

STORMWATER RETROFIT PROGRAM RULES  
(ARTICLE 7)

Catskill Watershed Corporation  
PO Box 569  
Margaretville, NY 12455  
  
(845) 586-1400

Approved by the Board of Directors  
May 25, 1999

***Revised***  
***February 7, 2017***

Equal Opportunity Employer

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**CHAPTER 7:00 - STORMWATER RETROFIT PROGRAM OVERVIEW****7:00:01. Definitions**

1. Words used in this article mean:
2. "Applicant," a municipality or other entity (corporation, partnership, individual, etc.) that has submitted a proposal to implement an eligible project to retrofit stormwater best management practices or for a Community-wide Stormwater Infrastructure Assessment and Planning Program grant as described herein;
3. "Board," the Board of Directors of the CWC;
4. "BMP," Stormwater Best Management Practice - Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control non-point source pollutants yet are compatible with the productive use of the resource to which they are applied.
5. "Capital costs," costs of implementation, design, construction, land acquisition, and other reasonable and necessary costs for construction of BMP projects.
6. "Construction cost," cost of activities to build, demolish, replace, rehabilitate or alter any proposed BMP or structures required for the function of such BMP.
7. "CWC," the Catskill Watershed Corporation;
8. "DEP," the New York City Department of Environmental Protection;
9. "Eligible Stormwater Emergency, sudden and unforeseen circumstance where stormwater runoff from non-City-owned lands is impacting or presents an immediate threat of impact to the waters forming part of the New York City drinking water supply".
10. "GIS" Geographic Information System, using ESRI software.
11. "Impervious surface," any surface with low permeability leading to concentrated stormwater runoff. This definition is solely for the purposes of the Stormwater Retrofit Program and not applicable to the NYC Watershed Regulations or any other Watershed Partnership and Protection Programs.
12. "Minimum control measures" as defined by the Environmental Protection Agency's 2002 Storm Water Phase II Final Rule for the Small MS4 (municipal separate stormwater sewer system) Storm Water Program.
13. "MOA," the New York City Watershed Memorandum of Agreement;
14. "NYC," the City of New York;
15. "Program," the CWC Stormwater Retrofit Program to provide funding to assess, design, permit, construct, implement, and maintain stormwater best management practices ("BMPs") to address existing stormwater runoff in concentrated areas of impervious surfaces in NYC Watershed West of the Hudson River to the extent such BMPs are necessary to correct or reduce existing erosion and/or pollutant loading;
16. "Project Sponsor," property owner, municipality, agent authorized to act on behalf of property owner or municipality, or CWC to coordinate implementation of the project for CWC funding for the stormwater retrofit project. The project sponsor shall assign a contact individual.
17. "Reservoir stem," any watercourse segment that is tributary to a reservoir and lies within 500 feet or less of that reservoir.
18. "TSS," total suspended solids.
19. "Watercourse," a visible path through which surface water travels on a regular basis, including an intermittent stream, which is tributary to the New York City water supply. A drainage ditch, swale or surface feature that contains water only during and immediately after a rainstorm or a snowmelt shall not be considered to be a watercourse. (Reference Watershed regulations).
20. "Watershed," the West of Hudson River Watershed serving the New York City Water Supply.

**Article 7****7:00:02. Purpose and Goals**

1. The purpose of the Stormwater Retrofit Program is to fund the design, permitting, construction, implementation, and maintenance of stormwater best management practices ("BMPs") to address existing stormwater runoff in concentrated areas of impervious surfaces in the Watershed to the extent such BMPs are necessary to correct or reduce existing erosion and/or pollutant loading. Program funds shall be used solely for that purpose and for administration of this program.
2. CWC jointly with DEP, shall prioritize and select projects proposed for areas that receive runoff from concentrations of impervious surfaces for installation of BMPs, identify sites where BMPs can be constructed to catch and treat such runoff, and allocate funds to design, permit, construct and maintain each BMP.
3. The Community-wide Stormwater Infrastructure Assessment and Planning Program or "Assessment Program" will conduct detailed and comprehensive assessments of existing community stormwater infrastructure with the goal of identifying and prioritizing potential areas and Stormwater BMPs for funding, including updates of Assessments previously completed under the Assessment Program.

**7:00:03. Eligible Projects**

1. Projects eligible for grant funding from CWC, according to the Agreements between CWC and NYC, include projects to implement and maintain BMPs to address erosion and/ or pollutant loading associated with existing stormwater runoff, existing on or before January 21, 1997, in concentrated areas of impervious surfaces in the Watershed. Reimbursements for cost incurred before January 21, 1997 are not eligible.
2. Cost for reimbursement from the Assessment Program must have been incurred after October 28, 2003 and following CWC Board approval.

