

**NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION**

**DORMITORY AUTHORITY OF THE  
STATE OF NEW YORK**

**NEW YORK STATEWIDE INVESTMENT IN MORE SWIMMING (NY SWIMS) INITIATIVE**

**ROUND ONE**

**REQUEST FOR APPLICATIONS (RFA)**

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New York

RFA Announcement: May 1, 2024  
RFA Submission Start Date: June 13, 2024  
RFA Submission End Date: July 12, 2024

**NEW YORK STATEWIDE INVESTMENT IN MORE SWIMMING**

Request for Applications

Timetable of Key Events:

<b><u>Event:</u></b>	<b><u>Date:</u></b>
Funding Opportunity Announcement.....	5/1/2024
Open Application Question Period Begin .....	5/1/2024
Applicant Webinar.....	5/15/2024
Deadline to Submit Questions .....	5/29/2024
Answers Posted By.....	6/12/2024
Application Submission Period .....	6/13/24 – 7/12/2024
Application Scoring .....	7/15/24 – 8/12/2024
Awards Announced by .....	8/28/2024

## **Program Background**

Recognizing that drowning is the leading cause of death for children ages 1-4 and that climate change will increase extreme heat events, Governor Hochul announced the New York Statewide Investment in More Swimming (NY SWIMS) initiative, a new competitive matching Grant program to expand access to safe swimming facilities in Underserved Communities across the State.

## **Funding Purpose**

Municipalities will be able to apply for funding to support the construction or renovation of Municipal Swimming Facilities, and improvements ancillary thereto, in Underserved Communities across the State.

## **Inquiries**

In accordance with State Finance Law § 139-j and § 139-k, this RFA includes and imposes certain restrictions on communications between the Dormitory Authority of the State of New York (“DASNY”) and the New York State Office of Parks, Recreation and Historic Preservation (“NYS OPRHP”) personnel and an Applicant, or any representative, agent, consultant or other third party representing the Applicant during the procurement process. Any questions regarding this RFA should be submitted via the NY SWIMS Survey link: <https://www.surveymonkey.com/r/NYSWIMS2024>.

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

## **Apply Promptly**

Prospective Applicants are strongly encouraged to take the time to fully review the RFA and related documents to ensure they submit the best possible Application. **Applicants are also encouraged to not wait until the Application due date to submit an Application.** Technical issues with sending an Application may be reported to [NYSWIMS@DASNY.org](mailto:NYSWIMS@DASNY.org) but there is no guarantee that an issue can be resolved in the final hours of the submission window. Late Applications will not be accepted.

## **Other Resources:**

- [2020-2025 Statewide Comprehensive Outdoor Recreation Plan](#)
- [American Community Survey Poverty Estimates by Zip Code Tabulation Area \(ZCTA\) \(2018-2022\)](#)

Should any issues arise after the Open Application Question period concludes on 05/29/2024, inquiries can be directed to the RFA Coordinator with the Subject line: **NY SWIMS RFA Inquiry** via [NYSWIMS@DASNY.org](mailto:NYSWIMS@DASNY.org).

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### **APPENDICES:**

Appendix 1	NY SWIMS Application (with Applicant Worksheet to Calculate Project Need)
Appendix 2	Certificate of Municipal Site Control
Appendix 3	Frequently Asked Questions (FAQ)
Appendix 4	Sample Grant Disbursement Agreement (GDA)
Appendix 5	NY SWIMS Scoring Template

## Section One: INTRODUCTION

### 1.1 Background

#### **Construction and Renovation of Municipal Swimming Facilities in Underserved Communities**

NY SWIMS, overseen by NYS OPRHP and administered by DASNY, will create a competitive Grant program to facilitate the renovation and construction of Municipal Swimming Facilities in Underserved Communities across the State. Through NY SWIMS, local municipalities can apply for Grants for Municipal Swimming Facility Projects. NY SWIMS Grants can be used to fund the design and construction or renovation of swimming pools and natural swimming areas along with other related capital expenses, including site infrastructure, public restrooms and changing rooms, land acquisition, and other capital costs necessary to effectuate the NY SWIMS initiative.

### 1.2 Purpose of the Funding

The 2024-2025 Enacted Budget includes \$150 million in capital funding for the NY SWIMS initiative to be awarded to Municipalities and not-for-profit entities through multiple competitive funding opportunities that will award qualified applicants Grants between \$50,000 and \$10,000,000 for eligible capital projects. Grantees must provide a 20% match toward the Grant-funded Project.

