

Schedule B
Downtown Revitalization Initiative Administrative Plan
Cayuga Economic Development Agency
Downtown Auburn Fund

1. Program Development

1. a. Administrative Structure

The Cayuga Economic Development Agency (CEDA), a 501c3 nonprofit organization, is the lead administrator for the DRI Small Project Grant Fund. The Executive Director is responsible for the overall program administration. The Office Manager is responsible for all program financial transactions. CEDA staff will be responsible for project management and grant administration tasks, as well as work with property owners and architects to develop scopes of work, solicit contractor bids, review proposed project designs for compliance with design guidelines, prepare project commitment and environmental compliance paperwork, conduct inspections, ensure compliance with program requirements, and submit payment reimbursement requests. CEDA will work with the City of Auburn Small Business Assistance Program Loan Committee to develop marketing materials and review projects for eligibility and award decisions. It is not anticipated that there will be any consultant services procured. CEDA will rely on the City of Auburn Building Inspection team and Codes Department to ensure compliance with City of Auburn Codes, Zoning, and other applicable laws. CEDA plans to use 5% of the \$600,000 grant fund for administrative purposes. These administrative funds would be used to cover a small portion of fixed organizational costs (insurance and accounting fees) and existing staff time required to implement the grant funds.

1. b. Marketing Plan

CEDA, in partnership with City of Auburn staff, will conduct outreach in the eligible DRI target area to make all property owners and business owners aware of the availability of financial assistance. This effort could include:

- The development informational materials to market program availability and explain program requirements to be distributed to property and business owners in the target area.
- Instructions on how to apply for assistance and required forms being available at CEDA's offices at 2 State Street and on CEDA's website (www.cayugaeda.org).
- Announcement of funding availability during at least one City Council meeting.
- CEDA will retain distribution lists, public notices and other documentation of marketing and outreach efforts in program files.

1. c. Financing Structure

Funding assistance will be available to eligible projects that enhance and strengthen the Downtown Revitalization Initiative area.

The Auburn DRI Plan had four stated goals: 1) Reinvent Downtown as a vibrant center for living, working, learning, entertaining, and civic engagement; 2) Promote Auburn and engage, educate, and welcome residents and visitors; 3) Beautify the City's streetscapes, public spaces, and gateways; and 4) Enhance, preserve, and activate the City's architecture and urban fabric. Projects applying for funding through this small grant fund should address at least one of these goals. Additional local priorities include:

- Historic Preservation
- Reactivating vacant spaces, particularly upper stories
- New affordable housing units

- Supporting woman, minority, and veteran entrepreneurs
- Creating new activity that is favorable to or has positive impacts for youth

Additional details and strategies can be found in the Auburn DRI Vision, Goals, Strategies document.

1.c.2 Applicant Eligibility - Applicants who are eligible for DRI assistance include property owners or renters that are: For-profit businesses (including entrepreneurs), property owners/developers, and non-profit entities. Additionally, to be awarded eligible applicants and/or projects must:

- Be locally owned (corporate chains and franchises are not eligible)
- Be current on all federal, state, and local taxes
- Be located in the DRI boundary
- Abide by all relevant zoning, codes, permitting, design, or signage regulations and procedures
- Demonstrate site control and, if renting, approval from the property owner for any leasehold improvements
- Show a plan for and documented commitment of financing for 100% of the project

1.c.3 Eligible Activities

- Building renovations and improvements, with priority given to historic preservation and projects intended to reactivate vacant units or create affordable housing, including:
 - Residential and commercial interior and exterior building improvements
 - Signage
 - Soft costs (architecture, engineering, environmental testing and remediation, etc.)
- Entrepreneurial seed funding for businesses under 1 year, with priority given to woman, minority, and veteran owned, including:
 - Interior and exterior leasehold improvements with landlord approval
 - Signage
 - Soft costs (architecture, engineering, environmental testing and remediation, etc.)
 - Permanent machinery and equipment
- Existing business assistance, including:
 - Interior and exterior leasehold improvements with landlord approval
 - Signage
 - Soft costs (architecture, engineering, environmental testing and remediation, etc.)
 - Permanent machinery and equipment

Within each of these categories, funds may be used for COVID-19 response in the following ways:

- Reconfiguration of existing facilities to encourage reduced density;
- Redesign and updates for air filtering or ventilation systems;
- Equipment or software required to increase business capacity and efficiency in post-COVID climate, e.g. online sales, POS systems. One-time only purchases, subscription or membership fees are not eligible for reimbursement;
- Fixtures and equipment to partition customers, guide social distancing or provide contact-less sales opportunities;
- Interior and exterior improvements to support adjusted business practices, e.g. pick-up windows, outdoor seating areas;

- Personal Protective Equipment (PPE) *(PPE is considered an incidental expense. Generally, no more than 20% of the request or \$5,000, whichever is lower, can be awarded for PPE expenses).

