

TOMPKINS COUNTY SWCD SOUTHERN TIER AGRICULTURAL INDUSTRY
ENHANCEMENT GRANT PROGRAM
SWCD - LANDOWNER CONTRACT

Section I: Project Information

Landowner/Operator: _____ Contract ID: _____
Address: _____ Telephone: _____ AEM ID: _____
_____ Design by: _____ Design Date: _____
Project Location : _____ Design ID: _____
Project Description : _____

Section II: Contract Price & Performance Time

This contract is made this xxxx day of XXXXX, 200X by and between XXXXXXXXXXXXXXXXXXXX hereinafter called the "Landowner/Operator" and the TOMPKINS COUNTY SOIL AND WATER CONSERVATION DISTRICT, hereinafter called "SWCD", to install the Best Management Practices (hereinafter referred to as "BMP(s)") as set forth in the Project Plans and Specifications.

The Landowner/Operator shall perform all work in accordance with the Project Plans and Specifications provided, and subject to the General Conditions hereinafter listed and Special Provisions that may be hereinafter listed. The contract sum shall be up to \$ _____ with funds not to exceed _____ of the total project cost. The estimated total project cost is detailed on the attached Procurement Form.

The work shall be performed between XXXX X, 200X and XXXX X, 200X. In no event shall SWCD pay to the Landowner/Operator any monies for any work or expenses incurred on the project after XXXX XX, 200X except if agreed to in writing by SWCD.

Section III: General Provisions

- 1] Except as otherwise noted, the Landowner/Operator will provide and pay for all materials, labor, subcontracts, equipment, tools, power, water and other items needed to complete the work.
- 2] Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality and all work completed in a workmanlike manner in accordance with the attached Plans and Specifications.
- 3] Any contract between a Landowner/Operator and a subcontractor shall not be considered to be a contract between the subcontractor and SWCD, that is, the Landowner/Operator may not assign this contract to a subcontractor. However, the Landowner/Operator may assign his/her right to monetary payments pursuant to this contract to a subcontractor. The Landowner/Operator agrees to require any subcontractor to follow the Project Plans and Specifications and to have sufficient liability and worker's compensation insurance for the work to be performed.
- 4] Should the Landowner/Operator wish to assign his/her right to monetary payment pursuant to this contract to a subcontractor, this assignment must be in writing and upon the approved form of SWCD. Said assignment may not be terminated, revoked, and/or otherwise modified except upon the prior written approval of SWCD.
- 5] The Landowner/Operator shall allow observation of the work by SWCD, its authorized agents, and public authorities with a bonafide interest in the successful completion of the work.
- 6] Work items which require inspection and approval, which cannot be inspected at a later date due to being buried or covered, shall be performed at a time that is approved by SWCD. Inspections may be limited to between 8:00 am and 4:30 pm, Monday through Friday, except holidays.
- 7] Any alterations, modifications, revisions or other changes to this Agreement and/or any of the Project Plans and Specifications shall be in writing and approved by the parties hereto to be enforceable.
- 8] The Landowner/Operator shall re-execute any work that fails to conform to the requirement of this Contract and/or the Project Plans and Specifications, and shall remedy any defects due to faulty materials or workmanship which appear within a period of one (1) year from the date of completion of the Contract. This provision shall not supersede any warranty on manufactured materials, equipment, or other components of a BMP which extend beyond one (1) year.