**This current round will only be open to Municipalities and Indian Nations.**

### 1.3 Funding Availability & Allocations

Municipalities will be able to apply for this first round of funding to support the construction or renovation of Municipal Swimming Facilities in Underserved Communities across the State. It is expected this first round of funding for Municipalities will be for not less than \$60 million and no more than \$90 million. Any additional or future round(s) are expected to be open to Municipalities and not-for-profit entities.

NY SWIMS will be overseen by NYS OPRHP and administered by DASNY.

## Section Two: ELIGIBILITY

### 2.1 Definitions

Ancillary Projects: Costs related to the construction or renovation of Municipal Swimming Facilities, but do not expand access to Municipal Swimming Facilities and are not required by State Sanitary Code. Ancillary costs cannot make up more than 10% of the total Grant amount. Examples include splash pads, concession stands, picnic areas, and playgrounds.

Amenities: Costs related to the construction or renovation of Municipal Swimming Facilities that allow for the expansion of access to Municipal Swimming Facilities, are required by State Sanitary Code, or needed for the safety of users. Examples include public restrooms, bathhouses, showers, shade structures, pavilions, etc.

Applicant: New York State Municipalities providing swimming opportunities to Underserved Communities.

Application: The documentation submitted that will be reviewed and scored for this funding opportunity.

Authorized Officers: Individuals authorized to sign documents on behalf of the Municipality, including but not limited to contractual agreements. In the event there is only one Authorized Officer, a letter from the municipal attorney confirming that there is only one Authorized Officer must be submitted to DASNY and NYS OPRHP.

Awardee: Applicant that has been tentatively awarded a Grant by NYS OPRHP and DASNY.

Award Letter: The letter sent to Awardees as described in Section 5.1 of this RFA.

DASNY: The Dormitory Authority of the State of New York.

Eligible Project Costs: That portion of allowable General Project Development Costs incurred in connection with a NY SWIMS Project that are to be reimbursed from a NY SWIMS Grant. Eligible costs are listed in this RFA. All costs to be paid with Grant funds shall be capital in nature as further described in this RFA. Grant funds may not be used to pay for non-capital costs including, but not limited to, salaries, maintenance or repair costs, operational equipment, lease payments and utility costs.

Grant Disbursement Agreement (“GDA”): The contract entered into between DASNY and the Grantee.

General Project Development Costs: Costs that include, but are not limited to acquisition, demolition, design, construction, major renovation, reconstruction, improvement, modernization or rehabilitation of a Municipal Swimming Facility or related Eligible Project Costs.

Grant Application: Any Application submitted by an Applicant to this RFA.

Grantee: Municipality that has passed the scoring and review phases and has satisfied all conditions precedent required to enter into a Grant Disbursement Agreement.

Grantee Certification: As the issuer of the bonds that will finance the Project to be funded with NY SWIMS funds, DASNY must verify that it is in compliance with all applicable Federal and State laws and regulations. This certification should accurately state the purposes for which the NY SWIMS funds will be used and must be signed by two Authorized Officers.

Grantee Questionnaire (“GQ”): This questionnaire is completed by all prospective Grantees to provide DASNY with pertinent information necessary for DASNY to complete its diligence review of the Applicant.

Matching Funds: The Grant will cover no more than 80% of the proposed Project. The Grantee will be expected to cover the remaining costs.

Municipality: For the purposes of this RFA, the term Municipality shall mean a County, City, Town, Village, or Indian Nation.

Municipal Swimming Facility: A swimming pool and the structure within which it is located, or natural swimming area.

NYS OPRHP: The New York State Office of Parks, Recreation and Historic Preservation

Positive Pay: A fraud-prevention system offered by most commercial banks.

Project: Capital costs related to the construction, renovation or acquisition of a Municipal Swimming Facility that serves to expand swimming opportunities for New Yorkers. Project costs are required to be incurred and paid by the Grantee and all contracts for the work to be performed for the Project are required to be signed by an Authorized Officer of the Grantee.

Project Certification: The document that certifies the Project will be in compliance with various relevant statutory provisions.

Project Location: The physical address where the Project will occur.

RFA: Request for Application, developed by NYS OPRHP and DASNY.

