pursuant to the procedures described below.

1. Funding of Ranked Projects and Notification of Awardees

Eligible proposals within each region will be compiled in order of overall final score from highest to lowest. For each region, awards will be made to those proposals receiving the highest final scores above the threshold score and continuing until available funds for that region are exhausted, or until all such proposals for that region are funded, whichever occurs first.

Remaining unfunded eligible proposals from all regions for each list that have scored above the threshold score shall then be awarded any remaining available funding beginning with the highest numerical final score and continuing until remaining available funds are exhausted or until all such proposals are funded, whichever occurs first. In the event that two or more proposals have the same final score and there are not enough available funds remaining to fully fund all of those proposals, then the projects to be awarded shall be determined by the following tie-breaking procedure (in order of priority sequence):

1. bonus points assessed,
2. protected acreage,
3. extent of Prime Soils as % of protected acreage,
4. extent of protected acreage currently in active agricultural production (i.e., crop and/or livestock production) as % of protected acreage, and, if necessary,
5. coin flip.

If there are insufficient funds remaining to fully award the last eligible project, the remaining funds shall be awarded to that successful applicant. If that applicant chooses to reject the award because of insufficient State funding in relation to that applicant's request, that remaining amount shall be reserved for awards in a future grant opportunity.

The Commissioner will approve a final list pursuant to the award procedures described above and authorize funding of proposals until all eligible projects have been awarded, or until all available funds have been exhausted, whichever occurs first. The Commissioner will notify successful applicants and provide information regarding funding agreements that will be forthcoming from the Department.

2. Funding Agreements

A funding agreement defining all terms, conditions and responsibilities shall be developed by the **Department** upon the **State's** approval of an awarded proposal. New York State has developed a standard "Master Contract" containing standard clauses required in all State Contracts. The Master Contract will be used for all projects awarded under this RFP, and applicants are responsible for complying with the terms and conditions contained therein. The Master Contract can be found at http://www.grantsreform.ny.gov/sites/default/files/docs/nys_master_contract_for_grants_42913.pdf. Attachments to the Master Contract shall include: (A-1) "Specific Terms and Conditions of this Agreement" (please refer to Appendix F of this RFP for a sample of this attachment); (B-2) "Performance Based Budget" (please refer to Appendix G of this RFP for a sample of this attachment); (C) "Work Plan" (please refer to Appendix H of this RFP for a sample of this attachment); and (D) "Payment and Reporting Schedule" (please refer to Appendix I of this RFP

for a sample of this attachment).

Once the funding agreement has been fully executed, State funds will be disbursed on the basis of scheduled payments subject to the “Payment and Reporting Schedule” described in the “Payment & Reporting Requirements of Successful Applicants” section of this RFP. The **Department** shall retain an amount (equivalent to \$10,000 per conservation easement plus reimbursement of conservation easement defense liability insurance for this awarded project) that is to be disbursed to the **Contractor** until such time that the final report for the funding agreement has been accepted by the **Department**.

The **Department** and State Comptroller’s Office reserve the right to audit the Applicant’s books and records relating to the performance of the project during and up to six years after the completion of the project.

3. Contingency Awards

In addition to the funds that are initially awarded under this RFP, the **Department** will set aside approximately \$1.3 million for a contingency fund to allow up to twenty percent (20%) in additional funding for unanticipated project cost increases. Subject to the 20% cap on additional funding, the applicant must provide a match for the total unanticipated project cost increases that is at least equal to the same percentage of match that was committed in the budget and the financial worksheet contained in the initially awarded funding agreement. Contingency funds will be made available to successful applicants on a first-requested, first-awarded basis based on the following criteria:

- i. justification of need for supplemental funding;
- ii. likely adverse consequences to project if supplemental funding is not provided;
- iii. documentation of additional costs supporting a request for funding; and
- iv. likelihood that the project will be successfully completed if funding is provided.

There will be no additional state monies available for cost increases once the contingency funds are exhausted. *Requests for contingency funds should not be included in the initial proposal; successful applicants may only request these funds after a funding agreement is in place.*

4. Notification of Non-Awardees

Applicants whose projects were not funded will be notified by the Land and Water Resources Division Director.

Following the announcement of the applicants awarded funding agreements under this RFP, unsuccessful applicants may request a debriefing from the Department’s Program Manager no later than sixty (60) days from the date of the award or non-award announcement. This debriefing will be limited to the positive and negative aspects of the subject proposal.

APPENDIX A (SAMPLE ILLUSTRATION):
(OPTIONAL)
Supplemental Information for Bonus Points Consideration

Bonus points (as noted herein) shall be awarded by the Department's Program Manager to any proposal *only if* it has attained an aggregate score of at least 1200 points **and** such proposal also includes acceptable documentation for the items described herein.

Please **submit supporting documentation** regarding the requested items; do NOT submit any supplemental information that does not pertain directly to those items requested below.

1. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates efforts to actively protect local farmland –
 - **Six or more** from the following list must have been accomplished by the applicant and/or project partner entity and documentation of each is attached. (**40 points**)
 - (#13a) municipality has an agricultural and farmland protection plan **approved by** the Commissioner of NYS Department of Agriculture & Markets
 - (#13b) municipality has comprehensive land use plan that has been **updated** within last 5 years
 - (#13c) all agricultural district(s) within which the subject properties are located are current (i.e., each agricultural district has been reviewed on or before its respective anniversary date)
 - (#13d) right to farm law enacted
 - (#13e) farmland mitigation ordinance enacted
 - (#13f) municipality has established Transfer of Development Rights (TDR) program that delineates "viable agricultural land"¹ to be protected in its sending areas
"Viable agricultural land" means land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development.
 - (#13g) municipality-sponsored/hosted farm or produce market(s) operate within the project area
 - (#13h) applicant and/or project partner entity holds or co-holds conservation easement(s) **whose primary purpose** is to preserve "viable agricultural land"¹
 - (#13i) during the 12-month period preceding the submission of this proposal, at least one of the applicant's or project partner's staff or one of any elected or appointed official representing the applicant or a project partner entity has attended a farmland protection or conservation easement training session sponsored by (1) USDA-Natural Resources Conservation Service, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) American Farmland Trust, or (5) Land Trust Alliance
 - (#13j) applicant has an Agricultural Economic Development (or equivalent) staff position
 - (#13k) during the 12-month period preceding the submission of this proposal, at least one of the applicant's or project partner's staff or one of any elected or appointed official representing the applicant or a project partner has attended an agricultural economic development training session sponsored by (1) any agency of the U.S.

Department of Agriculture, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) any State University of New York campus or affiliated community college

- (#13l) agri-business expo (or equivalent trade show highlighting local/area agriculture, such as a county agricultural fair that showcased local agri-businesses) is conducted annually within the project area
 - (#13m) board of commissioners of local fire district(s) within the project area utilize(s) agricultural use assessments for the purpose of assessing fire district taxes
2. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates or illustrates the strategic importance of protecting the subject farm to the agricultural industry of – (**maximum = 50 points**)
- (#14a) local municipality, as clearly identified in its Agricultural & Farmland Protection Plan (or equivalent document) adopted by that municipality. (10 points)
 - (#14b) county, as clearly identified in its Agricultural & Farmland Protection Plan adopted by that county. (10 points)
 - (#14c) sub-area (i.e., an area larger than a single county) of your region (i.e., one of the five regions shown on Figure 1 of this RFP), as clearly identified in a published document focused on a particular sub-area of your region. (10 points)
 - (#14d) majority portion of your region (i.e., one of the five regions shown on Figure 1 of this RFP), as clearly identified in a published document focused on a majority portion of your entire region. (10 points)
 - (#14e) State of New York (i.e., statewide importance), as clearly identified in a published document that addresses all of New York. (10 points)
3. (#15) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties comprising the project area are located within an agricultural district (**maximum = 30 points**)
- Entire project area lies within an agricultural district (30 points) **OR**
 - Less than the entire project area lies within an agricultural district (10 points) **OR**
 - None of the project area lies within an agricultural district (0 points)

4. (#16) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties are covered by Prime Soils (Do NOT include “Prime, if drained” soils.) (**maximum = 50 points**)
 - More than 75% of subject properties are covered by Prime Soils (50 points) **OR**
 - Less than 75% but more than 25% of subject properties are covered by Prime Soils (30 points) **OR**
 - Some, but less than or equal to 25% of subject properties are covered by Prime Soils (10 points) **OR**
 - None of the subject properties are covered by Prime Soils (0 points)

5. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the applicant and/or project partner entity possess(es) the capacity and commitment to adequately monitor, enforce **and** defend conservation easements (**maximum = 30 points**)
 - (#17a) Applicant and/or project partner entity has a legal defense fund for defense and enforcement of all easements it holds or co-holds **or** for which it retains a third party with right of enforcement (Please submit a dated financial statement that indicates the current cash balance of the legal defense fund; this cash balance must be distinct from any cash balance restricted to an easement stewardship fund.) (10 points)
 - (#17b) Applicant and/or project partner entity has an easement stewardship fund to cover annual expenses associated with monitoring of all easement areas (Please submit a dated financial statement that indicates the current cash balance of the easement stewardship fund; this cash balance must be distinct from any cash balance restricted to a legal defense fund.) (10 points)
 - (#17c) Applicant and/or project partner entity has a written policy regarding easement enforcement (i.e., procedures and forms that must be followed and completed in the event of an easement violation) (Please submit a copy of the policy, all associated forms and copy(ies) of any minutes of meetings of the governing body that adopted this policy.) (5 points)
 - (#17d) Applicant and/or project partner entity has a written policy and/or documented history of updating the baseline inventory reports for each easement area **on a regular interval** (e.g., every five years) (Please submit a copy of the policy and copy(ies) of any minutes of meetings of the governing body that adopted this policy, plus documentation of the updating of baseline inventory reports.) (5 points)

APPENDIX B (SAMPLE ILLUSTRATION): Financial Worksheet for FPIG Proposal

FINANCIAL WORKSHEET - Perpetual Conservation Easement Project

FPIG Financial Worksheet - Farmland Protection Implementation Project Involving a Perpetual Conservation Easement															
Estimated Acres to be Permanently Protected = _____											#DIV/0!				
Value of Development Rights = \$ per acre = _____															
LAND COSTS	Estimated Costs ¹	State Contribution ²				Municipal Government				Other ³ (Identify cash source(s) below.)		Sum of Funding Sources (cash) ⁶	Sum of In-Kind Contributions ⁷	Landowner Contribution ⁸	Proposed Purchase Price of Conservation Easement ⁹
		County (cash) ³	County (in-kind)	Town (cash) ⁴	Town (in-kind)	(cash)	(in-kind)								
Value of Development Rights	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRANSACTION COSTS															
Title Insurance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Survey(s)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Appraisal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Partners' Staff Time ¹⁰ (e.g., contract administration, project management, outside easement expertise, etc.)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Outside Legal Fees (if any)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Recording Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Stewardship Fee ¹¹	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Baseline Documentation Report	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Easement Defense Liability Insurance ¹²	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹³	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹³	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal =	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL PROJECT COSTS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Percentage of Total Project Cost from Each Contributor ¹⁴	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Auto Math Check¹⁷	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
NOTE: NYS real estate transfer tax, if any, shall NOT be paid from proceeds provided to the Applicant from the State via the FPIG contract associated with this project. Identify each "Other" source of cash and specify the amount to be provided from each source in the box immediately below:															

FINANCIAL WORKSHEET - Perpetual Conservation Easement Project

INSTRUCTIONS FOR FILLING OUT FINANCIAL WORKSHEET.

- (1) Enter estimated costs for each item associated with this transaction. Value of development rights will automatically fill from above. All costs should be based on the most accurate data available at the time of application. Ideally, the value of development rights will be based on a recent appraisal.
- (2) State contribution shall not exceed 75% of total project cost UNLESS this project is proposed as an 87.5% State award - refer to RFP for more info. However, the State contribution toward any individual cost item may be greater than 75%. Project managers should enter the State contribution for each cost item based on how the project is anticipated to be funded.
- (3) If a county is contributing funding to the project, project manager must allocate that funding as it is anticipated to be used to close the project. Actual allocation may be altered prior to the final distribution of State funds provided that the State approves any such reallocation.
- (4) If a town is contributing funding to the project, project manager must allocate that funding as it is anticipated to be used to close the project. Actual allocation may be altered prior to the final distribution of State funds provided that the State approves any such reallocation.
- (5) The sum of all "Other" funding applied to the project must be allocated in this column in the same manner as that for county and/or town funds. Each source and the specific amount being contributed from each source must be identified in supplemental budget documentation provided at the bottom of the front side of this form.
- (6) This column automatically sums all sources of cash allocated to cover the project costs.
- (7) This column automatically sums all contributions of in-kind services allocated to certain project costs.
- (8) The Landowner Contribution for each item is calculated as the difference between total cost of the item and funding available for it. In the case of "Land Costs" this represents a landowner donation resulting from a bargain sale of the conservation easement. For each transaction cost that the landowner will pay for or towards, that amount must be paid by the landowner prior to his/her receipt of any payment from the proceeds of the State disbursement.
- (9) Proposed Purchase Price is the amount of consideration that the landowner will receive for the sale of this conservation easement. That identical amount must be entered into the conservation easement as the amount of consideration. This number is automatically calculated as the difference between the value of the development rights (column 1) and the sum of the funding sources available (column 9).
- (10) Value of staff time necessary to assist with the conservation easement transaction for this project. Staff includes paid or volunteer employees of any project partner (including consultants). Direct costs should be entered in the appropriate columns as a "cash" amount whereas any non-cash contribution of staff time should be entered in the appropriate column as an "in-kind" amount. (Do not include cost of baseline documentation report anywhere along this line; that item is identified elsewhere on this form.)
- (11) State contribution shall not exceed \$10,000 per conservation easement.
- (12) State contribution shall not exceed \$10,000 per conservation easement.
- (13) Other transaction costs must be identified separately. Examples include title report, GIS mapping, printing, Phase I Environmental Site Assessment, etc. Be sure to reflect any in-kind contribution toward any such item in the appropriate County, Town and/or Other column.
- (14) State funding % shall not exceed 75.0% of total project costs UNLESS this project is proposed as an 87.5% State award - refer to RFP for more info.
- (15) Applicant must provide documentation acceptable to the Department accounting for the encumbrance or expenditure of the required local match for this project, including any costs paid for by the landowner, prior to the time of closing.
- (16) In-kind contributions shall not exceed 80% of the local match or \$25,000, whichever is less.
- (17) Auto math check confirms that the total project costs sum correctly and that the sum of the local match (%) and state share (%) equals 100%.

**Instructions for Attachment B-2,
Performance Based Budget Summary**

First, enter \$ amounts as directed below into ONLY GREEN SHADED BOXES; do NOT enter data anywhere else on this worksheet. Second, transfer the sum totals shown below (those amounts in blue) to the corresponding locations on the "Performance Budget" page of the Forms Menu.

Enter a "Deliverable/Outcome" entitled "Contract Approval" to become part of the Performance Budget (Attachment B-2 of the Master Contract):

Enter the "Total Amount Per Unit":

Step One: Enter the following amounts here from the "Estimated Costs" column of "Financial Worksheet":
 estimated total cost of "Project Partners' Staff Time" =
 estimated total cost of "Outside Legal Fees" =

Step Two: Enter the following sum into "Total Amount Per Unit":

\$1,500 plus estimated cost of "Project Partners' Staff Time" plus estimated cost of "Outside Legal Fees"
 \$1,500 + \$0 + \$1,500 =

Enter the "Grant Amount Per Unit":

Step One: Enter the following amounts here from the "State Contribution" column of "Financial Worksheet":
 proposed State contribution toward "Project Partners' Staff Time" =
 proposed State contribution toward "Outside Legal Fees" =

Step Two: Enter the following sum into "Grant Amount Per Unit":

\$1,500 plus 50% of State contribution toward "Project Partners' Staff Time" plus 50% of State contribution toward "Outside Legal Fees"
 \$1,500 + \$0.00 + \$1,500.00 =

Enter the "NUMBER OF UNITS" = 1

Enter "TOTAL GRANT FUNDS": Enter the identical amount as that entered in "Grant Amount Per Unit" above.

Enter the "Match Funds":

"Total Amount Per Unit" less "Grant Amount Per Unit"
 \$1,500 - \$1,500.00 = \$0.00

DO NOT ENTER ANY AMOUNT INTO "OTHER FUNDS"

REMEMBER TO "SAVE" YOUR DATA ENTRIES!

Instructions for Attachment B-2,
Performance Based Budget Summary

Enter a "Deliverable/Outcome" entitled "Preliminary Approval" to become part of the Performance Budget (Attachment B-2 of the Master Contract):

Enter the "Total Amount Per Unit":

Step One: Enter the following amounts here from the "Estimated Costs" column of "Financial Worksheet":

- estimated total cost of "Survey(s)" =
- estimated total cost of "Appraisal" =
- estimated total cost of "Project Partners' Staff Time" =
- estimated total cost of "Outside Legal Fees" =
- estimated total cost of "Baseline Documentation Report" =

Step Two: Enter the following sum into "Total Amount Per Unit":

estimated cost of "Survey(s)" plus estimated cost of "Appraisal" plus estimated cost of "Project Partners' Staff Time" plus estimated cost of "Outside Legal Fees" plus estimated cost of "Baseline Documentation Report" =

\$0 + \$0 + \$0 + \$0 + \$0 = \$0

Enter the "Grant Amount Per Unit":

Step One: Enter the following amounts here from the "State Contribution" column of "Financial Worksheet":

- proposed State contribution toward "Survey(s)" =
- proposed State contribution toward "Appraisal" =
- proposed State contribution toward "Project Partners' Staff Time" =
- proposed State contribution toward "Outside Legal Fees" =
- proposed State contribution toward "Baseline Documentation Report" =

Step Two: Enter the following sum into "Grant Amount Per Unit":

State contribution toward "Survey(s)" plus State contribution toward "Appraisal" plus State contribution toward "Project Partners' Staff Time" plus State contribution toward "Outside Legal Fees" plus State contribution toward "Baseline Documentation Report" =

\$0 + \$0 + \$0.00 + \$0.00 + \$0 = \$0.00

Enter the "NUMBER OF UNITS" = 1

Enter "TOTAL GRANT FUNDS": Enter the identical amount as that entered in "Grant Amount Per Unit" above.

