**Title:** INTRODUCTION OF THE BRIDGE NY CULVERT LOCAL PROJECT AGREEMENT AND MUNICIPAL RESOLUTIONS. REVISIONS TO CHAPTER 4 STATE-LOCAL AGREEMENTS AND THE FEDERAL AID LOCAL PROJECT AGREEMENT OF THE PROCEDURES FOR LOCALLY ADMINISTERED FEDERAL AID PROJECTS (PLAFAP) MANUAL

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<td>EB 19-004</td>
<td>/s/ Richard D. Wilder 4/2/18</td>
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<td>Effective 1/18/19</td>
<td>Richard D. Wilder, P.E. Date</td>
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<td>Deputy Chief Engineer (Design)</td>
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**Administrative Information:**
- This Engineering Bulletin (EB) is effective upon signature.
- Superseded Issuances: This EB does not supersede any EB issuance.
- The final revised chapters and related appendices and forms will reside in the Procedures for Locally Administered Federal Aid Projects (PLAFAP) manual on the NYSDOT website.

**Purpose:**
To announce the introduction of Bridge NY Culvert Local Project Agreement and sample municipal resolutions for Bridge NY and Bridge NY Culvert projects and revisions to the PLAFAP Chapter 4, State-Local Agreements, and the Federal Aid Local Project Agreement involving compliance with the Americans with Disabilities Act (ADA), compliance with the Federal Tax Law (26 CFR 1.150-2 (d)(2)(i)) with respect to bonded project costs and compliance with the New York State Extended Records Retention Requirements.

**Technical Information:**
Proposed revisions to Chapter 4, State-Local Agreements, and the Federal Aid Local Project Agreement, and addition of the Bridge NY Culvert Local Project Agreement and related sample municipal resolutions are as follows:
- Bridge NY Culvert Local Project Agreement, Section 1, and Federal-Aid Local Project Agreement, section 1, Local Project Agreements, Section 1: Text added to emphasize that construction for Bridge NY projects will commence no later than twenty-four (24) months after award and must be completed within thirty (30) months of commencing construction.
- Bridge NY Culvert Local Project Agreement, Section 2, and Federal-Aid Local Project Agreement, Section 19: Text added to emphasize compliance with 28 CFR 35.105 which requires a Municipality/Sponsor employing 50 or more persons to prepare a Transition Plan addressing compliance with the Americans with Disabilities Act (ADA).
- Federal-Aid Local Project Agreement, Section 4.2.2: Text added to emphasize the New York State department of Transportation utilizes bond proceeds to reimburse Sponsor’s eligible project costs, specifically for reimbursements related to the Marchiselli Program and Culvert Projects within the Bridge NY Program. To be classified as an "eligible project cost", in addition to other requirements of the agreement, Sponsor must have paid the original expenditure within the past 15 months, which ensures compliance with Federal Tax Law [26 CFR 1.150-2 (d)(2)(i)]. Hence, expenditures paid more than 15 months prior to the reimbursement request are ineligible for reimbursement.
- Bridge NY Culvert Local Project Agreement, Section 20, Extended Records Retention Requirements, and Federal-Aid Local Project Agreement, Section 4.2.3: Marchiselli Extended Records Retention Requirements: Text added to emphasize Sponsor is required to retain records for thirty-six (36) years after the date of NYSDOT’s final payment of eligible project cost(s), as provided by the Code of Federal Regulations, Part 26.
• Revisions to Chapter 4, State-Local Agreements, reflecting changes made to these Local Project agreements, specifically (1) adding Subsection 4.5.4, *Reimbursement Requirements Related to Bonded Marchiselli Match* and (2) Subsection, 4.5.5, *Extended Records Retention Requirements for Bonded Marchiselli Match*.

• Add to Chapter 4 Appendix - Bridge NY Culvert Local Project Agreement.

• Add to Chapter 4 Appendix – Sample Bridge NY Resolutions: (Bridge Project; Culvert Project – Municipality Administered; Culvert Project – NYSDOT design and construct).

**IMPLEMENTATION:**
The revisions and materials issued by this EB are applicable to all candidate projects for funding under the BRIDGE NY program recently advertised on January 25, 2018. The revisions and materials issued by this EB are applicable to all other local projects that are initiated on or after the effective date.

**TRANSMITTED MATERIALS:** Attached are the Bridge NY Culvert Local Project Agreement and sample municipal resolutions pertaining to Bridge NY and Bridge NY Culvert projects and proposed revisions to Chapter 4, State-Local Agreements, and the Federal Aid Local Project Agreement. The revised Chapters 4 of the PLAFAP manual will be available in RTF (rich text format) and PDF (portable document format) formats; the project agreements and resolutions, will be available in RTF format at [www.dot.ny.gov/PLAFAP](http://www.dot.ny.gov/PLAFAP).

**BACKGROUND:** The Bridge NY Culvert Local Project Agreement and sample municipal resolutions are added to the PLAFAP Chapter 4, State-Local Agreements, website and the Federal-Aid Local Project Agreement and Chapter 4, State-Local Agreements, are revised to reflect more accurately federal and state regulations governing bonding of local federal-aid projects.

**CONTACT:** Questions or comments regarding this issuance should be directed to Dawn Arnold of the Local Programs Bureau at [MO-LocalProgramsBureau@dot.ny.gov](mailto:MO-LocalProgramsBureau@dot.ny.gov).
Chapter 4 Revisions

4.5.4 Reimbursement Requirements Related to Bonded Marchiselli Match

The Sponsor’s reimbursement requests are restricted to eligible project costs. To be classified as an “eligible project cost” the original expenditure must have been paid within the past 15 months to comply with Federal Tax Law (26 CFR 1.150-2 (d)(2)(i)) which governs fund disbursements from the issuance of tax-exempt bonds. Hence, expenditures paid more than 15 months prior to the reimbursement request are ineligible for reimbursement. This requirement specifically applies to reimbursements under the Marchiselli Program and Bridge NY Program Culvert Projects.

4.5.5 Extended Records Retention Requirements for Bonded Marchiselli Match

To ensure that NYSDOT meets certain requirements under the Code of Federal Regulations, Part 26, relating to bonding Marchiselli match and to ensure that NYSDOT may authorize the use of such funds for a project, the Sponsor must retain the following documents in connection with these projects:

a. Documents evidencing the specific assets financed with such proceeds, including but not limited to project costs, and documents evidencing the use and ownership of the property financed with proceeds of the bonds.

b. Documents, if any, evidencing the sale or other disposition of the financed property.

The Sponsor must agree to retain the records described above, which are used by the Sponsor in connection with the administration of the project, for thirty-six (36) years after the date of NYSDOT’s final payment of the eligible project cost(s).

Failure to maintain such records in a manner that ensures complete access thereto, for the period described above, shall constitute a material breach of the project agreement and may, at the discretion of NYSDOT, result in loss of funds allocated, or the Sponsor’s repayment of funds distributed, to the Sponsor under the project agreement.