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

Site Control: Evidence that the Grantee has sufficient authorization and control to undertake the Project at the Project Location. Municipalities shall submit a Certificate of Municipal Site Control provided as Appendix 2 to this RFA. Lease agreements must extend at least 10 years from the date the Application is submitted.

Given the unique historical and legal parameters attendant to Indian Nation lands, Indian Nations should submit valid written documentation to satisfy the Site Control requirement.

State Environmental Quality Review Act ("SEQR") Review: New York State Environmental Quality Review Act (SEQR) requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. A SEQR review must be completed for each Project to be funded with the Grant.

Underserved Communities: Underserved Communities are determined with respect to existing recreation opportunities and to the percent of the population below poverty level for the Project Location of the proposed Project. For scoring purposes, two data points will be utilized: the "Relative Index of Need" (RIN) that is published in the [Statewide Comprehensive Outdoor Recreation Plan \(SCORP\)](#); and the [American Community Survey Poverty Estimates by Zip Code Tabulation Area \(ZCTA\) \(2018-2022\)](#). Zip Code Tabulation Areas (ZCTAs) are developed by the US Census Bureau for tabulating summary statistics, including poverty rate. These data points are explained in Section 4.2 of the RFA.

W-9 Form: IRS document utilized to set up the Grantee as a vendor/payee in DASNY's financial system. The Organization's Federal Employer Identification Number (FEIN) is required to make payment. NOTE: The Grantee's Legal Name and FEIN on the W-9 should match the Legal Name and FEIN on file with the IRS.

## 2.2 Eligible Entities

New York State Municipalities providing swimming opportunities to Underserved Communities.

## 2.3 Eligible Projects

Grants may be used for payment of capital costs that include, but are not limited to, acquisition, demolition, design, construction, major renovation, reconstruction, improvement, modernization, or rehabilitation of a Municipal Swimming Facility and related eligible improvements that expand swimming opportunities for New Yorkers.

Project costs are required to be paid by the Grantee and all contracts for the work to be performed for the Project are required to be signed by an Authorized Officer of the Grantee.

The Grantee must be the entity entering into the contracts for the work to be performed and the entity paying for the costs of the Project.

All Projects must comply with all local and state regulations and laws at all times.

Applicants may submit Applications for more than one Project. **A separate Application must be submitted for each Project.**

## 2.4 Eligible Project Locations

### General Project Location Requirement

Site control is required to prove that the Applicant has sufficient authorization and control to undertake the Project at the Project Location.

Municipalities must submit a Certificate of Municipal Site Control provided as Appendix 2 to this RFA to demonstrate ownership or a long-term lease that allows the Municipality to construct and maintain the Project on the property.

Indian Nations should submit documentation to demonstrate Site Control over the Project Location and authorization to construct and maintain the Project at the Project Location.

If the Project will be undertaken on leased/rented real property, the lease or rental agreement must be provided. **The lease/rental agreement must show that it is in effect for at least ten (10) years from the date the Application is submitted, and lease term will be verified at the time of the execution of the Grant Disbursement Agreement to ensure that a significant period of time remains on the lease term.** Support of the property owner for the capital improvement(s) is also required to be submitted with the Application if the property is rented/leased. Include a letter on the landlord/lease agency's letterhead granting permission to complete the Project at the designated site. The letter must be dated and signed by an authorized officer of the landlord or leasing agency.

## 2.5 Eligible Uses of Funds

### Eligible Project costs include, but are not limited to:

- Capital costs including acquisition, demolition, acquisition, design, construction, major renovation, reconstruction, improvement, modernization or rehabilitation of a Municipal Swimming Facility or related eligible improvements thereto and required amenities under State Sanitary Code. This includes public restrooms, bathhouses, showers, shade structures, and pavilions.
- Ancillary features to a Municipal Swimming Facility, including splash pads, concession stands, picnic areas, and playgrounds are also eligible for reimbursement, but can only account for up to 10% of the total Grant amount.
- Costs to be paid from Grant funds cannot have been incurred before April 1, 2024. Costs incurred subsequent to January 1, 2023 are eligible to be included as part of the 20% match. Such costs must meet all of the requirements of the NY SWIMS program and this RFA and must be documented to the satisfaction of NYS OPRHP and DASNY.
- Dam removal may be eligible if used to enhance recreation (such as to open up a river or increase safety for aquatic recreation uses).