Enter the "Match Funds":

"Total Amount Per Unit" less "Grant Amount Per Unit" = \$0.00

DO NOT ENTER ANY AMOUNT INTO "OTHER FUNDS"

REMEMBER TO "SAVE" YOUR DATA ENTRIES!

Instructions for Attachment B-2,
Performance Based Budget Summary

Enter a "Deliverable/Outcome" entitled "Final Report Approval" to become part of the Performance Budget (Attachment B-2 of the Master Contract):

Enter the "Total Amount Per Unit":

Step One: Enter the following amounts here from the "Estimated Costs" column of "Financial Worksheet":
estimated total cost of "Stewardship Fee" =

Step Two: Enter the following result into "Total Amount Per Unit" =

Enter the "Grant Amount Per Unit":

Step One: Enter the following amounts here from the "State Contribution" column of "Financial Worksheet" =
proposed State contribution toward "Stewardship Fee" =

Step Two: Enter the following result into "Grant Amount Per Unit" =

Enter the "NUMBER OF UNITS" = 1

Enter "TOTAL GRANT FUNDS": Enter the identical amount as that entered in "Grant Amount Per Unit" above.

Enter the "Match Funds":

"Total Amount Per Unit" less "Grant Amount Per Unit"
 - =

DO NOT ENTER ANY AMOUNT INTO "OTHER FUNDS"

REMEMBER TO "SAVE" YOUR DATA ENTRIES!

**Instructions for Attachment B-2,
Performance Based Budget Summary**

Enter a "Deliverable/Outcome" entitled "Project File Approval" to become part of the Performance Budget (Attachment B-2 of the Master Contract):

Enter the "Total Amount Per Unit":

Step One: Enter the "TOTAL PROJECT COSTS" amount here from the "Estimated Costs" column of "Financial Worksheet" =

Step Two: Enter the following **result** into "Total Amount Per Unit":

"TOTAL PROJECT COSTS" **less** those associated with Advance Payment **less** those associated with Interim Payment #1 **less** those associated with Final Payment

- - - =

Enter the "Grant Amount Per Unit":

Step One: Enter the "TOTAL PROJECT COSTS" amount here from the "State Contribution" column of "Financial Worksheet" =

Step Two: Enter the following **result** into "Grant Amount Per Unit":

"TOTAL PROJECT COSTS" **less** Advance Payment **less** Interim Payment #1 **less** Final Payment

- - - =

Enter the "NUMBER OF UNITS" = 1

Enter "TOTAL GRANT FUNDS": Enter the identical amount as that entered in "Grant Amount Per Unit" above.

Enter the "Match Funds":

Step One: Enter the "Local Match Total" amount (associated with footnote #14) here from "Financial Worksheet" =

Step Two: Enter the following **result** into "Match Funds":

"Local Match Total" **less** those associated with Advance Payment **less** those associated with Interim Payment #1 **less** those associated with Final Payment

- - - =

DO NOT ENTER ANY AMOUNT INTO "OTHER FUNDS"

REMEMBER TO "SAVE" YOUR DATA ENTRIES!

APPENDIX C (SAMPLE ILLUSTRATION): “Applicant Checklist for Proposal Completeness”

2016 Farmland Protection Implementation Grants Program

APPLICANT CHECKLIST FOR PROPOSAL COMPLETENESS

*** - Required element of proposal.** Proposals not meeting any of these requirements will not be considered for funding under this RFP. Any such instance is deemed a “fatal flaw” of a proposal.

Proposal Completeness Points. Each proposal deemed complete and not in need of any further clarification or additional information shall be awarded 50 points for proposal completeness. If any required information is determined to be missing from this proposal or if a clarification of information presented in this proposal is requested, the applicant will be notified by email from the Department's Program Manager and provided five (5) business days to submit the requested information. If the requested information is received by the designated subsequent deadline, the proposal will be considered for funding. However, if the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and shall not be considered for funding. All other proposals, except those exhibiting at least one fatal flaw, that were subsequently deemed complete shall be awarded 0 points for proposal completeness.

- Proposal must be **submitted* via the New York State Grants Gateway by 4:30pm local time, June 13, 2016.**
- Proposal submitted by **eligible applicant*** (refer to section IV A of the RFP). And, if applicant is either a not-for-profit conservation organization *OR* a soil and water conservation district:
 - Letter of project endorsement from the municipality (in which the proposed project is located) is included in the proposal (refer to section IV A of the RFP).
- Letter of project endorsement*** from County Agricultural & Farmland Protection Board is included in this proposal (refer to section VIII A 1 of the RFP).
- All required **landowner letter(s)*** have been included in this proposal (refer to section VIII A 1 of the RFP).
- All required upload documents, as stipulated in the grant opportunity on the Grants Gateway, have been included in this proposal, including:
 - copy of signed resolution authorizing the submission of this proposal to the State;
 - copy of a site plan associated with each proposed conservation easement;
 - copy of a signed letter from the Authorized Representative regarding its proposed cash contribution. Furthermore, please ensure that this proposal reflects the following:
 - Financial Worksheet*** has been completed and submitted in this proposal.
 - Your request for State funding does not exceed any of the award "caps" stipulated in section V D of the RFP.
 - Local match contribution equals or exceeds the minimum requirement stipulated in section V D of the RFP.
 - No work or project expense occurred or will occur prior to State approval of a funding agreement awarded through this RFP.
 - No other source of New York State funds shall be used on this project.
 - Indirect and overhead costs are not included as eligible project costs.
 - Potential Conflicts of Interest form has been completed and included in this proposal.
- OPTIONAL: Information for the consideration of bonus points has been included in this proposal.

Signature of **Principal Contact** for Applicant
(or of **Principal Contact** for Lead Applicant, if joint proposal)

Date

APPENDIX D (SAMPLE ILLUSTRATION): “Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points”

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

*** = Required element of proposal. Proposal shall not be scored if any appears below for “Untimely” or “No”.**

Proposal Completeness	Complete or Yes	Incomplete or Untimely or No
<p>Proposal was submitted* via the New York State Grants Gateway by 4:30pm local time, June 13, 2016.</p> <p>If submission is received by the above deadline <i>and</i> deemed to be “incomplete” or otherwise requiring clarification, the applicant shall be afforded five (5) business days to provide:</p> <ul style="list-style-type: none"> • any omitted information requested in Program Specific Questions requiring a response, <i>OR</i> • the information requested by Department Program Manager seeking clarification of this proposal. <p>If omitted item(s) is/are not submitted by that subsequent deadline, this proposal shall not be scored.</p>	()	<p style="text-align: center;">() Incomplete:</p> <p>Specify the omission: () information omitted from initial submission <i>OR</i> () information required clarification <i>OR</i> () Untimely:</p> <p>Specify why: () Omission(s) or requested clarification(s) not submitted by subsequent deadline</p>
<p>Proposal submitted by eligible applicant* (refer to section IV A of the RFP, including being registered (and pre-qualified, as applicable) in Grants Gateway).</p> <p>If “no,” this proposal shall not be scored.</p>	()	() No
<p>All required landowner letter(s)* were included in this proposal (refer to section VIII A 1 of the RFP).</p> <p>If “no,” this proposal shall not be scored.</p>	()	() No
<p>Letter of project endorsement* from County Agricultural & Farmland Protection Board was included in this proposal (refer to section VIII A 1 of the RFP).</p> <p>If “no,” this proposal shall not be scored.</p>	()	() No
<p>Financial Worksheet* was included in this proposal.</p> <p>If no, this proposal shall not be scored.</p> <p>If incomplete (i.e., not filled-in), the applicant shall be afforded five (5) business days to provide a completed (filled-in) Financial Worksheet.</p> <p>If completed version is not submitted by that subsequent deadline, this proposal shall not be scored.</p>	()	<p style="text-align: center;">() No</p> <p><i>OR</i> () Incomplete: Financial Worksheet not fully filled-in <i>OR</i> () information on Financial Worksheet required clarification <i>OR</i> () Untimely: Completed (filled-in) version not submitted by subsequent deadline</p>

Items Deemed Incomplete or Requiring Clarification as Noted Above (specify each): _____

Subsequent Deadline for Receipt of **ALL** Requested Items Noted Above = __ / __ / ____ by close of business
(5 business days after notification by Department Program Manager)

Completeness Determination: () Send to evaluators *OR* () Proposal shall not be scored as noted above
Proposal completeness determined by (please print) _____, Division of Land & Water Resources

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points

Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

Final Score Calculation:

A **Final Score** for each proposal shall be determined as follows:

(a) aggregated total score (from Evaluators): _____

+ (b) bonus points (if applicable; as assessed by Department Program Manager): _____

+ (c) proposal completeness points (as assessed by Department Program Manager): _____

= _____ **Final Score**

Proposal Completeness Points = _____ (basis for assessment as noted on page 1).