**7:00:04. Overview of Identification and Selection of Projects**

1. CWC, jointly with DEP, shall review and evaluate grant proposals for program funding, as discussed in Chapter 7:02 of these rules. Application forms for the Stormwater Retrofit Program and the Assessment Program shall be available on CWC's website and also shall be provided upon request.
2. CWC will accept Stormwater Retrofit Program and Assessment Program applications submitted by the date provided for herein. On an ongoing basis, CWC and DEP may also identify potentially eligible Stormwater Retrofit Program projects and submit proposals for Board review.
3. CWC jointly with DEP shall select for funding only those projects it has evaluated and determined to be eligible pursuant to the criteria listed in section 7:00:03.
4. In determining allocation of funding for a project, the CWC shall consider the benefit to water quality and an analysis of cost of the project versus benefit to water quality, as is further discussed in section 7:02 of these rules. The CWC may also consider availability of other funding for the project and need for phosphorus offsets per watershed regulations and any comprehensive strategy developed by the subject municipality(ies). CWC and DEP staff will provide written evaluations to the CWC Board that addresses these criteria.
5. Once approved jointly by CWC and DEP, the project must go through the right of objection process described in the MOA. Thereafter, the Executive Director of the CWC shall enter written grant agreements (per section 7:03:01- Project Contracting) with a qualified project sponsor to implement the selected BMPs or conduct the proposed assessment.

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Article 7**7:00:05. Eligible Costs**

1. In order for the program costs to be eligible for payment, the cost must be deemed reasonable and necessary for an eligible project, in compliance with the watershed regulations, all applicable state and local regulations and these program rules and standards.
2. Potential eligible costs include the following as needed to implement an eligible project:
  - a. Design fees, including fees for permitting and environmental assessments. Such costs can include preparation of a Short Environmental Assessment Form and preparation of a Negative Declaration for SEQRA compliance. The Board of the CWC pursuant to section of these rules 7:00:10 must pre-approve any cost for additional environmental review.
  - b. Construction costs.
  - c. Maintenance costs may be eligible (up to 17.6% of the CWC portion of project capital costs), as described in a project maintenance manual as needed to operate and maintain the BMPs for the design life of the BMPs, further discussed on section 7:01:03 of these rules. Any maintenance costs shall be paid from a separate interest-bearing account established per section 7:03:01 (Program Contracting) for the amounts established in the maintenance manual referred to in section 7:01:03.
  - d. Cost of easements/land purchase, as needed for installation of BMPs. Such cost shall be justified by any of the following:
    - i. benefit to water quality; or
    - ii. lack of sufficient room on existing property; or
    - iii. cost saving to the program.

If the project sponsor/applicant propose to purchase a parcel with more land than needed for BMPs, the program shall pay only for the costs of land needed for BMPs. The program may pay for additional land if it is documented that there is no cost-effective alternative. CWC shall establish the maximum value of land to be funded based on an appraisal by a licensed appraiser hired by CWC. A phase one environmental site assessment (as per the current and appropriate ASTM) is also required for any land purchase. CWC may pay for such phase one environmental site assessment. Land purchases should be pre-approved by the CWC Board.

- e. Force account work *for construction activities during installation of a BMP or data collection in an assessment project* may be eligible costs, subject to the project proposal. Force account work shall be identified in project description and payment requests. Force account work shall consist of project related work done by the grantee rather than by private firms. The value of the force account work shall be based on the DEP Stormwater Best Management Practices, Details, Specifications and Unit Cost Estimates, Means' data for estimating construction costs, and the Equipment Rental Rate Schedule of NYSDOT, established pursuant to Highway Law Section 12 and subject to updates and revisions as approved by the CWC Board, jointly with DEP. Force account work for any project related work by publicly elected officials shall not be eligible for reimbursement but may be applied to the applicant contribution requirement of Section 7:00:04 (3).
  - f. Other reasonable costs.
3. Reasonable costs shall be documented as follows.
    - a. Reasonable costs shall in general be determined based on recent prices for similar work in the same geographic area. The project sponsor shall compile documentation illustrating the same. In the event that the bids are deemed unreasonable based on prevailing prices for recent similar work in the same geographic area, the project sponsor shall re-bid the project.
    - b. The cost of design may be justified by design cost for similar projects.
    - c. The cost of land may be justified as follows:
      - i. Demonstrate compliance with Sec. 7:00:05(1) of these rules,

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- ii. Show that the sponsor has surveyed potential locations and has chosen the most economical location based on siting requirements and the needs; and
- iii. CWC shall provide an appraisal by a licensed appraiser demonstrating that the proposed purchase price represents the fair market value for the parcel.
- d. Reasonable cost for materials shall be justified by procurement through competitive quotes. Procurement for public entities shall be in accordance with their own policies; while that for private entities shall be in accordance with CWC’s procurement policies. In addition, all procurement shall be in accordance with Article 7 (Procurement of Goods and Services), of the Agreements between NYC and CWC (Stormwater Retrofits – MOA Attachment FF-9 and its successor the Stormwater Retrofit II Program Agreement). In addition, comparable prices from recent work of similar scope in the same geographic area shall be provided.
- e. Reasonable cost for professional services shall be justified by prices for recent similar work in the same geographic area. In addition, the project sponsor shall illustrate that selection of professional service considered cost as well as qualification.
- f. Reasonable cost for construction contractor services shall be justified by procurement, in accordance with General Municipal Law, with competitive bids. In addition, comparable prices from recent work of similar scope in the same geographic area shall be provided. Finally, the costs shall be compared to unit costs in any cost-estimating manual in standard use.