### Eligible non-construction costs are limited to:

- Architectural design and engineering.

### Ineligible Uses of Funds

Ineligible uses of NY SWIMS funds include, but are not limited to:

- Working capital, including funds required to operate a facility, such as staff, rent, utilities, toys, internal labor, supplies, and equipment.
- Grant funds may not be used to restore or preserve existing dams that have a demonstrated negative impact on fish passage or stream ecology.
- Preliminary planning, market studies, and similar activities.
- Grant writing, administration, legal, insurance and other fees.
- Minor repairs or routine maintenance projects.
- Long term debt, including financing of machinery or equipment.
- Support of any Project that is part of an existing or proposed tax credit structure.

## 2.6 Matching Requirement

The NY SWIMS Program requires Applicants to contribute matching funds towards the NY SWIMS Project in a 1:4 ratio. Therefore, the Grant is expected to cover no more than 80% of the maximum Project cost and the Municipality will contribute at least the remaining 20% ("Matching Funds"). Applicants must also demonstrate the ability to provide the remainder of the funds necessary to complete the Project. There is no requirement that matching funds be fully secured by the date of Application, but Applications will be scored based upon the amount of funds secured and/or the timing of additional funds expected. No Grant Disbursement Agreement will be entered into until all matching funds and funds necessary to complete the Project have been secured.

A financial analysis will be undertaken by DASNY in connection with each Application. The financial analysis will evaluate the degree to which sufficient funds in excess of the Grant amount



have been secured in the amount necessary to complete the NY SWIMS Project and shall confirm that such funds meet all applicable criteria set forth in this NY SWIMS RFA. Documentation may include, but is not limited to, any or all of the following:

- Bank account and investment account statements.
- Donor pledges, agreements and receipts.
- Grant award letters, agreements and contracts.
- Loan agreements, commitment letters, terms and conditions.
- Bond documents.
- Personal service contracts.
- Bills of sale and paid invoices evidencing payment by the Applicant for an eligible cost.
- Eligible NY SWIMS Project expenditures already made by the Applicant may be counted as **Matching Funds** contributed by the Applicant so long as such expenditures occurred subsequent to January 1, 2023.

PLEASE NOTE: Pledges or award letters with unsatisfied contingencies, pending loan applications, and other non-final commitments will not be considered to be secured in the evaluation process. Applications demonstrating that Matching Funds have been secured shall be evaluated more favorably than Applications that do not provide evidence of committed funding sources necessary to complete the NY SWIMS Project.

### Section Three: APPLICATION PROCESS

#### 3.1 Informational Webinar and Question period

A Webinar video will be posted on the NYS OPRHP and DASNY NY SWIMS Websites by 05/15/2024. This video will address questions and clarify specific elements of the RFA announcement.

Prior to the Webinar date, ensure thorough review of RFA for all requirements, including but not limited to Section Four (Evaluation) and Section Five (Advancement and Grant Disbursement Agreements).

To maintain a fair and open process, NYS OPRHP and DASNY will only accept questions regarding this RFA received via SurveyMonkey. The SurveyMonkey form can be accessed here: <https://www.surveymonkey.com/r/NYSWIMS2024>. Please send all questions no later than 4:00 pm 05/29/2024.

Questions of a substantive nature submitted prior to 05/10/2024 will be addressed on the Applicant Webinar Video, where applicable.

Questions received after the Webinar Video has been posted on 05/15/2024, and prior to 5:00 pm on 05/29/2024, will be made available on the [NYS OPRHP website](#) and DASNY ([Grant Administration | DASNY](#)) websites on 06/12/2024.

**All potential Applicants are strongly encouraged to view this Webinar as the New York Statewide Investment in More Swimming initiative (NY SWIMS) Grant Application process will be explained in the Webinar Video.**