Each proposal deemed complete by the Department's Program Manager and not in need of any further clarification or additional information shall be awarded 50 points.

If any required information is determined to be missing from this proposal or if the Department's Program Manager determines that the proposal's content requires further clarification, the applicant will be notified by email from the Department's Program Manager and provided five (5) business days to submit the requested information. If the requested information is received by the designated deadline and subsequently deemed acceptable by the Program Manager, the proposal will be considered for funding. However, if the requested information is not submitted by the designated deadline, this proposal will be deemed incomplete and shall not be considered for funding. All other proposals, except those exhibiting at least one fatal flaw, that were subsequently deemed complete shall be awarded 0 points for proposal completeness.

Bonus points (as noted herein) shall be awarded by the Department's Program Manager to any proposal *only* if it has attained an aggregate score of at least 1200 points **and** such proposal also includes acceptable documentation for the items described herein.

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

1. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates efforts to actively protect local farmland –
- **Six or more** from the following list must have been accomplished by the applicant and/or project partner entity and documentation of each is attached: ___ YES = 40 ___ NO/Inconclusive = 0
 - (#13a) municipality has an agricultural and farmland protection plan **approved by** the Commissioner of NYS Department of Agriculture & Markets: ___
 - (#13b) municipality has a comprehensive land use plan that has been **updated** within the last 5 years
 - (#13c) all agricultural district(s) within which the subject properties are located are current (i.e., each agricultural district has been reviewed on or before its respective anniversary date): ___
 - (#13d) right to farm law enacted: ___
 - (#13e) farmland mitigation ordinance enacted: ___
 - (#13f) municipality has established Transfer of Development Rights (TDR) program that delineates “viable agricultural land”¹ to be protected in its sending areas: ___
 - (#13g) municipality-sponsored/hosted farm or produce market(s) operate within the project area: ___
 - (#13h) applicant and/or project partner entity holds or co-holds conservation easement(s) **whose primary purpose** is to preserve “viable agricultural land”¹: ___
 - (#13i) during the 12-month period preceding the submission of this grant application, at least one of the applicant’s or project partner’s staff or one of any elected or appointed official representing the applicant or a project partner entity has attended a farmland protection or conservation easement training session sponsored by (1) USDA-Natural Resources Conservation Service, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) American Farmland Trust, or (5) Land Trust Alliance: ___
 - (#13j) applicant has an Agricultural Economic Development (or equivalent) staff position: ___
 - (#13k) during the 12-month period preceding the submission of this grant application, at least one of the applicant’s or project partner’s staff or one of any elected or appointed official representing the applicant or a project partner has attended an agricultural economic development training session sponsored by (1) any agency of the U.S. Department of Agriculture, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) any State University of New York campus or affiliated community college: ___
 - (#13l) agri-business expo (or equivalent trade show highlighting local/area agriculture) is conducted annually within the project area: ___
 - (#13m) board of commissioners of local fire district(s) within the project area utilize(s) agricultural use assessments for the purpose of assessing fire district taxes: ___

¹ “Viable agricultural land” means land highly suitable for a farm operation as defined in Section 301(7) of the Agriculture and Markets Law. Refer to Appendix A of this checklist for further information.

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

2. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates or illustrates the strategic importance of protecting the subject farm to the agricultural industry of –
 - (#14a) local municipality, as clearly identified in its Agricultural & Farmland Protection Plan (or equivalent document) adopted by that municipality. ___ YES = 10 ___ NO/Inconclusive = 0
 - (#14b) county, as clearly identified in its Agricultural & Farmland Protection Plan adopted by that county. ___ YES = 10 ___ NO/Inconclusive = 0
 - (#14c) sub-area (i.e., an area larger than a single county) of your region (i.e., one of the five regions shown on Figure 1 of this RFP), as clearly identified in a published document focused on a particular sub-area of your region. ___ YES = 10 ___ NO/Inconclusive = 0
 - (#14d) majority portion of your region (i.e., one of the five regions shown on Figure 1 of this RFP), as clearly identified in a published document focused on a majority portion of your entire region. ___ YES = 10 ___ NO/Inconclusive = 0
 - (#14e) State of New York (i.e., statewide importance), as clearly identified in a published document that addresses all of New York. ___ YES = 10 ___ NO/Inconclusive = 0

3. (#15) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties comprising the project area are located within an agricultural district.
 - Entire project area lies within an agricultural district ___ YES = 30 **OR**
 - Less than the entire project area lies within an agricultural district ___ YES = 10 **OR**
 - None of the project area lies within an agricultural district ___ YES = 0

4. (#16) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties are covered by Prime Soils (Do NOT include “Prime, if drained” soils.).
 - More than 75% of subject properties are covered by Prime Soils ___ YES = 50 **OR**
 - Less than or equal to 75% but more than 25% of subject properties are covered by Prime Soils ___ YES = 30 **OR**
 - Some, but less than or equal to 25% of subject properties are covered by Prime Soils ___ YES = 10 **OR**
 - None of the subject property(ies) covered by Prime Soils ___ YES = 0

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

5. Extent to which the supporting documentation (submit a digital copy (preferably as PDF) of all such documentation) demonstrates that the applicant and/or project partner entity possess(es) the capacity and commitment to adequately monitor, enforce and defend conservation easements.
- (#17a) Applicant and/or project partner entity has a legal defense fund for defense and enforcement of all easements it holds or co-holds or for which it retains a third party with right of enforcement (Please submit a dated financial statement that indicates the current cash balance of the legal defense fund; this cash balance must be distinct from any cash balance restricted to an easement stewardship fund.) ___ YES = 10 ___ NO/Inconclusive = 0
 - (#17b) Applicant and/or project partner entity has an easement stewardship fund to cover annual expenses associated with monitoring of all easement areas (Please submit a dated financial statement that indicates the current cash balance of the easement stewardship fund; this cash balance must be distinct from any cash balance restricted to a legal defense fund.) ___ YES = 10 ___ NO/Inconclusive = 0
 - (#17c) Applicant and/or project partner entity has a written policy regarding easement enforcement (i.e., procedures and forms that must be followed and completed in the event of an easement violation) (Please submit a copy of the policy, all associated forms and copy(ies) of any minutes of meetings of the governing body that adopted this policy.) ___ YES = 5 ___ NO/Inconclusive = 0
 - (#17d) Applicant and/or project partner entity has a written policy and/or documented history of updating the baseline inventory reports for each easement area on a regular interval (e.g., every five years) (Please submit a copy of the policy and copy(ies) of any minutes of meetings of the governing body that adopted this policy, plus documentation of the updating of baseline inventory reports.) ___ YES = 5 ___ NO/Inconclusive = 0

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

APPENDIX A – Statutory Definition of “farm operation” (AML §301)

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

* NB There are 2 subd. 16's

* 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage,

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points

Round 14 Proposal for State Assistance Payments for Farmland Protection Implementation Projects
organic farm waste, vegetation, wood biomass or by-products of

agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

APPENDIX E (SAMPLE ILLUSTRATION): "Proposal Rating Sheet"

FOR USE BY PROPOSAL REVIEWERS ONLY

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for
Round 14 Farmland Protection Implementation Grants (FPIG) Program
PROPOSAL RATING SHEET – Conservation Easement Projects



New York State
Grants Gateway

[Close Preview](#)

Grant Creation and Editing Module

Proposal Rating Sheet - Conservation Easement Projects

Instructions:

1. Please complete all the required fields.
2. Select the Save button above to save your work frequently.
3. When your review is complete, hover over the Management Tools link and click on Task Checklist. On the Task Checklist screen, select 'Complete' from the dropdown for your review and click Save.

Please refer to the "Evaluation Instrument" and Appendix E ("Proposal Rating Sheet - Conservation Easement Projects") of the RFP for detailed information regarding how to evaluate each proposal. When entering your score for each of your responses, you must enter that identical score into each of the two response boxes appearing on your screen for each review question. In evaluating proposals for funding, the Commissioner shall give priority to projects that -- preserve "viable agricultural land" as defined in section three hundred one of the New York State Agriculture and Markets Law, -- are in areas facing significant development pressure, -- serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics, and -- have considered future physical climate risk due to sea level rise, storm surges, and/or flooding due to extreme weather events. Within this overall context, each evaluator shall assign all or a portion or none of the points available for each item identified within each of the four criteria noted below. A maximum possible score for any proposal is 400 points, which is derived from the total points available as follows: - criterion #1: up to 250 points as distributed over three items (250pts = 80pts + 160pts + 30pts); - criterion #2: up to 50 points as distributed over two items (50pts = 20pts + 30pts); - criterion #3: up to 20 points as distributed over two items (20pts = 10pts + 10pts), and - criterion #4: up to 80 points as distributed over four items (80pts = 20pts+20pts+20pts+20pts).