**7:00:06 Ineligible Costs**

Ineligible costs include:

- 1. costs not deemed reasonable and necessary for completion of the project;
- 2. work by publicly elected officials;
- 3. government permit fees, including but not limited to fees assessed for building permits, zoning permits or floodplain disturbance permits; or
- 4. professional fees and costs related to completing the application to request funding, gathering any of the information required by the application, and responding to questions from CWC staff related to the application or any of its required attachments. Applicants are encouraged to contact CWC for assistance with the application.

**7:00:07. Program Funding**

- 1. Funding for the program shall be determined annually through the budget process, whereby the Executive Director of the CWC proposes annual budget allocations to the CWC Board of Directors for their approval. The program may fund only projects that at a minimum have a medium impact (per CWC / DEP determination) on a watercourse in a restricted basin or a high impact (per CWC / DEP determination) on a watercourse in a basin with no restrictions, and that receives a score of at least 10 in the additional site evaluation factor section of section 7:02 as a first round in the first year. CWC does not guarantee funding to all projects that meet the minimum criteria. Funds shall be allocated based on budget considerations and priority ranking. After CWC has received cost estimates/bids and signed contracts for the top priority projects, CWC shall determine the availability of funds for subsequent project applications. CWC shall consider lower priority projects for funding at that time, based on the selection process discussed in section 7:02 and availability of funds.
- 2. All projects will be funded in accordance with the MOA and the program contracts.
- 3. Payments for project work shall be made in accordance with section 7:03:02 (Project Payments).

**7:00:08. Program Milestones**

Description of Implementation Milestone	Est. Date
1. The CWC Board shall annually allocate funds for the Program.	Annually

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2. Applications available for Annual Round	July 1st
3. Applications due for Construction Grants for previously funded designs	On-Going
4. Applications due for Stormwater Retrofit Program and Infrastructure Assessment Program	On-Going
5. Proposal by CWC and DEP to CWC Board for potentially eligible project	On-Going
6. Construction Grant Proposals Applications Submitted to CWC Board for Approval	On-Going
7. Issue contracts on approved Construction Grant projects	On-Going
8. Applications Submitted to CWC Board for Approval	On-Going
9. Issue Contracts on Approved projects	Within 20 days of CWC Board approval

**7:00:09. Consistency with Rules, Laws & Regulations**

The Standards for this Program shall be consistent with all applicable rules, laws and regulations.

**7:00:10. Coordination with DEP**

1. Each project sponsor shall identify the project site location or assessment area, describe the water quality problems, and detail the proposed BMP in the grant proposal. Within ten (10) business days of receiving four copies of the completed grant proposal, CWC shall send one copy to DEP for their joint review and comment. CWC recommends that applicants deliver proposal by certified mail, return receipt requested, or overnight mail or hand delivery.
2. Upon receipt from the project sponsor, CWC shall submit a copy of project design and construction specifications or assessment proposal to DEP. No project shall be considered complete until CWC and DEP have had the opportunity to review and comment on the application. If a review party has not commented within 40 business days of receipt of the application, the design shall be considered approved for the purposes of this program, unless a party requests additional review time on or before the end of the 40 business days. Additional review time shall consist of a maximum of 10 business days. If such parties have not commented within the additional review time, the design shall be considered approved for the purposes of this program.
3. After substantial completion of construction, but prior to final completion and release of contract retainages, CWC and DEP shall be notified in writing of substantial completion and given 20 business days to conduct a site inspection and comment before final completion. At least 10% of the construction cost shall be retained after substantial completion until CWC and DEP have had an opportunity to schedule a site inspection and comment. Payment for eligible costs shall be made in accordance with section 7:03:02 of these rules, project payment.
4. *After substantial completion of the Community-wide Stormwater Infrastructure Assessment and Planning Program the project sponsor shall provide two copies of all created GIS databases and annual updates to CWC, DEP, and NYSDEC and the municipality where the assessment area is located, unless the municipality is the project sponsor. Copies of the created GIS database are a condition of final payment.*
5. Notwithstanding anything in this section to the contrary, if a proposed project under this program would require a permit under the Watershed regulations, DEP shall be entitled to the full time frames allowed in the Watershed regulations.

**7:00:11. Coordination with Regulatory Agencies**

1. The project sponsor, or its agents, shall coordinate with all regulatory agencies with review authority over the project, and shall complete all permit processes as needed. No design shall be considered complete until all reviews, approvals and permits are complete.

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2. Project sponsors are responsible for complying with the State Environmental Quality Review Act ("SEQRA"). This program is intended to provide water quality benefits, and properly situated and designed BMPs should not adversely impact watercourses or wetlands. If a SEQR Lead Agency determines that a proposed project may have a potentially significant adverse impact on the environment the project sponsor may apply to the Board of the CWC, with a proposed budget, for approval of costs of additional environmental review. If such review is needed, project shall not be funded for construction until any applicable SEQRA process is complete.

#### **7:00:12. Amendment of Rules**

The CWC Board, jointly with DEP, may amend the stormwater retrofit program rules at any time.