To be eligible for funding for COVID-19 response activities listed above, the applicant must be able to document:

- The impact of COVID on the business or property,
- The need for funding, and
- How the funding will impact the sustainability and resiliency of the business or property.

1.c.4 Ineligible Activities

- Ineligible uses of funds include: building acquisition costs; new construction (including in-fill buildings); improvements to structures owned by religious or private membership-based organizations; improvements to municipally owned and municipally operated buildings; furnishings, appliances, electronics, tools, disposable supplies, small non-permanent business equipment (computers, copiers, TV/computer screens, shredders, etc.) with the exception of what is allowable under COVID-19 response activities listed above; inventory; working capital; and non-permanent fixtures.
- Funds may not be used for site work or ancillary activities on a property including but not limited to: septic systems/laterals, grading, parking lots, sidewalks, patios, decks, garages, sheds, landscaping, fences, free standing signs, general maintenance or repairs, with the exception of what is allowable under COVID-19 response activities listed above.
- Vehicles or other rolling stock.

1.c.5 Available Funding

\$570,000 is available to fund projects through the Auburn DRI Small Project Grant Fund.

- Match Requirements
 - Building renovation projects may be awarded between \$5,000 to \$70,000 in DRI Small Project Grant Funds per building, not to exceed 75% of the total project cost.
 - For building renovations that include the creation of new affordable housing units, an additional \$10,000 may be awarded per affordable unit to be created, up to an additional \$30,000 (per building maximum of \$100,000). The resulting grant may not exceed 75% of the total project cost.
 - Match requirements must be realized on a building-by-building basis.
 - Entrepreneur Seed Funding projects may be awarded up to \$50,000 not to exceed 80% of the total project cost.
 - Cash injection for working capital can be considered as match if adequately documented.
 - Existing Business Assistance may be awarded up to \$50,000 not to exceed 70% of the total project cost
 - Cash injection for working capital can be considered as match if adequately documented.
 - In-kind match is not eligible.
 - Costs incurred prior to the effective date of the grant agreement are not eligible for reimbursement and not eligible as a match.
- Soft Costs

- Eligible soft costs include Architecture, Engineering, and Environmental Testing expenses.
- Soft costs require matching funds, and in-kind match is not eligible.
- Soft costs incurred for work on buildings that eventually prove infeasible and do not receive other investments will not be reimbursed with DRI funds. Therefore, reimbursements for soft costs may not be requested as part of a partial payment prior to project completion.

1.c.6 Proof of Available Financing – Applicants are responsible for the total cost of the project. Grants will reimburse applicants at the conclusion of the project after all costs are paid. Proof of available financing through cash in bank, secured loan commitments, and/or project lines of credit is required.

1.c.7 Payment Process The program operates fully as a reimbursement grant program and the owner is responsible for paying for all agreed upon improvements or other costs and payment of grant funds will be made only upon satisfactory completion of the items in the approved scope of work and payment of expenses.

- No reimbursement shall be paid to the owner until periodic inspections of the work has been completed by the CEDA or its representative. All completed work shall comply with all applicable building codes and standards.
- To substantiate work costs, Owners must provide the following:
 - written contracts;
 - bank documents;
 - copies of invoices for materials and labor;
 - cancelled checks;
 - lien releases;
 - and any other documents deemed reasonably necessary by the DRI Community or required by HTFC to maintain effective internal controls.
- Cash payments/cash receipts are not permitted and will not be reimbursed

1. d. Project Review & Selection Process

The Project Review Committee (as defined in section 1.d.2 below) will use the following project selection criteria and project review and selection process. This process will be used consistently throughout the term of the DRI Grant program.