- 1.1 Please assess between 0 to 30 points to this proposal with regard to how consistent it is with the County's (and, if applicable, the Municipality's) agricultural & farmland protection plan and also how well this proposal describes an identified need or opportunity from such plan(s) that will be addressed by the proposed Conservation Easement Project.

* / 30pts

Comments:

- 1.2 Please assess between 0 to 30 points to this proposal with regard to whether this proposal demonstrates that the proposed Conservation Easement Project is located within a mapped area designated as a priority for protection in any policy document of the applicant entity or a local project partner entity.

* / 30pts

Comments:

- 1.3 Please assess between 0 to 80 points to this proposal with regard to how well it clearly addresses how the proposed Conservation Easement Project will preserve "viable agricultural land" (including the applicant's consideration of future extreme climate risk and the likelihood that flooding will result from sea level rise, storm surge associated with extreme storms, or more frequent extreme precipitation events). "Viable agricultural land" is defined on page 4 of Appendix E of the RFP.

* / 80pts

Comments:

- 1.4 Please assess between 0 to 50 points to this proposal with regard to how well it clearly demonstrates that the proposed Conservation Easement Project is located in areas facing significant development pressure.

* / 50pts

Comments:

- 1.5 Please assess between 0 to 30 points to this proposal with regard to how well it clearly demonstrates that the proposed Conservation Easement Project serves as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.

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* / 30pts

Comments:

1.6 Please assess between 0 to 15 points to this proposal with regard to how well the proposed Conservation Easement Project will protect farmland containing Prime Soils.

* / 15pts

Comments:

1.7 Please assess between 0 to 5 points to this proposal with regard to how well the proposed Conservation Easement Project will protect farmland containing Soils of Statewide Importance.

* / 5pts

Comments:

1.8 Please assess between 0 to 10 points to this proposal with regard to how well the proposed Conservation Easement Project will protect "land used in agricultural production" "Land used in agricultural production" is defined on pages 6-7 of Appendix E of the RFP.

* / 10pts

Comments:

2.1 Please assess between 0 to 20 points to this proposal with regard to how well the applicant entity has demonstrated that it already possesses or will obtain the necessary cash to cover early transaction costs (e.g., survey and appraisal) for this Conservation Easement Project.

* / 20pts

Comments:

2.2 Please assess between 0 to 20 points to this proposal with regard to how well the applicant entity has demonstrated the qualifications of the project manager, particularly regarding how many FPIG-funded projects for which this person is/was the designated project manager.

* / 20pts

Comments:

2.3 Please assess between 0 to 10 points to this proposal with regard to how well the applicant entity has demonstrated the qualifications of the project manager, particularly regarding how many other conservation easement projects for which this person is/was the principally and directly responsible to complete the tasks necessary to enable the conservation easement transaction to close.

* / 10pts

Comments:

3.1 Please assess between 0 to 5 points to this proposal with regard to how well the policy documents of other local project partners describe an identified need or opportunity that will be addressed by the proposed Conservation Easement Project.

* / 5pts

Comments:

3.2 Please assess between 0 to 5 points to this proposal with regard to how well it demonstrates that the proposed Conservation Easement Project is located within a mapped area designated as a priority for protection in a policy document of a local project

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partner.
 * / 5pts

Comments:

3.3 Please assess between 0 to 10 points to this proposal with regard to how well the applicant entity has demonstrated that it already possesses or will obtain the necessary financial support that will be used for the proposed Conservation Easement Project that has been received or pledged from individuals, foundations or any non-governmental entity other than the participating landowner(s).

* / 10pts

Comments:

4.1 Please assess between 0 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the cost-per-acre for estimated value of development rights.

* / 20pts

Comments:

4.2 Please assess between 0 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the cost-per-acre for total estimated transaction costs (including all in-kind contributions).

* / 20pts

Comments:

4.3 Please assess between 0 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the % of total project costs contributed by non-State source(s) (including any bargain sale donation plus any cash contribution from participating landowner(s)).

* / 20pts

Comments:

4.4 Please assess between 0 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the cost-per-acre of "viable agricultural land" that will benefit from the proposed project.

* / 20pts

Comments:

Reviewer Total Score:
Total Possible Score: 400

Internal Review Comments

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Statutory Definition of "Viable agricultural land" and "Farm operation" (AML §301)

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

* NB There are 2 subd. 16's

* 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section,

Round 14 FPIG-RFP Proposal Rating Sheet – Conservation Easement Projects

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"compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

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Statutory Definition of "Land used in agricultural production" (AML §301)

4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.

a-1. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes."

d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.

e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock

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or livestock products meet the gross sales requirements of paragraph f of this subdivision.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.

i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

l. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.

**APPENDIX F (SAMPLE ILLUSTRATION):
Attachment A-1 of the Master Contract**

“Specific Terms and Conditions of this Agreement”

New York State Department of Agriculture and Markets

Attachment A-1

Specific Terms and Conditions of this Agreement

These special conditions apply to the administrative aspects of this particular Agreement. These special conditions cannot be changed.

I. AGENCY SPECIFIC TERMS AND CONDITIONS

RESPONSIBILITY REQUIREMENTS

- A. The **Department** is required to undertake an affirmative review of the responsibility of any vendor to which it proposes to make a funding agreement award. Such review shall be designed to provide reasonable assurances that the proposed **Contractor** is responsible. In undertaking such review, the **Department** must comply with the following standards:
- a. In all cases, the **Department** must consider any information that has come to its attention from the proposed **Contractor** or any other source that would raise issues concerning the proposed **Contractor's** responsibility.
 - b. In the case of any funding agreement valued at \$100,000 or more, the **Department** must affirmatively require disclosure by the proposed **Contractor** of all information that the **Department** reasonably deems relevant to a determination of responsibility by completing a Vendor Responsibility Questionnaire.
- B. The **Contractor** shall at all times during the **Agreement** term remain responsible. The **Contractor** agrees, if requested by Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- C. The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this **Agreement**, at any time, when he or she discovers information that calls into question the responsibility of the **Contractor**. In the event of such suspension, the **Contractor** will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the **Contractor** must comply with the terms of the suspension order. **Agreement** activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the **Agreement**.

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- D. Upon written notice to the **Contractor**, and a reasonable opportunity to be heard with appropriate Commissioner officials or staff, the **Agreement** may be terminated by Commissioner or his or her designee at the **Contractor's** expense where the **Contractor** is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

CONFLICT OF INTEREST

- A. Organizational Conflict of Interest. To the best of the **Contractor's** knowledge and belief, the **Contractor** warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the **Contractor** has disclosed all such relevant information to the **Department**.
1. An organizational conflict of interest exists when the nature of the work to be performed under this Agreement may, without some restriction on future activities, impair or appear to impair the **Contractor's** objectivity in performing the work for the **Department**.
 2. The **Contractor** agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the **Contractor** will immediately make a full disclosure in writing to the **Department**. This disclosure shall include a description of actions which the **Contractor** has taken or proposes to take, after consultation with the **Department**, to avoid, mitigate, or minimize the actual or potential conflict.
 3. To the extent that the work under this funding agreement requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the **Contractor** shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.
- B. Personal Conflict of Interest. The following provisions with regard to management or professional level employee personnel performing under this Agreement shall apply until the earlier of the termination date of the affected employee(s) or the duration of the Agreement.
1. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the work associated with this Agreement. The **Contractor** agrees to notify the **Department** immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this Agreement, as soon as **Contractor** becomes

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aware of such conflict. The **Department** will notify the **Contractor** of the appropriate action to be taken.

2. The **Contractor** agrees to advise all management or professional level employees involved in the work of this Agreement, that they must report any personal conflicts of interest to the **Contractor**. The **Contractor** must then advise the **Department** which will advise the **Contractor** of the appropriate action to be taken.
3. Unless waived by the **Department**, the **Contractor** shall certify annually that, to the best of the **Contractor's** knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the **Department**. Such certification must be signed by a senior executive of the **Contractor** and submitted in accordance with instructions provided by the **Department**. Along with the annual certification, the **Contractor** shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this Agreement. The initial certification shall cover the one-year period from the date of award for this Agreement, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.
4. In performing this Agreement, the **Contractor** recognizes that its employees may have access to data, either provided by the **Department** or first generated during Agreement performance, of a sensitive nature which should not be released without **Department** approval. If this situation occurs, the **Contractor** agrees to obtain confidentiality agreements from all affected employees working on requirements under this Agreement including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the **Department**, any information or data provided by the **Department** or first generated by the **Contractor** under this Agreement, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the **Department**. If a **Contractor**, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the **Contractor** must provide immediate advance notification to the **Department** so that the **Department** can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of this Agreement and for a period of five (5) years after completion of this Agreement.

- C. Remedies. The **Department** may terminate this Agreement in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the **Contractor** fails to make required disclosures or misrepresents relevant information to the **Department**, the **Department** may terminate the Agreement, or pursue such other

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remedies as may be permitted by the terms of other applicable provisions of this Agreement regarding termination.