**CHAPTER 7:01 - PROGRAM STANDARDS****7:01:01. General Standards**

1. CWC has developed program standards jointly with DEP. The program contracts between DEP and CWC (MOA Attachment FF9 and its successor the Stormwater Retrofit II Program Agreement) require program standards to include:
  - a. Standard BMP designs, to include identifying appropriate retrofits and BMPs for each site, stormwater structure design, acceptable removal rates and construction standards and specifications pursuant to the standards and specifications identified under Section 7:01:02;
  - b. Standards for maintenance of BMPs;
  - c. Standards for assessing BMP efficiencies during the design phase and maintenance phase; and
  - d. Standards for Community-wide Stormwater Infrastructure Assessment and Planning.

**7:01:02. Standard BMP Designs**

1. Standards for identifying appropriate retrofits and BMPs, BMP design, acceptable pollutant removal rates, construction standards and specifications shall be based on the following:
  - a. New York State Standards & Specifications for Erosion and Sediment Control (August 2005), or current New York State standards and/or guidelines.
  - b. NYS Department of Environmental Conservation SPDES General Permit, Permit # GP-10-01, NYS Stormwater Management Design Manual and the current state general permit, and
  - c. Alternate methods with demonstrated pollutant removal effectiveness as jointly agreed upon by DEP and CWC.

The CWC Wastewater Committee shall review revisions of these documents for funding by this program.

2. Design should promote subsurface discharge and/or infiltration whenever feasible and cost effective.
3. In general, BMPs funded under this program should have a design life of 20 years or more, unless specific circumstances warrant otherwise. This does not include temporary control measures installed to control erosion/stormwater run-off during construction of project elements.
4. Design goals: Reductions of Total Suspended Solids by 50% and Total Phosphorus by 20%.
5. Design should include a location for flow measurement and sampling.
6. Each assessment project should incorporate to the extent possible “minimum control measures”, for the BMP watershed served including public education and outreach, public participation and involvement, illicit discharge detection and elimination, construction site runoff control, post-construction runoff control and pollution prevention /good housekeeping.

**7:01:03. Standards for BMP Maintenance**

1. This section contains program standards for maintaining such BMPs for the duration of their design life.
2. Maintenance shall include regular periodic inspections, additional inspections before and after heavy storm events, periodic removal of debris and excavation of sediment from BMPs, and necessary repairs as needed to preserve the function of the BMPs. During the design phase, CWC shall approve the schedule for inspecting and maintaining such BMP for the duration of its design life. In general, such maintenance schedule shall include regular inspections, repairs and removal of debris and sediment as needed to allow BMPs to function as designed. The schedule for each project will be determined on a case by case basis, and shall be based on recommendations by the design professionals or project sponsor engaged for the project as well as comments by DEP.

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3. For each project, the project sponsor shall submit four copies of a maintenance manual before construction. The maintenance manual shall be a stand-alone document. CWC shall submit the maintenance manual to the DEP for comment within one week of receipt. DEP shall have 20 business days to review the maintenance manual and make comments.
4. The maintenance manual shall include design life of each BMP, recommended inspection and maintenance activities, an estimate of time needed and cost of such activities, schedule of such activities, and a present worth cost for inspecting and maintaining the BMP for its design life. The maintenance manual shall be based upon the applicable guidance documents listed in section 7:01:02. The design life of each BMP shall be established during the design phase of the project. The maintenance manual shall also include a summary of the present worth cost of maintenance and inspection costs for all BMPs associated with the project.
5. The maintenance manual shall include triggers for maintenance activities, such as depth of sediment in sediment control structure, debris blocking stormwater channels, erosion, flooding, short-circuiting of stormwater, etc.
6. The costs presented in the maintenance manual shall serve as caps on payments for maintenance activities. Such caps shall also comply with terms of the program contract between DEP and CWC (MOA Attachment FF9 and its successor the Stormwater Retrofit II Program Agreement). If unforeseen maintenance circumstances arise that would require costs above the caps, a subsequent application to the program may be submitted to CWC staff.
7. After construction is complete, the project sponsor shall finalize the maintenance manual, in consultation with CWC and DEP.
8. After the project maintenance manual is finalized and approved by CWC, CWC may set up a separate account to fund project maintenance per section 7:03:02 - Project Payments. Maintenance costs shall be limited to 17.6% of the portion of capital costs funded by CWC, per the MOA. Any required operation and maintenance cost not covered by CWC funding shall be the responsibility of the project owner and/or project sponsor. Prior to construction, the real property owner shall covenant and agree that the BMPs shall be maintained, per the approved manual, for the useful life and/or the duration of time required for its design purpose. Another entity, including but not limited to a municipality or the CWC, may maintain the BMP. After completion of construction, to ensure maintenance of the BMP, the property owner shall execute a restrictive covenant that puts all subsequent owners of record on notice that the real property is subject to a BMP that shall be maintained for the useful life of the BMP and/or the duration of time required for its design purpose. Further, the property owner shall execute an easement for inspections in favor of the CWC and the DEP for the duration of the design life of the BMP and/or the duration of time required for its design purpose. In the event that a third party is responsible for maintenance an easement shall be required in favor of the third party to allow access to and maintenance of the BMP.
9. CWC, with DEP's agreement, may enter into contract with any municipality in whose jurisdiction a BMP is located to transfer responsibility for inspecting and maintaining such BMP to the municipality, as is further discussed in section 7:03:01 – Program Contracting, paragraph 4.c. (Portion moved to 7:03:01 4.c.)
10. If the municipality in whose jurisdiction the BMP is located is not willing to take responsibility for inspecting and maintaining such BMP, CWC may enter into agreement with private entities for such entity to be responsible for such inspection and maintenance of the project/ BMP.
11. Within sixty days of the end of each calendar year, the project sponsor shall submit an annual maintenance letter/report for the proceeding year to CWC certifying that any needed maintenance was completed and stating the amount of maintenance costs incurred.