1.d.1 Project Application

- Applications for funding will be available during a period to be determined and specified by CEDA. Applications must be submitted and deemed complete by the CEDA staff prior to the determined close date to be eligible for funding. An application has been prepared (hard copy and/or online) with instructions. The application materials outline the program requirements and selection priorities. The application requests all information necessary to fully review the project for eligibility.
- CEDA staff will advise applicants on the status of an application within 30 business days of a completed application being submitted. Communication on the status of the application will be made via email and/or phone. This communication will include whether or not the project was deemed eligible upon preliminary review, and if eligible will advise the applicant of upcoming meetings of the Project Review Committee.

1.d.2 Project Review Committee

- The Project Review Committee will implement the project selection process and generate funding decisions. The planned members include the City of Auburn Small Business Assistance Program Loan Committee.

1.d.3 Project Selection and Review Criteria - Project selection criteria will afford priority to:

- Projects that are visually prominent in Downtown;
- Projects that include renovation of vacant upper story units;
- Projects that include the creation of new affordable housing units;
- Projects with historic value or historic properties in danger of being lost in part or in total to disrepair or damage;
- Projects that with the assistance of grant funds, will reduce blight, contribute to the economic recovery of the target area, or realize a stabilization or expansion of a Downtown business;
- Projects that will result in new activity that impacts or is favorable to youth;
- Assistance will create jobs;
- Assistance will allow business to expand service offerings.

1.d.4 Project Scoring - Each project application will be reviewed for reasonableness of budget; project readiness; applicant capabilities, character, and experience; project viability and sustainability; and the project's potential impact in the community. This review will include underwriting of project proformas, review of any quotes related to the project work, a presentation by the applicant, and when applicant equity is part of the financing a review of a personal financial statement and credit check will be required.

Projects will be scored based on the following criteria:

<u>Criteria</u>	<u>Building Renovation</u>	<u>Existing Business</u>	<u>Entrepreneur Seed Funding</u>
READINESS	TOTAL 10 POINTS	TOTAL 10 POINTS	TOTAL 10 POINTS
Reasonable timeline & budget	5 points	5 points	5 points
Experienced & Qualified Project Team	5 points	5 points	5 points
ECONOMIC IMPACT	TOTAL 45 POINTS	TOTAL 45 POINTS	TOTAL 45 POINTS
Leverage of Private Resources	If match is: 25%-39% = 2 points 40%-54% = 4 points 55%-69% = 6 points 70%-84% = 8 points 85%+= 10 points	If match is: 30%-44% = 2 points 45%-59% = 4 points 60%-74% = 6 points 75%-89% = 8 points 90%+ = 10 points	If match is: 20%-34% = 2 points 35%-49% = 4 points 50%-64% = 6 points 65%-79% = 8 points 80%+ = 10 points
Job Creation	Permanent direct and/or indirect jobs = 5 points Construction jobs only = 2 points	Direct jobs = 5 points Indirect and/or construction jobs only = 2 points	Direct jobs = 5 points Indirect and/or construction jobs only = 2 points

Project will restore, preserve, save, or enhance a historic property	10 points	n/a	n/a
Project creates or supports a minority, women, and/or veteran owned businesses	n/a	10 points	10 points
QUALITY OF LIFE	TOTAL 25 POINTS	TOTAL 25 POINTS	TOTAL 25 POINTS
Project will result in reuse of vacant space	5 points	5 points	5 points
Project plan includes energy efficiency	5 points	5 points	5 points
Project plan includes accessibility improvements	5 points	5 points	5 points
Project will have a positive impact for youth	n/a	10 points	10 points
Project will create or support affordable housing units	10 points	n/a	n/a
DRI PRIORITIES	TOTAL 20 POINTS	TOTAL 20 POINTS	TOTAL 20 POINTS
Project advances the goals and priorities of the City of Auburn DRI Investment Strategy, specifically:			
1) Reinvent Downtown as a vibrant center for living, working, learning, entertaining, and civic engagement;	5 points	5 points	5 points
2) Promote Auburn and engage, educate, and welcome residents and visitors;	5 points	5 points	5 points
3) Beautify the City's streetscapes, public spaces, and gateways;	5 points	5 points	5 points
4) Enhance, preserve, and activate the City's architecture and urban fabric.	5 points	5 points	5 points
TOTAL POSSIBLE POINTS	100 POINTS	100 POINTS	100 POINTS

Award amounts will be determined based on the amount requested by each application, the scoring criteria above, and the amount of available funding compared to the amount requested.