- D. The **Contractor** will be ineligible to make a proposal or bid on a funding agreement for which the **Contractor** has developed the statement of work or the solicitation package.
- E. The **Contractor** agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the **Department**.

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE FUNDING AGREEMENTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The **Department** is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State funding agreements as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The **Contractor** to the subject funding agreement (the “Agreement”) agrees, in addition to any other nondiscrimination provision of the Agreement and at no additional cost to the **Department**, to fully comply and cooperate with the **Department** in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). **Contractor’s** demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable Federal, State or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Agreement.

II. Agreement Goals

- A. For purposes of this procurement, the **Department** hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”)

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participation, 0% for Minority-Owned Business Enterprises (“MBE”) participation and 0% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).

- B. For purposes of providing meaningful participation by MWBEs on the Agreement and achieving the Agreement Goals established in Section II-A hereof, **Contractor** should reference the directory of New York State Certified MBWEs found at the following internet address:

<http://www.esd.ny.gov/mwbe.html>

Additionally, **Contractor** is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Agreement.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, **Contractor** must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Agreement. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the **Contractor** acknowledges that if **Contractor** is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Agreement, such a finding constitutes a breach of contract and the **Contractor** shall be liable to the **Department** for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. **Contractor** agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

- B. **Contractor** shall comply with the following provisions of Article 15-A:

1. **Contractor** and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The **Contractor** shall submit an EEO policy statement to the **Department** within seventy two (72) hours after the date of the notice by **Department** to award the Agreement to the **Contractor**.

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3. If **Contractor** or Subcontractor does not have an existing EEO policy statement, the **Department** may provide the **Contractor** or Subcontractor a model statement (see Form MWBE/EEO1 – Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
4. The **Contractor's** EEO policy statement shall include the following language:
 - a. The **Contractor** will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The **Contractor** shall state in all solicitations or advertisements for employees that, in the performance of the Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The **Contractor** shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the **Contractor's** obligations herein.
 - d. The **Contractor** will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Agreement.

C. Form MWBE/EEO2- Staffing Plan

To ensure compliance with this Section, the **Contractor** shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Agreement by the specified categories listed, including ethnic background, gender, and Federal occupational categories. **Contractors** shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the Agreement.

D. Form MWBE/EEO3 - Workforce Employment Utilization Report ("Workforce Report")

1. Once an Agreement has been awarded and during the term of that Agreement, **Contractor** is responsible for updating and providing notice to the **Department**

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of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Agreement to report the actual workforce utilized in the performance of the Agreement by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

2. Separate forms shall be completed by **Contractor** and any subcontractor performing work on the Agreement.
3. In limited instances, **Contractor** may not be able to separate out the workforce utilized in the performance of the Agreement from **Contractor's** and/or subcontractor's total workforce. When a separation can be made, **Contractor** shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Agreement. When the workforce to be utilized on the Agreement cannot be separated out from **Contractor's** and/or subcontractor's total workforce, **Contractor** shall submit the Workforce Report and indicate that the information provided is **Contractor's** total workforce during the subject time frame, not limited to work specifically under the Agreement.

- E. **Contractor** shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. **Contractor** and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The **Contractor** represents and warrants that **Contractor** has submitted an MWBE Utilization Plan (MWBE/EEO4) either prior to, or at the time of, the execution of the Agreement.
- B. **Contractor** agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Agreement pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. **Contractor** further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Agreement. Upon the occurrence of such a material breach, the **Department** shall be entitled to any remedy provided herein, including but not limited to, a finding of **Contractor** non-responsiveness.

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V. Waivers

- A. For Waiver Requests **Contractor** should use Form MWBE/EEO5 – Waiver Request.
- B. If the **Contractor**, after making good faith efforts, is unable to comply with MWBE goals, the **Contractor** may submit a Request for Waiver form documenting good faith efforts by the **Contractor** to meet such goals. If the documentation included with the waiver request is complete, the **Department** shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the **Department**, upon review of the MWBE Utilization Plan and updated Quarterly MWBE **Contractor** Compliance Reports determines that **Contractor** is failing or refusing to comply with the Agreement goals and no waiver has been issued in regards to such non-compliance, the **Department** may issue a notice of deficiency to the **Contractor**. The **Contractor** must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Agreement Goals.

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE **Contractor** Compliance Report (Form MWBE/EEO6) to the **Department** by the 10th day following each end of quarter over the term of the Agreement documenting the progress made towards achievement of the MWBE goals of the Agreement.

VII. Liquidated Damages - MWBE Participation

- A. Where the **Department** determines that **Contractor** is not in compliance with the requirements of the Agreement and **Contractor** refuses to comply with such requirements, or if **Contractor** is found to have willfully and intentionally failed to comply with the MWBE participation goals, **Contractor** shall be obligated to pay to the **Department** liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the **Contractor** achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Agreement.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the **Department**, **Contractor** shall pay such liquidated damages to the **Department** within sixty (60) days after they are assessed by the **Department** unless prior to the expiration of such sixtieth day, the **Contractor** has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant

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to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the **Department**.

The forms referenced above can be found at <http://www.agriculture.ny.gov/MWBE.html>.

PROJECT INSURANCE CONSIDERATIONS

- A. The **Contractor** agrees to procure and maintain at its own expense and without expense to the **Department** until final acceptance by the **Department** of the services covered by this Agreement, insurance of the kinds and amounts applicable to the project work plan, hereinafter provided by insurance companies licensed to do business in the State of New York, covering all operations under this Agreement.
- B. Upon execution of this Agreement, the **Contractor** shall furnish to the **Department** a certificate or certificates, in form satisfactory to the **Department**, showing that it has complied with this Article, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the **Department**. The certificate shall list the **Department** and the State of New York as additional insureds, except with respect to worker's compensation and disability coverage. The insurance certificate(s) must contain an endorsement in writing added to and made part of the insurance contract for the purpose of changing the original terms such that the **Department** and the State of New York are added as additional insureds. In addition, the applicable insurance policy number(s) referenced on the ACCORD form must be referenced on the endorsement. A copy of the endorsement page, showing the **Department** and the State of New York as additional insureds, must be provided to the **Department**. This Agreement shall be void and of no effect unless the **Contractor** procures the required insurance policies and maintains them until acceptance of the work. The kinds and amounts of insurance required are as follows:
1. Policy covering the obligations of the **Contractor** in accordance with the provisions of the Worker's Compensation Law, Employers Liability, and Disability Benefits.

The only forms which are accepted as proof of Workers' Compensation Insurance are as follows:

FORM #	FORM TITLE
C-105.2	Certificate of Workers' Compensation Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12	Certificate of Workers' Compensation Self-Insurance
GSI-105.2	Certificate of Participation in Worker's Comp Group Self-Insurance

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The *only* forms which are accepted as proof of Disability Benefit Insurance are as follows:

FORM #	FORM TITLE
DB-120.1	Certificate of Disability Benefit Insurance
DB-120.2	Certificate of Participation in Disability Benefits Group Self-insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

An ACORD form is **NOT** an acceptable proof of Workers' Compensation coverage. **ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME:** The New York State Department of Agriculture and Markets, Division of Land and Water Resources, 10B Airline Drive, Albany, NY 12235, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

Additional information can be obtained at the Worker's Compensation website: <http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>.

2. The **Contractor** shall require that any subcontractors hired, carry insurance with the same limits and provisions as provided herein.

AMENDMENTS / EXTENSIONS

- A. The Agreement may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Agreement and will not take effect until approved by all State agencies and final approval by the Office of State Comptroller, if applicable. Agreement amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the **Department**.

II. PROGRAM SPECIFIC TERMS AND CONDITIONS

PROJECT COSTS

(1) Eligible Project Costs

- A. The cash value of in-kind services must be reasonable; unsubstantiated or unreasonable values are subject to adjustment by the Department.
- B. The following items are eligible project costs:

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- i. value of the development rights being acquired, provided such value associated with any perpetual conservation easement is from an appraisal deemed acceptable to the Department; and
- ii. transactional costs acceptable to the Department, provided those are limited to the following –
 - a) title reports (including associated continuation fees until such time that title insurance is purchased);
 - b) title insurance;
 - c) property surveys;
 - d) appraisals;
 - e) applicant's legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, to prepare title curatives;
 - f) applicant's and other project partners' staff time to negotiate/close the conservation easement transaction, manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - g) preparation of a baseline documentation report regarding the proposed Conservation Easement Project;
 - h) recording fees;
 - i) easement stewardship fee; and
 - j) conservation easement defense liability insurance.

(2) Ineligible Project Costs

Any costs incurred prior to the start date of a funding agreement shall not be deemed eligible costs under this RFP. Furthermore, none of the following items are eligible project costs and no State funds shall be used toward any of the following costs:

- landowner's cost for legal or financial advisors;
- state or local real estate transfer taxes;
- any fee or other contribution deposited to a legal defense fund other than a conservation easement defense liability insurance policy;
- applicant's or project partners' indirect or overhead costs (i.e., office rent, office utilities, and any other cost that is indirectly incurred by the applicant or a project partner through employment of its respective staff or that is indirectly incurred by the applicant or a project partner due to consultant(s) or other contracted help that will be involved with the proposed project); and
- Option to Purchase at Agricultural Value (OPAV) Preemptive Purchase Right (PPR) or Right of First Refusal (RFR) or similar provision contained in any document (e.g., purchase agreement, conservation easement, etc.) associated with any project awarded through this RFP.