- 9] Should the Landowner/Operator fail to execute the work in accordance with the Contract, or fail to complete the work or any portion thereof in a manner or time frame as set forth herein and/or in the Project Plans and Specifications, SWCD may, upon fifteen (15) days written notice issue a stop work order and the District may hire an independent contractor to complete the project. The Landowner/Operator shall be held responsible for the cost of removal or correction of any faulty work or materials. The Landowner/Operator will not be reimbursed for any work or materials that are found to be faulty or defective. Payment may only be made for a fully completed Project.
- 10] The stop work order set forth and referred to in Section III Item 9 will not release the Landowner/Operator from his obligation to fully complete the Project. An independent contractor shall be secured to complete the installation.
- 11] Upon completion of the work, the Landowner/Operator shall furnish SWCD a completed BMP Procurement Form, as well as any and all receipts or invoices, as a basis for reimbursement.
- 12] Payment of the contracted sum shall be made to the Landowner/Operator after all inspections are approved and SWCD has received a completed BMP Procurement Form. The acceptance of the contract sum payment shall constitute a waiver by the Landowner/Operator of any further claims as and against SWCD. The intent of SWCD is to fulfill its obligations under this agreement. However, commitments cannot be made beyond the period for which funds have been approved by law and administratively made available to SWCD by New York State Department of Agriculture and Markets. In the event these funds are not appropriated, the agreement will automatically terminate upon written notice to the Landowner/Operator. Remuneration will be made for work completed and eligible prior to the effective date of termination, subject to receipt of funds from New York State Department of Agriculture and Markets.
- 13] The Landowner/Operator shall be knowledgeable of and comply with all local, state, and federal health, safety, and other regulations that apply to this type of work. The Landowner/Operator shall also be responsible to verify and assure that any subcontractor hired by the Landowner/Operator shall also be knowledgeable of and comply with all local, state, and federal health, safety, and other regulations that apply to this type of work.
- 14] The Landowner/Operator is an independent contractor and is not an employee or agent of the County, State, or SWCD. The County, State, and SWCD will not cover the Landowner/Operator for any medical, worker's compensation, disability, or unemployment insurance, nor undertake payroll withholdings, pay social security tax, nor any personal retirement benefits. The Landowner/Operator agrees to hold the County, State, and SWCD harmless if any claim is made against the County, State, SWCD, Landowner/Operator, his heirs, assigns or estate or a subcontractor or employee or agent of the subcontractor arising out of this contract or a claim that the claimant was an employee of the County, State, or SWCD.
- 15] SWCD is responsible for payment for approved Practices to the Landowner/Operator. SWCD is not responsible to pay or otherwise reimburse any contractor or subcontractor engaged by the Landowner/Operator. SWCD shall be responsible for payment, other than to the Landowner/Operator, only should it be necessary for SWCD to hire an independent contractor as set forth in Section III Item 9, or in the case of an assignment as set forth in Section III Items 3 and 4 herein.
- 16] The Landowner/Operator agrees to operate and maintain the approved Project practices for the practice lifespan as specified in the BMP Procurement Record and as per the Operation and Maintenance Agreement. The Landowner further agrees to refund all or part of the funds received for completion of the approved Project as determined by SWCD, if, before expiration of the specified practice lifespan, any practice is (a) misused or abused, (b) destroyed, or (c) control or title to land is voluntarily relinquished and the new landowner/operator does not agree in writing to properly maintain the practice for the remainder of its specified lifespan.
- 17] SWCD reserves the right to inspect, upon reasonable notice, all Project practices installed pursuant to this agreement throughout the lifespan of each practice.
- 18] SWCD is responsible for issuing a completed 1099 Miscellaneous Income form for this project. The Landowner/Operator is responsible for contacting their financial tax advisor or other qualified professional regarding how these funds should be reported to the Internal Revenue Service on their income tax returns/statements.
- 19] Special provisions in Appendix A are incorporated herein, per funding requirements.

Section IV: Signatures

In witness thereof, the parties hereto have executed this contract:

Landowner/Operator: _____	Date: _____
Soc. Sec. or Tax ID #: _____	
SWCD Representative: _____	Date: _____

APPENDIX A

In accordance with Article 15 and Section 312 of the Executive Law, and Section 220-e and 239 of the Labor Law, the Landowner/Operator agrees to be bound by the following clauses which are hereby made part of the contract and agrees to include such provisions in any subcontracts.

- a. The Landowner/Operator will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- b. At the request of the contracting agency, the Landowner/Operator shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the landowner/operator's obligations herein; and
- c. The Landowner/Operator shall state, in all solicitations or advertisements for employees, that, in the performance of this contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

**Southern Tier Agricultural Industry Enhancement Grant Program
Design Professional's Certification**

Section I: Project Description

Landowner and/or Operator: _____ Farm No. _____
 Project: _____

Section II: Design Information

Enclosed are copies of the final drawings, specifications and bid package documents for the project (BMPs) listed above. I have examined the proposed project location and have based this design on soil, topography, hydrology and other conditions found at the site. This design package includes an Operation & Maintenance Plan and an Inspection Plan. The Best Management Practice/Facility design meets the following standards and specifications:

Name of Standard	Standard No.	Issued By
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Name: _____ Company: _____
 Signed: _____ License No. _____ Date: _____

Section II. STAIEP Grant Program Design Approval

I have reviewed the attached project design package listed above and have found the package complete and ready for implementation.

Signed: _____ Title: _____ Date: _____
 (SWCD)

Section III. Construction Certification

I have inspected the Best Management Practice described above and have found the Practice to have been properly constructed in accordance with the design drawings, standards and specifications listed. I have approved any design changes made during construction and reviewed any changes with the Landowner and/or Operator and the Project Designer.

Name: _____ Company: _____
 Signed: _____ License No. _____ Date: _____

Section IV. NYS Agricultural NPS Abatement & Control Grant Program Certification

I have reviewed the construction certification above and the completed project, and I certify that the completed Practice meets or exceeds STAIEP Program objectives.