1.d.5 Project Selection Documentation

- CEDA will retain clear documentation of each project selection committee decision in its program files. This documentation will include an eligibility determination for each application reviewed, and a justification for each project selection decision. This documentation will include all relevant project review or scoring memos, Project Selection Committee meeting minutes, board approval of projects or other related correspondence.

1. e. Design Standards

All projects are required to follow existing zoning, design, and public art guidelines, as well as the Site Plan Review process if required, as established by the City of Auburn. These guidelines will be consistent with the requirements of the State Historic Preservation Office. Such guidelines and processes include:

- City of Auburn Municipal Code (<https://ecode360.com/AU1877>), in particular but not limited to:
 - City of Auburn Zoning Code: <https://www.auburnny.gov/sites/auburnny/files/uploads/sec305.pdf>
 - City of Auburn Public Arts Ordinance: <https://ecode360.com/33174223>
- City of Auburn Downtown Design Guidelines: https://www.auburnny.gov/sites/auburnny/files/uploads/dt_design_guide.pdf
- Site Plan Review by the City of Auburn Planning Board (as applicable): <https://www.auburnny.gov/planning-board>

The City of Auburn will enforce these standards throughout the development process.

1. f. Housing Trust Fund Corporation Approval

Projects approved locally will be submitted to Housing Trust Fund Corporation (HTFC) for review and approval prior to notifying property or business owner of formal funding approval. The submission to HTFC will include:

- Property location information
- Business information
- Project scope of work
- Project cost estimates
- Award amount
- Total project cost
- Proposed payment structure
- Projected outcomes, e.g. units assisted, jobs created/retained

2. Project Development

2. a. Environmental Review

Prior to the commitment or expenditure of program funds, the environmental effects of each activity will be assessed in accordance with the State Environmental Quality Review Act (SEQR). CEDA will submit all required environmental review paperwork according to the requirements outlined in the HTFC Environmental Compliance Handbook.

2. b. Work Write-up / Scope of Work

Once a project application has been formally selected for DRI Grant program assistance, CEDA staff will meet with the property owner to develop the formal project scope of work and explain program requirements related to design, environmental hazards, and energy efficiency.

A formal written scope of work or description of the use of funds is required. The scope of work for a participating renovation project must address:

- Immediate health and safety concerns;
- The correction of existing code violations;
- Environmental hazards;
- Installation of energy conservation measures;
- Accessibility for persons with disabilities;
- Consistency with any other local program design guidelines; and

- Preservation of historical elements of the building.

CEDA staff, with assistance with staff of the City of Auburn, is responsible for coordinating renovation work write-ups with local code officials, the State Historic Preservation Office, and other regulators. If needed, additional experts must be consulted. Both CEDA and the property owner must sign-off on the formal scope of work.

2. c. Contractor Selection

Awarded projects must use electricians and plumbers certified to work in the City of Auburn, lists of which can be found on the City of Auburn Code Enforcement website. All contracted work for an awarded project must solicit bids/quotes through a Request for Proposals (RFP). All contractors must supply references and proof of proper insurance. The contractor selection process will be consistent with the developed procurement policy and conflict of interest policy addressed herein.

EEO & MWBE Requirements

CEDA is required to comply with Articles 15-A and 17-B of the New York State Executive Law. These requirements include equal employment opportunities for minority group members and women ("EEO"), and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs") and Service-Disabled Veteran-Owned Businesses ("SDVOBs"). CEDA's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. Please visit NYS Empire State Development's Division of Minority & Women Business Development website for a directory of certified Minority and Women-Owned Businesses: <<http://www.esd.ny.gov/MWBE.html>>.

CEDA must submit a Contractor Bid Solicitation Plan with the grant agreement. This Plan will identify a minimum of four certified MWBE firms that will be included in the bid solicitation process. Once the contractor/vendor selection process is complete, CEDA must report to HTFC on the use of certified MWBE firms.

Procurement & Bidding

CEDA will complete a procurement process for all activities to be reimbursed with DRI funds. A minimum of two bids or proposals will be obtained and reviewed for all project costs, including but not limited to purchases, services and renovation, administration or professional service activities. This process is required to establish the reasonableness of project costs. The procurement process will be free of collusion or intimidation, and CEDA will exercise appropriate oversight over the entire process to ensure that it is fair, efficient and free of actual and perceived conflicts of interest. A clear, written, scope of work for the project, as outlined in Work Write-up / Scope of Work section, must be the basis for the bids or proposals. All bidders must have equal access to relevant information, including information on the property itself. The bids or proposals for all activities must be submitted directly to CEDA by the contractor. CEDA will advise the property owner of acceptability of bids/proposed cost. CEDA shall select the lowest responsible bidder. If the property owner chooses other than the lowest bidder, re-imburement will be based on the amount of the lowest bid. CEDA will document the bid solicitation, review and selection process and save such documentation in its project files.

