EXCERPT from 2009 NYSDEC EPF Water Quality Improvement Program Grant Application

DESCRIPTION: Green Infrastructure Model Local Law Project

Green infrastructure, as defined in the grant application Appendix 1, includes a range of development and planning strategies, some of which are embedded within the existing local laws of Coalition members (source: in-house 2007 analysis of existing water quality laws of 12 traditional MS4 Coalition members), while others are new concepts gaining increasing attention in the developer community, but as yet are not clearly embedded within either municipal Comprehensive Plans or local land use laws.

While green infrastructure techniques may be attractive, whether or not these techniques are used depends to a large degree on establishing the necessary legal underpinnings to either encourage or require "green infrastructure" techniques. Of equal importance are informed and receptive local land use decision makers, willing to ask for and/or carefully critique development proposals which attempt to embrace green infrastructure principles. There are several necessary, simultaneous steps which need to be taken to encourage the use of green infrastructure among Stormwater Coalition municipalities. This grant application is seeking funding to implement these various steps.

Step 1 Educate land use decision makers, Town and/or Town Designated Engineers in green infrastructure techniques. This will be accomplished by conducting a survey of all land use decision makers in each Stormwater Coalition municipality. The survey instrument will serve to identify knowledge gaps, and from that develop and conduct training workshops targeting priority concepts. The workshops will be designed to also provide the required 4 hr NYSDOS Planning Board member training and likely MS4 Permit related green infrastructure/better site design training. Expanding the core knowledge of municipal leaders will encourage a more probing review of development proposals, and assist in any effort to update local land use laws to encourage green infrastructure.

Step 2 Inventory existing Comprehensive Plans and Local Laws for Green Infrastructure strategies and Smart Growth principles, possibly using as assessment tools, such guidance documents as the list of New York State Smart Growth Principles, NY Code Ordinance Worksheet, LEED for Neighborhood Development (2009), and U.S. EPA Managing Wet Weather with Green Infrastructure Municipal Handbook-Water Quality Scorecard (April, 2009).

Step 3 Research other green infrastructure local laws, and based on the results of the local law inventory and input from Coalition members, the developer community, and others, develop a Model Local Law or set of Model Laws beneficial to the unique needs of Coalition members. To assist in researching other local laws and drafting the model law(s) or guiding principles, outside counsel would be hired with grant money.

Step 4 Within the context of MS4 Permit requirements and anticipated changes to the Construction Activity Permit and NYSDEC Design Manual, present these model local law(s) to the land use decision makers associated with each Coalition member municipality. At that point, ask Coalition member governing board members to consider adopting the green infrastructure model law(s).

To help manage this project, a sub-committee of Stormwater Coalition members, generally municipal staff with a background in planning and land use law, will develop the Land Use Decision Maker Survey, analyze Survey results, develop and finalize the content of workshop training events, help develop the local law inventory tool, guide the inventory process, and participate in meetings with the consulting or law firm, to include at times, the developer community.

The role of the consulting and/or law firm, depending on cost, will most likely include critiquing the land use law inventory tool, analyzing the results of the local law inventory, researching other model laws, and developing a multi-faceted green infrastructure template for land use law related changes. Until the inventory is completed, the likely content of the model local law document is difficult to predict. Conceivably there could be one model local law, or a set of model local laws each targeting a particular green infrastructure strategy.

As municipalities move towards the adoption of more explicit green infrastructure oriented local laws, there will be water quality benefits. By directing roof top run-off to nearby rain gardens, stormwater is held back, allowing pollutants and sediment to settle out. Evapotranspiration associated with plants also moves water up and out into the atmosphere, reducing the amount of stormwater entering the conveyance system. Better site design encourages a careful look at the natural conditions of a site, suggesting ways to work with natural systems to manage stormwater. Analyzing street design and parking requirements helps municipalities identify opportunities to alter the type and amount of pavement, strategies which reduce imperviousness. At a larger scale, stream buffers intercept sediment and pollutants, helping as well, to stabilizing streams. Together these strategies address a variety of pollutants of concern, in general controlling stormwater at its source, thereby reducing the quantity of stormwater requiring treatment.

In general this model local law project sets in motion the necessary outreach to land use decision makers, reinforced with targeted educational programs, to begin the process of re-tooling existing laws to embrace green infrastructure strategies. The combined experience of multiple municipal partners, with assistance from consultants, allows this project to reach a broad audience, with each member of the Coalition bringing to the project an informed understanding of the stormwater regulations and a keen interest in building an effective stormwater management program.