

WESTERN REGION CORPORATION

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Program Guide

Western Region Corporation Downtown Revitalization Program

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Allegany

Cattaraugus

Chautauqua

Erie

Niagara

SECTION 1. PURPOSE AND PROGRAM DESCRIPTION

Through a grant prioritized by the Western New York Regional Economic Development Council and funded by the New York State Empire State Development Corporation (NYS ESD), the Western Region Corporation (WRC), an independent non-profit local corporation that promotes economic development in Allegany, Cattaraugus, Chautauqua, Erie and Niagara Counties, has established the Western Region Corporation Downtown Revitalization Program.

Purpose

The WRC Downtown Revitalization Program is a funding program that provides low-interest gap-financing loans to eligible project sponsors for eligible projects. The purpose of the program is to facilitate the redevelopment and improvement of downtown commercial center buildings and the development of new downtown commercial center buildings (1) to encourage business investment and job creation by existing businesses and entrepreneurs and (2) to revitalize downtown commercial center buildings and locations.

Within the framework of the WRC Downtown Revitalization Program requirements, communities utilizing the WRC Downtown Revitalization Program will have the ability to identify their own priorities and structure projects to support unique local needs in locally targeted areas. The WRC Downtown Revitalization Program encourages projects that utilize a collaborative approach that has resulted in a strategic plan to provide improved and diverse downtowns, housing options, commercial/retail/service business activity, public amenities, and public spaces.

Program Description

Consistent with the program's purpose as stated above, the WRC Downtown Revitalization Program will provide loans for projects that meet the guidelines and criteria contained in this Program Guide, with a particular focus on projects that target investment areas within downtown commercial centers, as identified in a local master plan or a local strategic economic development plan, that will leverage existing residential developments or other anchor economic drivers to begin to create the critical mass necessary to support new commercial/retail/service business activity and other neighborhood services and amenities.

Please note:

- As a gap funding tool, the WRC Downtown Revitalization Program is not intended to be the primary source of funding for downtown commercial/retail/mixed use revitalization projects. The WRC Downtown Revitalization Program fund is intended to offset the high construction costs involved with the development and/or redevelopment of downtown commercial center buildings, which might create funding gaps or otherwise prevent projects that are essential to revitalizing downtowns from advancing.
- All projects funded by the WRC Downtown Revitalization Program are subject to applicable federal, state and local laws and regulations, and to the policies and procedures of WRC for the administration of state funds.
- WRC reserves the right to accept or reject any or all loan applications received.
- All costs associated with the preparation of loan applications and all costs associated with the undertaking of projects funded by the WRC Downtown Revitalization Program are the responsibility of the applicant. WRC charges a non-refundable application fee to each applicant that submits an application. Loan recipients also shall be responsible for WRC's closing costs, and WRC also charges an administrative fee to each borrower. See Section 3 herein.
- Applicants shall be fully liable and responsible for any and all work of their contractors and subcontractors, and shall agree to indemnify and hold harmless WRC, NYS ESD, NYS, and their respective agents, officers, employees, and directors (collectively, the "Indemnitees") for any damages incurred as a consequence of projects funded using WRC Downtown Revitalization Program funds, and from and against any and all such liability other than that caused by the gross negligence or the willful misconduct of the Indemnitees.
- Applicants shall not rely on the provision of WRC Downtown Revitalization Program funds until an executed loan agreement is in place between WRC and the applicant.

- WRC will not close any loan and deliver funds until all conditions of its loan approval, as expressed in its loan commitment letter, have been met by the prospective borrower.

SECTION 2. APPLICANT AND PROJECT ELIGIBILITY

Applicant Eligibility

Eligible WRC Downtown Revitalization Program loan applicants include cities, towns, villages, non-profit corporations, IDA's, for-profit entities, and other appropriate local development entities within the five county Western New York region (i.e., Allegany, Cattaraugus, Chautauqua, Erie, and Niagara Counties of New York State).