#### 3.2 Submit Application

#### **Applicant Action Items:**

- 1) Verify that Application responses directly address the program requirements as well as the scoring criteria as laid out in Section 4.2 of this RFA.
- 2) Verify that all documentation necessary to support the Application is uploaded along with the Application, including:
  - Project budget supported by professional estimates, proposals, bid documents, or other required documentation confirming the Project cost.
  - Documentation that indicates the Applicant has the funds necessary to complete the Project including the required Matching Funds. If all of the funds required to complete the project have not been secured at the time of Application, the committed funding to date should be provided along with the details on how the additional funding will be obtained. The degree to which additional funding has been secured will be a factor in scoring.
  - Required permits obtained, or list of permits that will be needed to complete the Project.
  - Certificate of Municipal Site Control attached hereto as Appendix 2. **For an Indian Nation, documentation to demonstrate Site Control over the Project Location and authorization to construct and maintain the Project at the Project Location.**
- 3) Submit Applications by email to [NYSWIMS@DASNY.org](mailto:NYSWIMS@DASNY.org) *no later than 5:00 pm 07/12/2024*. Applications submitted after the due date will not be considered. **Anything received via another email, postal delivery, or facsimile will not be accepted, and no notification will be provided to the Applicant.**
- 4) **After submission of the Application, please check your email to verify that you have received an email confirmation that your application has been received. If you do not receive a notification, please email [NYSWIMS@DASNY.org](mailto:NYSWIMS@DASNY.org) with a copy to [grants@DASNY.org](mailto:grants@DASNY.org).**

**Please note that incomplete Applications will be scored less favorably than completed Applications. If required documentation is not provided as required by this RFA, the Applicant will receive a 0 (zero) in that category. There will not be an opportunity to amend the submitted Application prior to scoring. Please refer to the checklist at the beginning of this RFA and verify that all required documentation has been included in your email.**

Applications for this first round of funding will be accepted from 06/13/2024 to 07/12/2024. It is anticipated that additional round(s) of funding will be available to Municipalities and not-for-profit entities.

Prospective Applicants are strongly encouraged to submit their Applications **as soon as their Application is complete, well in advance of the Application due date**. Technical issues with sending an Application may be reported to [NYSWIMS@DASNY.org](mailto:NYSWIMS@DASNY.org) but there is no guarantee that an issue can be resolved in the final hours of the submission window.

### **Application Submission Tips:**

To complete the Application process, please pay particular attention to the following steps and required documents to be submitted:

- 1) The NY SWIMS Application is a fillable PDF. Be certain to save the document prior to submitting it and name the Application and any additional PDFs clearly with the

- Applicant's name. Number relevant attachments as needed for clarity and to ensure that all relevant information and documentation is submitted.
- 2) The Applicant may choose to submit one comprehensive PDF of the Application with all related backup documentation, or to submit an email with multiple attachments. **It is imperative that all relevant documents are contained in this one email. Subsequent emails with additional information will not be considered.**
  - 3) File size limit should not exceed 112 MB for messages outside Microsoft datacenters, and 150 MB between Microsoft users. If you prefer to submit a zip file, please find assistance here: [Zip and unzip files - Microsoft Support](#)
  - 4) Prior to submission, please be certain to include "SWIMS Application" in the subject line of the email and name all attachments with the Applicant's name.
  - 5) NY SWIMS is a competitive Grant program so once your Application has been submitted, no changes will be allowed. If your Application is not complete, it will result in a lower score and/or render the Application ineligible to advance to scoring. Please refer to the checklist before submission to verify that you have included all of the required documentation.

## Section Four: EVALUATION

NY SWIMS is expected to be a highly competitive Grant program. Applicants will be scored using the criteria set forth below.

A score will be assigned to each Application based upon responsiveness to the criteria set forth in this RFA. During the Grant evaluation process, reviewers will review each Application and assign a score to each based upon the criteria below. In order to receive a NY SWIMS Grant, an Application must first be deemed eligible for scoring and then must receive a combined Project Impact and Project Viability & Novel Features score such that the total combined minimum score is at least 60.

The Applicants with the highest scores of 60 and above shall be awarded a NY SWIMS Grant in a minimum amount of \$50,000 and up to \$10,000,000; provided, however, regional diversity shall be a goal in the award of Grants across the State. NYS OPRHP and DASNY will try to achieve this goal as part of the review and scoring process.

### 4.1 Eligibility Review

Initially, all Applications will be reviewed for eligibility as described in Section 2.2 (Eligible Entities) and 2.3 (Eligible Projects). Based on the information provided in the Application and supplemental documentation, NYS OPRHP and DASNY will determine if the submitted Application meets the eligibility criteria as outlined in this RFA. Projects that do not meet eligibility as described in Sections 2.2 and 2.3 will not advance to scoring.