LOCAL MATCH REQUIREMENTS

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A. The following general requirements apply to **all** proposals:

- Any governmental entity providing a cash contribution must submit a copy of a letter from its governing body acknowledging its cash contribution. The governmental entity must submit a copy of a resolution from its governing body formally obligating its cash match before the State will approve a funding agreement with the successful applicant.
- As applicable, any other entity (including participating landowners) providing a local cash match must provide a letter from an authorized representative formally acknowledging the amount of its contribution.
- None of the local cash contribution shall be from a State source of financial assistance.
- Cash and in-kind match must be for items that are eligible costs and may be provided by the applicant or other supporters of the project.
- Local match may include in-kind contributions, but the amount of in-kind shall be limited to no more than 80% of total administrative costs of the proposed project, or \$25,000, whichever is less.

B. For any **Conservation Easement Project**, there are particular match stipulations for each of the differing levels of State contribution awarded as noted below.

(1) Proposals seeking a State contribution of 87.5% of total eligible project costs:

- Landowner shall **exclusively** provide the local match contribution of 12.5% of total eligible project costs. No other source shall provide any cash or an in-kind contribution of any amount toward the proposed project.

(2) Proposals seeking a State contribution of **up to** 75% of total eligible project costs:

- Local match contribution shall be at least 25% of total eligible project costs, which must include a cash match of 5% of total project costs or \$5,000, whichever amount is less. However, this local cash match requirement is waived whenever a participating landowner donates the *full value* of development rights for the conservation easement(s) comprising the entire proposed project.
- None of the local cash contribution(s) shall be from any Federal source of financial assistance.
- Local cash contribution may be provided, but only in part, by the participating landowner(s).

(3) Proposals seeking a State contribution of **up to** 25% of easement purchase price plus eligible transaction costs:

- Local match contribution must cover **all** of the remaining eligible total project costs and may be provided, but only in part, by the participating landowner(s).
- Applicant must subsequently be awarded Federal farmland protection funding (e.g., Agricultural Conservation Easement Program administered by U.S. Department of Agriculture-Natural Resources Conservation Service; Readiness and Environmental Protection Integration Program administered by U.S. Department of Defense; or any

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other Federal source of funding that may be used on farmland protection implementation activities) within the funding agreement term. Such Federal farmland protection funding awarded to the applicant shall be deemed as local match contribution.

PAYMENT AND REPORTING

- A. Upon approval of this Agreement by the State, any payment provided to the Contractor under this Agreement shall be subject to authorization by the Division of Budget and will occur according to the applicable payment schedule table beginning on the next page. No reimbursement payments under this Agreement will be made by the **Department** to the **Contractor** unless the **Contractor** provides supporting cost documentation to support how the advance payment funding was spent on the awarded project. For any **Conservation Easement Project** associated with Federal farmland protection monies, no advance payment shall be disbursed by the State until the successful applicant provides proof of a Federal funding agreement to the Department.

After receiving the advance payment from the State as described in Attachment D, the **Contractor** agrees to thereafter fully fund the awarded project and then seek partial reimbursement from the **Department** for eligible project costs. Such reimbursement payments shall be made upon approval by the **Department** and the Comptroller of vouchers executed by an authorized officer of the **Contractor**. The **Contractor** will be entitled to receive reimbursement payments for work and/or services rendered as detailed and described in Attachment C and Attachment D of this Agreement. Claims for reimbursement must be accompanied by such receipts and documents verifying expenditures as may be required by the **Department** and by the Comptroller. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers or invoices or canceled checks, and any further documentation as may be required by the **Department** and/or the Comptroller. The **Department** reserves the right, in its sole discretion, to determine if the reimbursement request and accompanying documentation submitted by the **Contractor** is in satisfactory form and substance.

- B. The **Department** will process final payment for this Agreement after it has determined that the project was completed satisfactorily and after the **Department** has received and accepted the final report and all required final close-out payment documentation in accordance with the direction and requirements described in Attachment D.

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Conservation Easement Projects - PAYMENT AND REPORTING SCHEDULE

TIMING	MILESTONES / DELIVERABLES	SCHEDULED PAYMENT (State Contribution) ⁷
Contract Approval Date	Department notification to successful applicant of approval of funding agreement by New York State.	Advance Payment includes: <ul style="list-style-type: none"> • \$1,500 title report stipend • 50% of total cost for applicant's and other project partners' staff time • 50% of total cost for applicant's legal fees
Month 1 to 3 (After Department notification of State approval of funding agreement)	Submission for Preliminary Review: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
Month 4 to 5 (After Department notification of State approval of funding agreement)	Department Preliminary Approval of project.	Interim Payment #1 includes: <ul style="list-style-type: none"> <li style="width: 50%;">• Total cost of appraisal <li style="width: 50%;">• Total cost of survey <li style="width: 50%;">• Total cost of baseline documentation report <li style="width: 50%;">• Balance of total cost of applicant's legal fees <li style="width: 50%;">• Balance of total cost of applicant's and other project partners' staff time
Month 6 to 18 (After Department notification of State approval of funding agreement)	Submission of Project File: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
- -	Department approval of Project File.	Interim Payment #2 includes: <ul style="list-style-type: none"> • Balance of contract award less final payment amount.
120 Calendar Days (After receipt of Interim Payment 2)	Submission of Final Report: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
- -	Department approval of Final Report.	Final Payment includes: <ul style="list-style-type: none"> • \$10,000 per conservation easement • Conservation easement defense liability insurance

⁷ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller.

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PROJECT DELIVERABLES

Preliminary Review

All Conservation Easement Projects must receive the Department's preliminary approval before proceeding to compile a complete project file. The project deliverables required for a preliminary review include the following –

- (1) **Title report *plus* title curatives letter** from Grantee attorney explaining how clear title will be ensured for the proposed conservation easement transaction;
- (2) **Draft conservation easement(s)** associated with the proposed project, *provided*:
 - For **Conservation Easement Projects** receiving an award of 87.5% of total project costs, the red-lined⁸ draft document submitted shall use the Department's 2016 version as its template.
 - For **Conservation Easement Projects** receiving an award of 25% of easement purchase price *plus* transaction costs, the draft document submitted will be the version to be submitted for funding disbursement approval from the Federal agency administering the Federal farmland protection grant.
 - For all other awarded **Conservation Easement Projects**, the red-lined⁹ draft document submitted shall be the Grantee's proposed easement into which the Department's required provisions (2016 version) have been incorporated without modifications thereto.
- (3) **Site plan** (*only if* it has been modified from that represented in grant proposal) for each draft conservation easement that has been signed by all owners of the land associated with each draft conservation easement and that has also been signed by a representative of the Grantee.

These project deliverables should be submitted within three (3) months of Department notification to the successful applicant of state approval of the funding agreement.

Preliminary review of the proposed project may include the Department's Farmland Protection Program Manager conducting a site visit with the Grantee and participating landowner(s) to review the proposed site plan. If the site visit reveals information or landscape conditions that are either inconsistent with the Department's guidance documents or deemed

⁸ A "red-lined" version of the Department's conservation easement is merely a digital file (Word document format) which had "track changes" feature turned on **before any modification** was made to the original digital file of the Department's 2016 version. Thus, the resulting "red-lined" version **shall reveal all modifications** made to it.

⁹ A "red-lined" version of the applicant's conservation easement is merely a digital file (Word document format) which had "track changes" feature turned on **before any of the Department-required provisions (2016 version) were incorporated into it**. Thus, the resulting "red-lined" version **shall reveal all of the required insertions**.

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otherwise unacceptable to the Department **and** any such matters cannot be resolved to the satisfaction of the Department, the Department may terminate the funding agreement and withdraw the State award.

Project File

After the Department has given its preliminary approval of the proposed **Conservation Easement Project**, the local project manager should submit the following required project deliverables (referred to as a complete project file) to the **Department** within eighteen (18) months of Department notification to successful applicant of state approval of the funding agreement:

- (1) **Landowner Letter of Intent to Convey Conservation Easement(s) on Viable Agricultural Land** that has been signed by each owner of the land to be subject to each conservation easement comprising the proposed project;
- (2) **Financial Worksheet**;
- (3) **Appraisal report** (summary or self-contained report);
- (4) **Final draft conservation easement(s)** associated with the proposed project, *provided* each such final draft is an updated red-lined version of the document that received the Department's preliminary approval as noted above;
- (5) **Certification of Title Curatives** from Grantee attorney **plus**
 - (a) copies of any attachments referenced in the certification,
 - (b) copies of all proposed title curatives,
 - (c) a copy of the cover sheet of commitment for title insurance indicating the amount of proposed coverage, and
 - (d) (only if any new title issues have been discovered during the preparation of the commitment for title insurance that must now also be addressed) a boundary survey of the proposed easement area; and
- (6) **Waiver¹⁰ (of preliminary/final notice of intent)** that is fully executed by all signatory parties.