Conflicts of Interest

Perceived or actual conflicts of interest may arise when certain individuals have access to inside information regarding the award of a contract or property assistance. A contractor cannot receive DRI funds for work done on property that he or she owns, or a property that is owned by an immediate family member. An immediate family member includes a spouse, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother,

grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law. Prior to commencing a project where there is a possible conflict of interest, CEDA must review the eligible work items with HTFC staff.

2. d. Contracting Procedures

CEDA will enter into a contract with the property or business owner to provide the program financial assistance. The contract will outline the roles and responsibilities for both CEDA and the participating property or business owner.

At a minimum, the contract will specify:

- Agreed upon scope of work;
- Projected amount of financial assistance awarded;
- Estimated project timeline;
- Regulatory term or clawback provisions;
- Requirement to sign a photo release form permitting the CEDA, the City of Auburn, and HTFC to use photographs of the assisted business or property;
- Requirement to engage a contractor and begin activities within 30 days of formal CEDA approval;
- Payments structure, timing;
- CEDA has the right to inspect work at any time;
- CEDA may terminate the award and cancel the contract should the work or purchases be inconsistent with the program rules outlined, agreed upon scope of work or project design, stated timeline or if insurance is not maintained by the participating contractor.

3. Construction Management/Quality Control

3. a. Construction Monitoring

CEDA retains the right to inspect or audit work in progress at any point. CEDA must perform periodic inspections of renovation activities to monitor adherence with program rules, environmental hazard compliance, and general project progress. These visits must be documented in CEDA's project files.

3. b. Final Inspection

A final inspection or review of project activities by CEDA is required for each participating project. A final report or reconciliation must be submitted to HTFC to formally document completion of project activities.

4. Financial Management

CEDA's Executive Director will be responsible for all financial transactions under this contract. CEDA must have a written policy on internal controls, and use this policy to determine the process for review and approval of requests for disbursement of funds from HTFC. An Authorized Signature Form must be completed to designate the representative(s) authorized to sign disbursement requests and must reflect CEDA's written policy on internal controls.

5. Ongoing Maintenance / Regulatory Term

All assistance is in the form of a reimbursable grant with a three (3)-year compliance period. For projects that include building renovation and/or leasehold improvements, property owners will be required to execute a Declaration document committing to this compliance period. Should the

property owner sell the property within the three (3)-year timeframe, they will be responsible for repaying a portion of the grant funding received. A Declaration Form will be filed with the County Clerk to secure this obligation and the following repayment schedule will apply:

Months 0-12:	100% repayment due
Months 13-24:	66% repayment due
Months 25-36:	33% repayment due
Months 36 and beyond:	0% repayment due

6. Program Compliance

6. a. Conditions

Housing Trust Fund Corporation reserves the right to change or disallow aspects of the application and may make such changes conditions of its commitment to provide funding to a project or program. CEDA will address any additional requirements or conditions of approval.

6. b. Covenants of the Recipient

CEDA will comply with all applicable statutes, guidelines, regulations, policies and procedures of the program. Any defect or departure from the approved Administrative Plan must be requested and approved in writing. CEDA must refer to the Grant Agreement and associated schedule(s) for a summary of the awarded program activities, budget and projected accomplishments.

7. Conflicts of Interest

Under certain circumstances, an applicant for State or federal funding may have a "conflict of interest". For example, a conflict of interest may be present if the applicant is related to an employee, officer, or elected official of the City of Auburn, the Projects Review Committee, or a CEDA staff member. There are other cases where a conflict of interest may also be present. Applicants will be required to complete a Conflict of Interest Disclosure Form to determine if a conflict of interest exists. If a conflict of interest does exist, the CEDA Board will make a formal determination and provide it to HTFC staff to document the decision.

In the case that a member of the Project Review Committee has a conflict of interest in regard to a particular application, such as a financial or familial relationship to the applicant or project, that member will be required to recuse from discussion and decision making for that project.

Municipalities must adhere to Article 18, "Conflicts of Interest of Municipal Officers and Employees," of the NYS General Municipal Law.