**Article 7****7:01:04. Standards for Estimating BMP Efficiency**

1. During the design period, the design professional or project sponsor shall estimate BMP efficiency according to standard methods per design manuals listed in section 7:01:02-Standard BMP Designs. The design professional or project sponsor shall provide an estimate of removal efficiency expected of each BMP, both in percent removal and in pounds of TSS and phosphorus to be removed annually, or other pollutant (jointly agreed upon by DEP and CWC) as applicable.
2. During the maintenance period, BMP efficiency shall be determined during regularly scheduled inspections and storm event inspections (as referenced in section 7:01:03) by observation of:
  - a. Evidence of inadequate sediment removal within sediment traps;
  - b. Evidence of inadequate stormwater control / channeling, such as erosion;
  - c. Sediment desposits related to site stormwater outside of sediment control structures;
  - d. Inadequate drainage through the BMP.

**7:01:05. Standards for Community-wide Stormwater Infrastructure Assessment and Planning**

1. Assessment will include a detailed and comprehensive assessment of existing community stormwater infrastructure, with the goal of identifying and prioritizing potential areas and Stormwater BMPs for funding under the Stormwater Retrofit Program as described above.
2. Assessment will include locating existing community stormwater infrastructure and compilation of a GIS database identifying each individual structure and include a description of structure, operational status and repair needs.
3. Project must comply with all pertinent rules and regulations including, but not limited to, SEQR, NYS General Municipal Law, and SPDES permitting.
4. Assessment Projects must be completed within one year. Upon ending of contract term for Assessment Project grants, any remaining funds shall be allocated back to the Assessment Project Program for future municipal applicants.

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**Article 7****CHAPTER 7:02 - APPLICATION FOR AND RANKING OF PROJECTS****7:02:01. Application Elements**

1. CWC and DEP staff shall submit a proposal. The grant proposal shall supply information to allow CWC jointly with DEP to evaluate proposed assessments or designs and to prepare a proposed schedule and budget for each project and priority grouping. The application form shall identify:
  - a. the proposed site location;
  - b. describe proposed BMPs and/or stormwater problem for which measures are needed, if known;
  - c. describe structures being replaced if relevant, estimated construction costs, if applicable;
  - d. administrative costs identified, other estimated costs, tentative schedule and budget if known;
  - e. estimated benefits to water quality; and
  - f. estimate of quantity and quality of pollutant loading.
2. Community-wide Stormwater Infrastructure Assessment Program: In order to apply for grant funding, each project sponsor shall submit a grant proposal including an application form supplied by CWC. The grant proposal shall supply information to allow CWC jointly with DEP to evaluate proposed assessments and shall include a proposed schedule and budget for each priority grouping. The application form shall also identify:
  - a. the proposed site location; and
  - b. describe the proposed GIS database format, BMPs rating schedule, identification of administrative and other estimated costs.

**7:02:02. Grant Proposal Requirements**

1. Each applicant will prepare and submit to the CWC four copies of a grant proposal, with a complete application form and budget, that outlines its proposal and the amount of grant monies requested.
2. Applications shall be available on CWC's website and CWC will also provide application forms upon request. The form must be completed and signed before CWC considers a grant proposal complete for review and distribution. The application form shall contain the following information:
  - a. Applicant's name and address.
  - b. Contact person, address, and telephone number.
  - c. Assessment area.
  - d. Amount of funding requested along with estimated project budget for design and construction
  - e. Approximate completion date.
  - f. Descriptions of entity or entities applying for grant (i.e. type of organization).
  - g. Description of site characteristics needed to rank the impact of the stormwater from the site, per the application form. For this program only, CWC and DEP shall determine the location and project impact to watercourses in the vicinity of the proposed project.
  - h. Certification that the applicant has the ability to administer and complete the project.
3. Grant proposals must be accompanied (if applicable) by a certified copy of the resolution(s) of the appropriate governing body of the applying entity which authorizes the applicant to make such application for grant funding, and to receive and administer such funding. Completed grant proposals will be submitted to the Board for review and approval.
4. For projects that anticipate further funding requests over several years, the initial application will also require a schedule of anticipated funding requests together with an estimated project budget for all years. Supplemental funding application(s) after approval of initial application will require the following:
  - a. Applicant's name and address
  - b. Amount of Current Request
  - c. Written report describing work completed on project to date