Final Report

After the Department approves the proposed **Conservation Easement Project** for disbursement of interim payment #2 (refer to "Conservation Easement Projects - Payment and Reporting Schedule"), a complete final report must be submitted by the local project manager to the **Department** within 120 calendar days of local receipt of interim payment #2. The required project deliverables comprising a final report include the following:

¹⁰ This document is NOT required IF the Grantee is a not-for-profit conservation organization.

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- (1) **Conservation Easement Closing Certification** that has been signed by the local project manager and the Grantee’s attorney;
- (2) **Title insurance policy;**
- (3) **conservation easement defense liability insurance policy;**
- (4) **Conservation easement(s)** as recorded in the county(ies) in which the subject lands are located; and
- (5) **FPIG Project Closing Statement** (spreadsheet) **plus** supporting documentation as noted thereon.

ENVIRONMENTAL PROTECTION FUND ACKNOWLEDGEMENT

A. If applicable, in recognition of a portion of the **Department** funds utilized for the work completed under this Agreement, the **Contractor** agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State Department of Agriculture and Markets.

NOTIFICATIONS

Notices to the **Department** shall be addressed to:

David Behm, Farmland Protection Program Manager
 New York State Department of Agriculture and Markets
 Division of Land and Water Resources
 10B Airline Drive
 Albany, New York 12235

Other communications to the **Department** regarding the work associated with this Agreement, including required project deliverables, may be directed to David Behm via email (david.behm@agriculture.ny.gov) or telephone (518-485-7729).

The **Contractor’s** authorized representative for the implementation of this Agreement is _____ . Notices to the **Contractor** shall be addressed to the primary mailing address that appears on the face page of this Agreement.

 _____, New York _____

Other communications to the **Contractor** regarding the work associated with this Agreement, including required deliverables, shall be directed to the authorized representative identified above via email (_____) or telephone (____ - ____ - _____).

APPENDIX G (SAMPLE ILLUSTRATION):

Attachment B-2 of the Master Contract: "Performance Based Budget"

**ATTACHMENT B-2 - PERFORMANCE BASED BUDGET
SUMMARY**

PROJECT NAME: _____
 CONTRACTOR SFS PAYEE NAME: _____

CONTRACT PERIOD: From: _____
 To: _____

#	DELIVERABLE/OUTCOME	TOTAL AMOUNT PER UNIT	GRANT AMOUNT PER UNIT	NUMBER OF UNITS	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1	Contract Approval			1	\$0.00		0%		\$0.00
2	Preliminary Approval			1	\$0.00		0%		\$0.00
3	Project File Approval			1	\$0.00		0%		\$0.00
4	Final Report Approval			1	\$0.00		0%		\$0.00
5					\$0.00		0%		\$0.00
				Subtotal	\$0.00			\$0.00	\$0.00
				Available Bonus					
				TOTAL	\$0.00			\$0.00	\$0.00

Contract Number: # _____
 Page 1 of 1, Attachment B-2 – Performance Based Budget

**APPENDIX H (SAMPLE ILLUSTRATION):
Attachment C of the Master Contract: "Work Plan"**

Organization	Grant Opportunity	Application #	Project Title	Date/Time Submitted
<i>Fairlands Forever</i>	Round 14 Fairland Protection Implementation Grants (FPIG) Program	AGM01-FPIG-2016-0001	Gateway Farms (TEST1 - 87.5%)	Mar 3 2016 3:06PM

**ATTACHMENT C - WORK PLAN
SUMMARY**

PROJECT NAME: Gateway Farms (TEST1 - 87.5%)

CONTRACTOR SFS PAYEE NAME: *Fairlands Forever*

CONTRACT PERIOD: From: 09/16/2016
To: 09/15/2020

Provide a high-level overview of the project, including the overall goal and desired outcomes. Include information such as location, target population, overall number of persons to be served, service delivery method and hours of operation.

The proposed project will result in the conveyance of a perpetual conservation easement. If each performance measure is achieved, this Conservation Easement Project will be completed within two years of the date of State approval of the awarded funding agreement.

Organization	Grant Opportunity	Application #	Project Title	Date/Time Submitted
<i>Farmlands Forever</i>	Round 14 Farmland Protection Implementation Grants (FPIG) Program	AGM01-FPIG-2016-0001	Gateway Farms (TEST1 - 87.5%)	Mar 3 2016 3:06PM

**ATTACHMENT C - WORK PLAN
DETAIL**

Objective

- 1 Vendor Tasks - Conservation Easement Project - Conduct the tasks necessary to complete the proposed Conservation Easement Project in a timely fashion within the overall timeframe of the awarded funding agreement.

Tasks

- 1 Vendor compiles required documents to submit to Department for preliminary review of the proposed Conservation Easement Project (refer to Attachment A-1 for list of required project deliverables).
Performance Measures

Tasks

- 2 Vendor submits complete preliminary review package to the Department for its preliminary review of the proposed Conservation Easement Project.
Performance Measures
 - 1 Preliminary Review Package - Preliminary review package submitted within 3 months of Department notification of vendor regarding State approval of awarded funding agreement.

Tasks

- 3 Vendor compiles required documents to submit to Department for its project file review of the proposed Conservation Easement Project (refer to Attachment A-1 for list of required project deliverables).
Performance Measures

Tasks

- 4 Vendor submits complete project file to Department for final review of proposed Conservation Easement Project.
Performance Measures
 - 1 Project File - Complete project file submitted within 18 months of Department notification of vendor regarding State approval of awarded funding agreement.

Tasks

- 5 Upon its receipt of interim payment #2, vendor conducts the closing of the conservation easement transaction.
Performance Measures

Tasks

- 6 After the closing of the conservation easement transaction, vendor compiles final report to submit to Department for its review of the completed Conservation Easement Project (refer to Attachment A-1 for list of required project deliverables).
Performance Measures

Tasks

- 7 Vendor submits complete final report to Department for its review.
Performance Measures
 - 1 Final Report - Complete final report submitted within 120 calendar days of receipt of Interim Payment #2.

Organization	Grant Opportunity	Application #	Project Title	Date/Time Submitted
<i>Farmlands Forever</i>	Round 14 Farmland Protection Implementation Grants (FPIG) Program	AGM01-FPIG-2016-0001	Gateway Farms (TEST1 - 87.5%)	Mar 3 2016 3:08PM

**ATTACHMENT C - WORK PLAN
ORGANIZATIONAL CAPACITY**

Describe the staffing, qualifications and ongoing staff development/training activities, and relevant experience of the provider organization to support the project.
Refer to Program Specific Question #11.

APPENDIX I (SAMPLE ILLUSTRATION):

Attachment D of the Master Contract "Payment and Reporting Schedule"

ATTACHMENT D PAYMENT AND REPORTING SCHEDULE

I. PAYMENT PROVISIONS

In full consideration of contract services to be performed the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Advance Payment, Initial Payment and Recoupment Language (if applicable):

1. The State Agency will make an advance payment to the Contractor, during the initial period, in the amount of _____ percent (____%) the budget as set forth in the most recently approved applicable Attachment B form (Budget).
2. The State Agency will make an initial payment to the Contractor in the amount of _____ percent (____%) of the annual budget as set forth in the most recently approved applicable Attached B form (Budget). This payment will be no later than ____ days from the beginning of the budget period.
3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
4. Recoupment of any advance payment(s) or initial payment(s) shall be recovered by crediting (0.00%) of subsequent claims and such claims will be reduced until the advance is fully recovered within the contract period.

B. Interim and/or Final Claims for Reimbursement

Claiming Schedule (select applicable frequency):

- Quarterly Reimbursement
Due date _____
- Monthly Reimbursement
Due date _____
- Biannual Reimbursement
Due date _____

Contract Number: # _____
Page 1 of 5, Attachment D – Payment and Reporting Schedule

- Fee for Service Reimbursement
Due date _____
- Rate Based Reimbursement
Due date _____
- Fifth Quarter Reimbursement
Due date _____
- Milestone/Performance Reimbursement
Due date/Frequency Approval per milestone (Attachment A-1)
- Scheduled Reimbursement
Due date/Frequency _____
- Interim Reimbursement as Requested by Contractor _____

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

- Narrative/Qualitative Report
The Contractor will submit, on a quarterly basis, not later than _____ days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract
- Statistical/Quantitative Report
The Contractor will submit, on a quarterly basis, not later than _____ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.
- Expenditure Report
The Contractor will submit, on a quarterly basis, not later than _____ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.
- Final Report
The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than _____ days after the end of the contract period.
- Consolidated Fiscal Report (CFR)¹
The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1

¹ The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

Contract Number: # _____
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of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (see Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until 30 days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is 05/15/2020. The agency shall complete its audit and notify vendor of the results no later than 09/15/2020. The Contractor shall submit the report not later than 0 days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

See Attachment A-1.

Contract Number: # _____
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