In its loan applications submitted to WRC, the applicant (project sponsor) also must demonstrate to WRC's satisfaction:

- the development and financial management expertise necessary to successfully develop, design, construct, manage, and implement the proposed project. This expertise may be demonstrated through previous experience in successfully developing projects similar to the one proposed, either by key staff within the applicant organization or within partnering organizations.
- ownership or site control of all real estate considered part of the proposed project, either by the applicant itself or through a partnership or joint venture of some type (acceptable to WRC) with the owner of the subject property. However, building or site acquisition may be considered as part of the proposal, but the applicant must show a clear intent and timetable for acquisition and provide an agreement to purchase, such as a Purchase Option Agreement or comparable legal instrument that provides assurance of site control acceptable to WRC.
- that it will comply with WRC and New York State requirements relative to the WRC Downtown Revitalization Program, specifically those concerning equal opportunity, affirmative action, affirmative marketing, historic properties, environmental review, conflict of interest, debarment and suspension, and flood and other insurance. See Sections 8 and 9 herein for information on historic properties and environmental review, respectively.
- that it will comply with WRC and New York State requirements relative to Minority and Women Business Enterprises (MWBE's). In this regard, the applicant will encourage certified local MWBE's to be involved in their projects as contractors and employees engaged in relation to their project, and the applicant will encourage the tenancy of MWBE firms in buildings that are the subject of the proposed project. The applicant must demonstrate to WRC that certified MWBE's (if possible, locally owned certified MWBE's) are afforded the maximum opportunity to participate in the provision of goods and services that are acquired by the applicant using WRC Downtown Revitalization Program funds. WRC encourages the award of at least twenty percent (20%) of the total dollar value of WRC Downtown Revitalization Program funds directly or indirectly to certified MWBE's. See Section 10 herein.

Eligible Project Activities

The WRC Downtown Revitalization Program accepts applications for loans to eligible applicants that are proposing to undertake projects that involve either (a) the new construction of commercial or mixed use buildings (i.e., that house mixed-use business/residential uses) on vacant lots in strategic downtown commercial center locations and/or (b) the adaptive reuse/redevelopment/rehabilitation/improvement of vacant or underutilized commercial or mixed use buildings (i.e., that house mixed-use business/residential uses) in strategic downtown commercial center locations, with acceptable business uses to include commercial and retail activities, including storefront or first-floor retail uses. All project subject buildings must be located in the five county Western New York region (i.e., Allegany, Cattaraugus, Chautauqua, Erie, and Niagara Counties of New York State).

Projects should involve either the replacement of outmoded buildings with new buildings or the upgrading of existing buildings, so that the resulting buildings (a) are designed and capable of meeting changed and current

needs and (b) blend into the downtown and neighborhood commercial center character. Commercial use building projects should create quality commercial space for business development and entrepreneurial enterprises. Mixed use building projects additionally should help contribute to creating a sense of neighborhood conducive to the attraction of business operations to the revitalized buildings and neighborhoods. Projects should have the direct or indirect impact of attracting businesses, employees, and, for mixed use projects, residents to downtown commercial centers. WRC will give additional priority consideration to projects that involve the preparation of buildings for tenants that will engage in value added activities that will bring new wealth into the community.

To be eligible for funding, all projects also must be consistent with (a) the economic development goals and strategies of the Western New York Regional Economic Development Council, (b) Smart Growth principles, and (c) locally approved master plans or strategic economic development plans. Local plans either (a) must specifically identify the proposed project or (b) must identify the neighborhood as a target development neighborhood and identify types of projects that have been approved for that neighborhood, and if (b), the proposed project must be one of those types of project approved for that identified target neighborhood. WRC also encourages smart/green building construction.