### 4.2 Two-Step Selection Criteria

NYS OPRHP and DASNY will score each eligible Application and assign a score based on the information provided in the Application. A total of 100 points will be available across all categories in Steps One and Step Two.

**Step One:** All Applications will be scored based on Project need, as described below. Only Projects scoring at least 20 points for Project need will be evaluated in Step Two.

- **Project Need** – maximum score up to 40 points:
  - NYS OPRHP will score based on the following:
    - 0-20 points derived from the Statewide Comprehensive Outdoor Recreation Plan Relative Index of Needs (RIN) value for swimming associated with the county where the Project is located.
      - Use the “Applicant Worksheet to Calculate Project Need” and identify the RIN associated with the county where the Project is located and multiply the index number by 2 to determine the “Total Score for RIN”.
    - 0-20 points derived from the [American Community Survey Poverty Estimates by Zip Code Tabulation Area \(ZCTA\) \(2018-2022\)](#) to assess the poverty level associated with the Project Location.
      - Follow the instructions labeled “Using the ‘Grants Map’ for NY SWIMS for 2024” to identify the ZCTA of the Project Location. Then use the Point Breakdown “ZCTA” Table on the “Applicant Worksheet to Calculate Project Need” to assign points and multiply by 2 to determine the “Total Score for ZCTA”.

**Step Two:** Applications that have a Project need score of at least 20 points will be scored based on Project Impact and Project Viability & Novel Features, as described below. Applications that have a Project need score of less than 20 points will be deemed ineligible and will not be evaluated in Step Two. A score based on all categories will be assigned at the end of Step Two.

- **Project Impact** – maximum score up to 20 points:
  - NYS OPRHP will score and evaluate the qualitative aspects of the Project.
    - 0-20 points assessed from review of an Applicant-submitted narrative and supporting documentation describing the groups served by the proposed Project. Include, as applicable: how the Project meets the needs for an aging population; encourages participation by youth; responds to changes in the composition of the population and social condition of the community; and/or ensures open and reasonable access to persons of various abilities.
      - Rater will evaluate submissions and assign up to 20 points.
      - Scoring instructions:
        - 0-5 points for relevance of the proposal related to the needs for an aging population.
        - 0-5 points for relevance of the proposal related to participation of youth.
        - 0-5 points for relevance of the proposal related to adapting to changing community composition.
        - 0-5 points for relevance of the proposal related to ensuring open and reasonable access to persons of various abilities and from outside the municipality.
- **Project Viability & Novel Features** - maximum score up to 40 points:

- DASNY will review Applications and score for statutory and bond eligibility; site control; Project cost estimates as well as verification that sufficient funds exist to complete the Project as described along with the required Matching Funds.
  - 0-20 points for detailed Project budget, eligibility of costs and supporting documentation (quotes, proposals, estimates, etc.).
  - 0-10 points for evidence of Matching Funds and other/additional funding.
  - 0-10 points may be added based on any unique or creative features that would distinguish the Project from any other project. Applicant should clearly describe how these features will result in a signature Project within the community.

One of the goals of the NY SWIMS Grant Program is to provide regional diversity in the award of Grants across the State. NYS OPRHP and DASNY will try to achieve this goal as part of the review and scoring process.

## **Section Five: ADVANCEMENT & GRANT DISBURSEMENT AGREEMENT**

### **5.1 Issuance of Award Letters**

NY SWIMS Awards will be announced after all qualifying Applications have been scored by NYS OPRHP and DASNY.

Awards will be announced by August 28, 2024.

After the announcement, DASNY will issue an Award Letter to the Awardee and manage the award process. The Award Letter is not a commitment to provide funds but shall constitute a commitment on the part of DASNY to enter into a Grant Disbursement Agreement (GDA) subject to compliance with the conditions precedent set forth in the Award Letter and this RFA. The GDA is not effective until fully executed.

### **5.2 Prerequisites to the Grant Disbursement Agreement**

After the issuance of the Award Letter, DASNY will undertake a financial, environmental, bond and tax counsel review. DASNY will also determine whether required regulatory approvals have been obtained. DASNY will also verify that sufficient site control is in place. No GDA will be entered into until the following reviews have been completed to the satisfaction of DASNY.