Schedule C

Participation By Minority Group Members, Women And Service Disabled Veterans With Respect To State Contracts: Requirements And Procedures

I. General Provisions

- A. The Housing Trust Fund Corporation (HTFC) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”), and New York State Executive Article 17-B and 9 NYCRR Section 252 (“SDVOB Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. Recipient agrees, in addition to any other nondiscrimination provision of this agreement and at no additional cost to the HTFC, to fully comply and cooperate with the HTFC in the implementation of New York State Executive Laws Article 15-A and 17-B. These requirements include equal employment opportunities for minority group members and women (“EEO”), and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”) and Service-Disabled Veteran-Owned Businesses (“SDVOBs”). Recipient’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VI of this Schedule or enforcement proceedings as allowed by this Agreement.

II. Contract Goals

- A. For purposes of this Agreement, the HTFC hereby establishes a goal of, 20% for Minority-Owned Business Enterprises (“MBE”) participation and 10% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs and SDVOBs on this Agreement and achieving the Contract Goals established in Section II-A, Recipient should reference the directory of New York State Certified MBWEs found online, here:

<https://ny.newnycontracts.com/> and certified SDVOBs found online, here:
<https://online.ogs.ny.gov/SDVOB/search>
- C. Additionally, Recipient is encouraged to contact the Division of Minority and Woman Business Development’s assigned Compliance Officer to discuss additional methods of maximizing participation by MWBEs on this Agreement.
- D. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Recipient must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Agreement. In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, Recipient acknowledges that if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in this Agreement, such a finding constitutes a breach of contract and Recipient shall be liable to the HTFC for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. Recipient agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Recipient shall comply with the following provisions of Article 15-A:
1. Recipient and its subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 2. The Recipient and its subcontractors shall submit an EEO policy statement (form available) to the HTFC with its Bid Solicitation Plan in accordance with the NYS Homes and Community Renewal (HCR)'s Office of Economic Opportunity and Partnership Development procedures. If Recipient or its subcontractors do not have an existing EEO policy statement, a sample form can be found on the HCR website.
 3. Recipient's EEO policy statement shall include the following language:
 - a. The Recipient or its subcontractors will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Recipient shall state in all solicitations or advertisements for employees that, in the performance of the 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.
 - c. The Recipient 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 Recipient's obligations herein.
 - d. The Recipient will include the provisions of sections (a) through (c) of this subsection, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Agreement.
 4. Recipient or its subcontractors will comply with both Executive Law Article 15A and Executive Law Article 15, including, but not limited to Section 296.

IV. Contractor Bid Solicitation Plan

- A. The Recipient represents and warrants that Recipient will submit a Contractor Bid Solicitation Plan either prior to, or within 60 days of work being assigned and described under this Agreement or subsequent work order hereunder.
- B. Recipient agrees to use such Contractor Bid Solicitation Plan to outline marketing and outreach efforts planned to expand contracting opportunities for certified MWBEs on this project pursuant to the prescribed MWBE goals set forth in Section II-A of this Appendix.

C. Recipient further agrees that a failure to submit and/or use such Contractor Bid Solicitation Plan shall constitute a material breach of the terms of this Agreement. Upon the occurrence of such a material breach, the HTFC shall be entitled to any remedy provided herein, including but not limited to, a finding of Recipient non-responsiveness.

V. Request for Waiver

- A. If the Recipient, after making good faith efforts, is unable to comply with the MWBE goals, the Recipient may submit a Request for Waiver (Form PROC-3) documenting good faith efforts by the Recipient to meet such goals. If the documentation included with the waiver request is complete, the Agency(ies) shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- B. If HTFC, upon review of the Bid Solicitation Plan, and other supporting documentation including the Bid Solicitation Log and Certification of Good Faith Efforts Utilization Plan determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regard to such non-compliance, the Agency(ies) may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Liquidated Damages

In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, the Recipient acknowledges that if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, that such a finding constitutes a breach of Contract and the Agency(ies) may withhold payment from the Recipient. Such liquidated damages shall be calculated as an amount equaling the difference between (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

VII. Reporting

Recipient is required to submit the related Project Detail Sheet and Affirmation of Income Payment to MBE/WBE and/or SDVOB at the time of a related request for reimbursement.

VIII. Forms

The required forms can be found on the HCR website at <https://hcr.ny.gov/downtown-revitalization-initiative-dri-forms> .