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- d. Expenditures to date compared with budget and project schedule as described in initial application.
5. An applicant whose application was disapproved may re-apply for funding during a subsequent grant award cycle. Any applicant who has already been awarded a grant under this program must demonstrate compliance with contract terms of the prior project before any additional funding requests will be approved. An applicant who has defaulted on a CWC contract may be excluded from funding.
6. The following information is required for all grant applications and proposals:
  - a. A narrative project plan that fully describes the proposed project; the impervious surface that contributes to stormwater flow; the need for the proposed project based on benefit to water quality; existing stormwater quantity and quality; and proposed best management practices (BMPs) and/or activities that will remediate pollutant loading. Assessment Program: A narrative project plan that fully describes the proposed project.
  - b. A completed application form.
  - c. Site location map, and if available, GIS layer of existing impervious surfaces, watercourses, and 2 foot contours
  - d. Existing site schematic showing stormwater flow on site and in the vicinity and showing all existing stormwater and erosion control measures. Assessment Program: not required.
  - e. For construction funding applications, a site schematic (or detailed plans if available) of the proposed BMP, showing impervious surfaces, proposed stormwater flow on site and in the vicinity, and showing all proposed stormwater and erosion control measures.
  - f. Description of project team, qualifications and role of each team member.
  - g. Any other information that may be requested by the CWC in order to assist in application review.
7. CWC jointly with DEP will also provide estimates of current pollutant loading, pollutant removal by the proposed BMPs, capital and maintenance costs of proposed BMPs, and a summary of the cost / benefit ratio of the project. CWC may hire a consultant to review grant proposals.

**7:02:03. CWC Action on Grant Proposals**

1. The CWC staff, jointly with DEP will evaluate and make a recommendation in writing concerning all projects proposed for funding under this Program to the CWC Wastewater Committee. CWC staff shall provide an evaluation in narrative form and a numeric ranking, addressing the applicable criteria listed in section 7:02:05 of these rules. Such evaluation shall incorporate applicable and appropriate comment from DEP and CWC Staff.
2. The Wastewater Committee will review all proposals and recommendations.
3. All proposals, along with the Committee and DEP recommendations, shall be presented to the CWC Board to determine inclusion and ranking in the program. The CWC staff shall provide copies of the recommendations and budgets to the Board at least seven days before the Board votes on the projects.

**7:02:04. Criteria for Ranking Proposals**

CWC, jointly with DEP, shall prioritize grant proposals for inclusion in the Program according to conditions at the site or in the proposed assessment area. The CWC may also consider availability of other funding for the project and need for phosphorus offsets in the locality.

1. When prioritizing and selecting sites as well as allocating funds for assessment, design, construction and maintenance of BMPs, CWC shall take into account the availability of program funding.
2. Where Eligible Stormwater Emergency conditions dictate, CWC and DEP may jointly determine to act bilaterally and without regard to the evaluation system outlined below,

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- but otherwise in accordance with these rules. Expenditures for such actions shall not exceed \$100,000.
3. CWC, jointly with DEP shall review the grant proposals and shall allocate funds based on:
    - a. Size of drainage area served
    - b. Amount of nutrient removal (including Total Suspended Solids, Total Phosphorus, Biological Oxygen Demand and Fecal Coliform) to be accomplished by completed project
    - c. Amount of existing impervious surfaces in drainage area
    - d. A cost / benefit analysis of the project.
    - e. Anticipated costs of annual operation and maintenance;
    - f. Life expectancy of best management practices to be installed
    - g. Possible other considerations, such as basin restrictions; availability of other funding, and other site-specific considerations.
    - h. For Assessment Program only: comprehensive nature of proposal and available grant funds.
  4. CWC shall use the following evaluation system for ranking Construction Grant proposals:
    - a. Determine the appropriate basin multiplier for restricted basin classification as follows: A basin with no restricted classification has a one-point multiplier; add one for each restricted basin classification. This restricted basin multiplier shall apply to any project/ BMP that is expected to address the restricted parameter, with appropriate documentation to support such expectation.
    - b. Determine the reduction in pollutant loading, using pounds of pollutant (e.g. TSS, TP) removed as an indicator unless project specifics justify need for other analysis. The reduction in pollutant loading will be based on the Simple Method of determining pollutant discharge from the site, unless the grant proposal details other pollutant removal.
    - c. Determine the cost of designing, implementing and maintaining the project based on the amount applied for in the grant proposal, including a contingency of 10 percent.
    - d. Determine the quantity of pollutant removed per program cost.
    - e. Determine total point value of 'Additional Site Evaluation Factors' per values noted on the chart below.
    - f. Each proposed project will have two scores, based on:
      - i. amount of pollutant removed per program cost
      - ii. additional site factors
    - g. Multiply the two scores by the basin multiplier to get the final proposed project rankings.
    - h. Rank the sites beginning with the highest total to the lowest total in each category. Consider the relative importance of each category in allocating funds.
  5. Additional Site Evaluation Factors for Construction Grant Proposals

Item	Description	Points
A	Direct discharge to reservoir	4
B	Green Infrastructure Technique	3
C	Reduced stormwater volume and rate for discharge In 100-year floodplain per FEMA maps and GPS coordinates	2
D	In 60-day travel time	2
E	> 50% TSS removal in Ashokan Basin	3
F	High impact on watercourse	5
G	Medium impact on watercourse	3
H	Other, including cost share – Describe and justify	To be determined
I	Infrastructure Assessment Project or Equivalent Recommendation	4
J	NIP or CWMP related project	4
Total	Sum of items A through K	Total