#### Financial Review

DASNY will conduct a financial review in connection with each Award in order to verify that sufficient Matching Funds, as well as additional funds, if needed, have been secured in the amount necessary to complete the NY SWIMS Project, and that such funds meet all applicable criteria set forth in this RFA, including, but not limited to, the matching requirement set forth in Section 2.6 of this RFA. Grantees will also be required to submit a W-9.

#### State Environmental Quality Review

If a SEQRA review has been conducted for the Project, the Applicant must provide either the Findings Statement or the Negative Declaration prepared by the SEQRA Lead Agency in

connection with the Project. If no SEQRA review has been undertaken in connection with a Project that is currently underway or has not started, DASNY will undertake the necessary review.

If a Section 14.09 of the Historic Preservation Act review was completed in connection with the NY SWIMS Project, please provide documentation.

### Grantee Questionnaire

DASNY needs to be certain that Grant funds are paid only to entities that are deemed to be responsible. Full and accurate responses on the Grantee Questionnaire (GQ) will help to achieve this goal. A request will be made via email for the names and email addresses of two Authorized Officers. The GQ will then be sent to the Authorized Officers through DocuSign. The GQ is required in order to complete the review process and will then be incorporated into the GDA. The submission of false information on the GQ could be a violation of Federal and State Penal Laws.

**The GQ must be completed under the Legal Name of Organization.** Please use the correct, full name of the Municipality on the GQ, with no abbreviations.

### Certification

Municipalities will be asked to certify, at a minimum, the following in connection with the Project to be financed by the NY SWIMS Grant:

- The Grantee shall take affirmative steps to ensure that information is widely disseminated with respect to the following aspects of the project or program:
  - a. The Project or program is publicly funded.
  - b. The Project or program is open to all.
  - c. The Project or program beneficiaries are not limited to any particular sect or group.
- All contractors and vendors retained to perform services in connection with the Project shall be authorized to do business in the State of New York and shall possess and maintain all professional licenses and/or certifications required to perform the tasks undertaken in connection with the Project.
- Other requirements as deemed necessary and/or appropriate by DASNY, its bond and tax counsel, and NYS OPRHP.

### **5.3 Grant Disbursement Agreement**

The Grant Disbursement Agreement execution process will occur via DocuSign. The Grantee must provide the name and a valid email for the Grantee's Attorney before the DocuSign process begins.

First, DASNY will forward a Grant Disbursement Agreement (GDA) to the Grantee once the aforementioned reviews, as applicable, have been completed. The GDA is the contract between the Grantee and DASNY. The Grantee will review and sign the GDA which will then be forwarded to the Grantee's Attorney. The Grantee's Attorney must provide an Opinion of Counsel in the form provided in the GDA in order for the GDA to be executed by DASNY.

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

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

## **5.4 GDA Terms and Conditions**

### Terms of the NY SWIMS GDA

The NY SWIMS GDA between the Grantee and DASNY will expire 5 years after the GDA is executed.

### Non-Discrimination and Affirmative Action Policy for the Project

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

1. The recipient of State funds represents that its equal employment opportunity policy statement incorporates, at a minimum, the policies and practices set forth below:
  - Grantee shall (i) not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, (ii) undertake or continue existing programs of affirmative action to ensure that Minority Group Members and women are afforded equal employment opportunities, and (iii) make and document its conscientious and active efforts to employ and utilize M/WBEs, Minority Group Members and women in its workforce on contracts. Such action shall be taken with reference to, but not limited to, solicitations or advertisements for employment, recruitment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
  - At the request of the Affirmative Action Officer, (AAO), the Grantee shall request each employment agency, labor union, or authorized representative of workers with whom it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative does not unlawfully discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Grantee's obligations herein.
2. The Grantee is encouraged to include minorities and women in any job opportunities created by the Project; and to solicit and utilize M/WBE firms for any contractual opportunities generated in connection with the Project.

3. Grantee represents and warrants that, for the duration of the Agreement, it shall furnish all information and reports required by the AAO and shall permit access to its books and records by DASNY, or its designee, for the purpose of ascertaining compliance with provisions hereof.
4. Grantee shall include or cause to be included, paragraphs (1) through (3) above, in every contract, subcontract or purchase order with a Contracting Party executed in connection with the Project, in such a manner that said provisions shall be binding upon each Contracting Party as to its obligations incurred in connection with the Project.