Signed: _____ Title: _____ Date: _____
 (SWCD or NRCS)

Tompkins County SWCD Southern Tier Agricultural Industry Enhancement Grant Program

Procurement Guidelines

These guidelines apply to implementation projects for the Southern Tier Agricultural Industry Enhancement Grant Program (STAIEP). Procurement records must be maintained for all BMPs or facilities installed by a contractor. Procurement records should be filled out and updated throughout the course of the project. Once quotes are obtained, they should be entered into the Price Solicitation section of the Procurement Record and signed by the Landowner. Upon project completion, the BMP Certification section of the BMP Procurement Record should be completed and signed by SWCD personnel with appropriate approval authority, a NYS Licensed Professional Engineer (PE), a NYS Licensed Architect, or other authorized approval authority. If a PE is certifying the project an additional Engineer's Certification must be completed and signed. Completing these forms as the project progresses will eliminate the need to back track and will help the close out process be more efficient.

In order to be eligible for reimbursement, costs must be incurred within the start and end dates of the contract. Project expenditures which occur prior to the approval of the contract by the Tompkins County SWCD Board of Directors may not be reimbursed. Therefore, Landowners are advised not to incur any expenditure for which State reimbursement will be sought until the contract is approved.

A completed BMP Procurement Record and any cancelled checks shall be furnished upon completion of the project. When the landowners make purchases related to the contract, all invoices (marked paid with date and check number) and/or receipts, and cancelled checks shall be reviewed by the Tompkins County SWCD staff. When paid invoices and/or receipts are submitted to the District by the Landowner, they should be entered into the supplied Farm Expenditure Summary form.

3rd Party Contractor BMP Implementation

SWCDs shall ensure that landowners are keeping expenses reasonable by requiring, for any BMP/facility installed by a 3rd party contractor:

- For Public Works projects estimated at \$20,000 or over, a competitive bid is required. If at least three quotes cannot be obtained, the landowner/District should record which contractors declined to bid and why.
- For Purchase Contracts over \$10,000 a competitive bid is required. If at least three quotes cannot be obtained, the landowner/District should record which contractors declined to bid and why.

It is the responsibility of the Landowner to abide by the provisions above and obtain the necessary procurement information. However, the District has the option to assume the responsibility of procuring quotes on the Landowner's behalf.

**Tompkins County SWCD Southern Tier Agricultural Industry Enhancement Grant Program
Procurement Record**

Section I: Project Information

Landowner and /or
Operator: [REDACTED]
Address: [REDACTED]
Phone Number: [REDACTED]

AEM GIS No.: [REDACTED]

Funding Agreement No.: [REDACTED]

Section II: BMP/Facility Certification

The design and implementation of the following BMP(s) were completed in accordance with STAIEP Program requirements and meets/exceeds all applicable NYS professional design standards and specifications.

NRCS Conservation Practice Standard No. (or Facility Standard No. if applicable)	BMP System Installed (from Ag BMP Catalog) / Facility Description	Units Completed	Date Approved	Approved by <i>Signature & Title*</i> <i>*If Design Professional, please complete the Design Professional's Certification form</i>

Section III: Price Solicitation Certification

The Tompkins County Soil and Water Conservation District requires that the following minimum requirements are maintained for any BMP/Facility installed by a 3rd party contractor. For any component estimated at over \$20,000, an attempt to solicit at least 3 written quotes is recorded.

The SWCD sponsoring the project must ensure that quotes and/or bids are recorded. The attached form is recommended for capturing this information. Please certify that price solicitation records have been maintained and include record with final report:

SWCD Representative Signature: _____

Date: _____

Price Solicitation Record

The Landowner and/or Operator shall seek prices or quotes from capable contractors and log the information in the following table. If at least three quotes are not available, list the contractors/suppliers who were contacted and declined to provide a quote. The lowest quote must be selected unless sufficient justification is provided. Please attach justification if applicable.

BMP System/Component or Facility Name: _____

Contractor's Name	Address	Telephone	Price Submitted
Contractor #1			
Contractor #2			
Contractor #3			

I have reviewed the above submitted price quotes and have selected _____ as the lowest

Landowner's and/or Operator's Signature: _____

Date: _____

BMP System/Component or Facility Name: _____

Contractor's Name	Address	Telephone	Price Submitted
Contractor #1			
Contractor #2			
Contractor #3			

I have reviewed the above submitted price quotes and have selected _____ as the lowest

Landowner's and/or Operator's Signature: _____

Date: _____

BMP System/Component or Facility Name: _____

Contractor's Name	Address	Telephone	Price Submitted
Contractor #1			
Contractor #2			
Contractor #3			

I have reviewed the above submitted price quotes and have selected _____ as the lowest

Landowner's and/or Operator's Signature: _____

Date: _____

The SWCD has reviewed the Landowner's and/or Operator's solicitation for prices/quotes and his/her selection of a contractor and the process is

Approved

Disapproved

Reason for Rejection _____

Not Applicable

The landowner/operator expressed interest in acting as a contractor for the construction of a BMP System or BMP Component above the \$20,000 threshold and the District assumed responsibility of the procurement process.

Yes Not Applicable

SWCD Representative Signature: _____

Date: _____