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6. CWC shall use the following evaluation system for ranking Infrastructure Assessment Program Grant proposals. This program is open only to towns, villages and counties. One (1) point is given for each proposed project outcome, with a minimum of two (2) points for each category required.
  - a. Public Value (minimum 2 points)
    - i. Enhances community character and the quality of life.
    - ii. Improves predictability and streamlines the regulatory process.
    - iii. Advances inter-municipal efforts to resolve shared problems and improves administration.
  - b. Water Quality Protection Value (minimum 2 points)
    - i. Protects, enhances or restores water quality of groundwater and surface waters, particularly public water supplies.
    - ii. Provides for enhanced protection of significant natural resources, including wetlands, fish and wildlife habitats, open space and scenic areas.
    - iii. Provides for reduction of non-point source pollution, particularly as it relates to stormwater management, sedimentation and erosion control, wetlands and watercourse management, or general water quality protection and improvement.
  - c. Local Commitment (minimum 2 points)
    - i. Leverages financial resources, including the use of other public or private funds for services.
    - ii. Provides for efficient and cost-effective use of public investments and infrastructure.
    - iii. Demonstrates innovation and productivity.
    - iv. Advances the implementation of community growth controls.
    - v. Builds on existing plans and regulations.
    - vi. Demonstrates support by a broad sector of the community.
    - vii. Involves substantial public participation and education.
    - viii. Establishes milestones that can be reasonably achieved.

**7:02:05 Minimum and Maximum Funding Amounts**

1. CWC Board may reserve funds for design and construction project applications that do not exceed \$100,000.
2. Assessment Program grants for new or updated assessments shall not exceed \$50,000. For all other Project types, per project funding, including a group of related projects, shall not be less than \$35,000, inclusive of design and construction.
3. Construction funding approved by the Board shall include an allotment for operation and maintenance costs. Final amount of operation and maintenance funding shall be determined upon completion of the project and will be no greater than 17.6% of the CWC portion of design and construction costs.

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**Article 7****CHAPTER 7:03 – PROJECT ADMINISTRATION****7:03:01. Project Contracting**

1. Board approval of the project will constitute the preliminary decision of the CWC for the purpose of paragraph 107 of the MOA. If no valid objection is timely filed with the Watershed Protection and Partnership Council, the Executive Director is authorized to enter into contract for the approved project after the right of objection period, consistent with the proposal approved by the Board, appropriate for the specific project sponsor. Any such contract shall contain the necessary provisions as required by the MOA and the contracts between CWC and NYC for this Program and shall be consistent with these program rules.
2. In determining the amount of program funding to be allocated to each project, CWC shall include a contingency factor in each project budget estimate to ensure that unanticipated costs that may arise in the completion of projects are adequately funded. CWC shall delay entering into agreements with property owners or contractors to assess, design, construct and maintain a lower priority project until actual costs of assessment, designing, constructing and maintaining higher priority projects are determined and CWC concludes that sufficient funds are available to ensure that such higher priority projects will be completed.
3. CWC will develop a standard program contract in consultation with DEP. The standard program contract shall be used as a basis for all program contracts.
4. Project Sponsors must execute the program contract within ninety (90) days of CWC Board approval. Project Sponsors who do not execute and return the program contract to CWC within ninety (90) days of CWC Board approval of an application must reapply to CWC for funding.
5. The contract between CWC and either the project sponsor or owner shall contain the following:
  - a. **All Contracts (assessment, capital construction and maintenance contracts):**
    - i. CWC shall enter into written agreements with project sponsors to assess, design, construct, implement and maintain BMPs at sites selected for grant funding. Each agreement shall contain milestones for assessments or design and construction of the BMPs. Selection of contractors, other than municipal or governmental entities such as Soil and Water Districts, shall be in accordance with the procedures set forth in Article 7 of agreement between CWC and NYC.
    - ii. The contract shall provide that if the cost of assessment or design, construction and installation of any project exceeds the maximum amount of program funds budgeted for the project by the CWC, the project sponsor shall complete construction of the project using its own resources or funding obtained from other sources. Nothing shall preclude the project sponsor from applying for additional funds from the CWC for reimbursement of any additional unforeseen costs upon submission of appropriate documentation and at the sole discretion of CWC. Any application to CWC shall not reduce the project sponsor's obligation to complete and maintain the project.
    - iii. Entities that are not required to comply with NYS General Municipal Law shall solicit services on a competitive basis, and in accordance with the CWC's procurement policy.
    - iv. The CWC shall enter into written agreement(s) with property owners that shall require that the property owner consent to allow CWC and DEP reasonable access to the site to inspect or to witness design, construction and inspection of the BMP at the Site. As inducement for such agreements, CWC shall offer under this Program to correct existing erosion or other water quality problems at such sites.
    - v. In the case of municipalities, each contract shall be accompanied by a resolution passed by the appropriate governing body authorizing a designated representative to enter into contract. An applicant may act as project sponsor or may authorize a separate agency to enter into contract on behalf of the applicant as project sponsor. If a separate agency is



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entering into contract on behalf of a municipality, such contract application shall be accompanied by a resolution passed by the appropriate governing body authorizing the agency to act on behalf of the municipality as project sponsor.