### Non-Discrimination and Affirmative Action Definitions

#### Affirmative Action

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

#### Affirmative Action Officer ("AAO")

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

#### Contracting Party

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

#### Minority Business Enterprise ("MBE")

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

#### Minority Group Member

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



## Minority and Women-Owned Business Enterprise Participation

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

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

## Women-owned Business Enterprise ("WBE")

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

### **5.5 Requisition of Funds**

Once the GDA is fully executed, the Grantee may requisition funds for work completed using the forms included as exhibits to the GDA. The Grantee must forward requisitions directly to DASNY's Accounts Payable Unit at [apgrants@dasny.org](mailto:apgrants@dasny.org). No advances will be made, and Grant funds will not be disbursed to pay deposits.

DASNY will review each requisition received from the Grantee which will include, but shall not be limited to, verification that proper documentation has been received. DASNY reserves the right to request additional information to verify the representations in the requisition.

The NY SWIMS initiative will provide reimbursement only up to the Grant award amount set forth in the GDA. If a Project goes over budget, it will be the responsibility of the Grantee to cover additional expenses. **If allowable costs for the Project are less than the amount awarded (i.e. "under budget"), any unused funding will revert to the State; it cannot be used for additional purchases, renovations, or any other expense.** Please refer to Section 2.5 for additional information regarding Project costs that may not be submitted for reimbursement.

The NY SWIMS GDA allows for a Grantee to utilize DASNY's Payment on Invoice option as follows:

An interest-bearing segregated account must be established by the Grantee into which Grant Funds will be deposited after approval of a submitted requisition. An industry standard-fraud protection must be added to the segregated bank account ("Positive Pay").

Eligible Project expenses incurred in connection with the Project and to be paid with Grant Funds prior to payment by the Grantee to the contractor or vendor must be paid out of this segregated account. All work being paid on invoice must be completed prior to disbursement of Grant Funds. The funds in the segregated account shall not be used for any purpose other than making payments to a contractor or vendor for approved costs in accordance with the requisition submitted in connection with the Grant funded Project.

The Grantee must provide proof of disbursement of Grant Funds to the contractor and/or vendor set forth in the requisition for which payment on invoice was requested, in a form acceptable to DASNY, within sixty (60) days of the date that Grant Funds are disbursed to the Grantee to pay for such costs. DASNY will not make any additional disbursements from Grant Funds until such time as proof of payment is provided. Failure to comply with these requirements will revoke a Grantee's eligibility to utilize the Payment on Invoice option.

**Important Note:** In order to be reimbursed for eligible Project costs, the following documentation must be included with the submitted requisition:

- **Paid invoice from a vendor authorized to do business in New York State and issued to the Grantee.**
- **Cancelled check or bank statement or corporate credit card statement in the name of the Grantee evidencing payment.**
- **Completion of the requisition exhibits included with the GDA.**
- **Other information as may be requested by DASNY.**

## **Section Six: RIGHTS RESERVED**

NYS OPRHP and DASNY reserve the right to:

- Amend the RFA if necessary and post updated information to the NYS OPRHP and DASNY websites;
- Reject any or all Applications received in response to this RFA;
- Withdraw the RFA at any time in the sole discretion of NYS OPRHP and DASNY;
- Withdraw the award if: (i) the grant administration process is delayed in excess of twelve (12) months due to non-responsiveness; (ii) inability of the Awardee to provide the documentation required for the successful administration of the Grant award (e.g., site control documentation, financial documentation, etc.); and/or (iii) Awardee fails to provide documentation required to prepare a Grant contract or fails to execute a Grant contract within twelve (12) months from date of award. No Applicant will have any rights against NYS OPRHP or DASNY arising from such actions;
- Exclude ineligible expenses from the Grant amount requested;

- In the event of NY SWIMS award forfeiture(s), NYS OPRHP and DASNY reserve the right to consider Applications submitted in response to this RFA that were not initially funded. Updated information may be requested as deemed necessary by NYS OPRHP or DASNY;
- NYS OPRHP and DASNY also reserve the right to solicit and accept new Applications if additional NY SWIMS funding becomes available;
- Request additional information from the Applicants as required prior to entering into a GDA.

**Please note, however, that NYS OPRHP and DASNY will not contact the Applicant during the Application Period to seek clarification, request additional information or inform the Applicant that the Application is incomplete.**