- vi. All contracts with design firms shall include the provision that the architect's/engineer's scope of work shall include the full range of design services required for design, implementation and construction of the BMPs.

**b. Capital Construction Contracts:**

- i. The contract shall provide that the project sponsor shall provide assurance that the contractors for construction or design exceeding twenty-five thousand dollars provided a performance and completion bond in the full amount of the bid to secure the successful completion of all work, and a payment bond to insure that all entities are paid for work performed with program funds.
- ii. The contract shall provide that the project sponsor shall provide as-built drawings for constructed BMP's,
- iii. The contract shall provide that the project sponsor shall allow a final construction inspection by CWC and DEP staff prior to final payment.

**c. Maintenance Contracts with Project Sponsors**

- i. The contract shall require the project sponsor to create, own, operate and maintain the Project.
- ii. The maintenance contract shall provide that upon approval of the maintenance manual, CWC shall establish a separate interest-bearing account in the amount stated in the maintenance manual as a sum of the present worth cost of maintenance and inspection costs for the design life of all BMPs associated with the project, or a separate lesser amount agreed upon by CWC, the project sponsor and DEP, but in no case greater than 17.6% of the cost of designing and constructing the BMP.
- iii. The contract shall provide that the Project sponsor may request reimbursement for actual maintenance costs or invoice for expected maintenance costs as described in the maintenance manual on its own behalf or on behalf of third parties.
- iv. The project sponsor may contract with the local municipality or CWC to maintain the project.
- v. In any such agreement with a municipality, CWC shall require such municipality to comply with the inspection and maintenance standards and schedule prepared pursuant to the maintenance manual. CWC shall require such municipality to assume any obligations to the owner of the property on which such BMP is located under any agreement entered between CWC and the property owner. NYC shall be a third party beneficiary of any such agreements entered into by CWC.

**d. Maintenance Contracts with Municipalities**

- i. Following the request of the municipality, per section 3.04 of the contract between CWC and NYC (MOA Attachment FF-9 and its successors the Stormwater Retrofit II Program Agreement), if a municipality accepts responsibility for maintenance or owns the project, the maintenance funds shall be transferred to the municipality through a contract with CWC and with the agreement of DEP. The municipality's responsibility for maintaining the facilities owned by others shall be limited by the available funds in any maintenance account established by CWC. If maintenance funds and accumulated interest are not used for maintenance during the design life of the BMPs, and are not needed to restore the BMPs to working order, the funds, principal and interest, shall remit to the CWC or its assigns for stormwater retrofit program purposes.
- ii. The contract shall provide that upon approval of the maintenance manual, CWC shall establish then transfer to the municipality a separate interest-bearing account in the

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amount stated in the maintenance manual as a sum of the present worth cost of maintenance and inspection costs for the design life of all BMPs associated with the project, or a separate lesser amount agreed upon by CWC, the project sponsor and DEP, but in no case greater than 17.6% of the cost of designing and constructing the BMP.

- iii. In the agreement with a municipality, CWC shall require such municipality to comply with the inspection and maintenance standards and schedule prepared pursuant to the maintenance manual. CWC shall require such municipality to assume any obligations to the owner of the property on which such BMP is located under any agreement entered between CWC and the property owner. NYC shall be a third party beneficiary of any such agreements entered into by CWC.

**7:03:02. Project Payments**

1. All project payments shall be made in accordance with the agreement between CWC and NYC.
2. Project payments shall be made as follows. Payments may be made either as reimbursement for payments made by the project sponsor or as invoiced payments for costs incurred. The project sponsor shall forward to CWC, in general no more frequently than monthly, an invoice documenting the tasks completed or the purchase agreement, and a certified CWC voucher itemizing the costs of the completed tasks/ agreed purchase price and certifying that all work being invoiced is in accordance with approved plans for the stormwater retrofit project and the contract between CWC and the project sponsor.
3. The CWC shall remit the approved payment due and owing to the project sponsor and/or contractor within 30 days of receipt of the certified voucher and supporting documentation.
4. If the project sponsor has paid for contracted project work and submits proof of such payment to CWC, CWC shall pay the project sponsor. Otherwise CWC shall pay the project sponsor and contractor.
5. Maintenance Payments: If CWC assumes maintenance funds and responsibilities, the project sponsor / municipality shall bill CWC for the maintenance costs for an amount not to exceed the caps established in the maintenance manual, per section 7:01:03 (Standards for BMP Maintenance). The Board may approve a payment of up to an additional 100% over the above listed cap amounts upon demonstration of special circumstances and submission of appropriate documentation. CWC shall pay all maintenance costs through the maintenance account discussed in section 7:03:01-Program Contracting.

**7:03:03. Business Integrity – VENDEX**

All contractors performing work under this program must abide by New York City “VENDEX” requirements.

**7:03:04. Insurance and Procurement**

All projects must abide by insurance and procurement provision in the CWC/City Contract MOA Attachment FF-9 and its successor the Stormwater Retrofit II Agreement, Articles 4 and 9, respectively.