WRC Downtown Revitalization Program loan proceeds may be used for the following project costs:

- New construction (labor and materials acquisition).
- Building rehabilitation (labor and materials acquisition).
- Building and property acquisition, but only if the acquisition is an integral component of a construction or rehabilitation project that will be completed as a consequence of the requested WRC loan. However, if WRC funds are not used for the building or property acquisition, acquisition costs (i.e., purchase price) are an eligible match. See Section 3 herein for a discussion of matching funds requirements.
- On-site infrastructure and site preparation needs related to the project, including but not limited to excavation, grading, environmental clean-up, water service laterals, sewer service laterals, sidewalks and parking.
- Reasonable soft costs related to the project, including professional service/consultant, engineering, inspections, fees, insurance, environmental assessment, legal costs and closing costs. (Note: WRC's attorney fees and closing costs will be deducted from WRC loan proceeds at closing.)
- Demolition, but only if the proposed demolition is a component of a construction or rehabilitation project that will be completed as a consequence of the proposed project. WRC encourages the environmentally sustainable practice of recycling construction and demolition debris rather than disposition in a landfill.

Please note:

- WRC does not require loan recipients to pay state or federal prevailing wages to contractors or employees, or to require contractors to pay state or federal prevailing wages to their employees.
- WRC does not require loan recipients to conform to the Wicks Law.
- WRC does not require loan recipients to follow formal competitive procurement procedures. However, WRC does encourage loan recipients to engage in some type of competitive procurement process so as to ensure that services and materials purchased with WRC loan proceeds are of good quality and fair market price. (Note: municipal applicants, IDA's, and LDC's may be otherwise required by law to follow competitive procurement processes.)
- WRC requires that all buildings that are built or improved as a result of a project receiving WRC funds be ADA accessible.
- WRC requires that loan recipients acknowledge that WRC loan funds must be used solely for authorized capital purposes and not for operating expenses or other working capital items or non-capital purposes, irrespective of whether the funds are still used for the benefit of the funded project. WRC requires that loan recipients acknowledge that the consequences of breaching this covenant could result in violations of New York State law and/or large bond issuances being treated as taxable instead of tax exempt for federal and state tax purposes, loss of certain federal subsidies to New York State, adverse ratings changes for such bonds, and disproportionate negative financial consequences to New York State and bondholders. WRC requires that loan recipients recognize their financial obligations, risks and liabilities for breach of this covenant.

Ineligible Project Activities

WRC Downtown Revitalization Program loan proceeds may not be used for:

- Building and property acquisition, unless the acquisition is an integral component of a construction or rehabilitation project that will be completed as a consequence of the requested WRC loan. However, if WRC funds are not used for the building or property acquisition, acquisition costs (i.e., purchase price) are an eligible match. See Section 3 herein for a discussion of matching funds requirements.
- Demolition that is not a component of a larger proposed project. However, WRC Downtown Revitalization Program loan proceeds may be used for demolition if the applicant can demonstrate to WRC's satisfaction that it is an appropriate project cost component of the overall project, and the overall project is a construction or rehabilitation project that will be completed as a consequence of the proposed WRC loan. However, if WRC funds are not used for the demolition, demolition costs are an eligible match. See Section 3 herein for a discussion of matching funds requirements. WRC encourages the environmentally sustainable practice of recycling construction and demolition debris rather than disposition in a landfill.
- Projects that result in buildings that are architecturally inconsistent with nearby and adjacent properties (excepting in cases of neighborhoods with generally dilapidated buildings where architectural inconsistency is judged by the community to be less important than redevelopment of the neighborhood), or that are inconsistent with an economic development, local revitalization, or an urban development plan.
- Expenditures incurred by the applicant and/or the applicant's partnering organization(s) prior to the application due date, unless approved by WRC in advance of the submission of the application.
- Work on a project prior to completion of appropriate SEQRA and SHPO review. (Note: WRC will consider applications related to projects that have not completed SEQRA and/or SHPO review, but these reviews must be completed satisfactorily before WRC loan closing.) See Sections 8 and 9 herein.
- Political activities of any kind or nature, including, but not limited to, furthering the election or defeat of any candidate for public, political or party office, or for providing a forum for such candidate activity to promote the passage, defeat, or repeal of any proposed or enacted legislation.
- Religious worship, instruction or proselytizing as part of, or in connection with, the project funded by the WRC loan.
- Payments to any firm, company, association, corporation or organization in which a member of the loan recipient's Board of Directors or other governing body, or any officer or employee of the loan recipient, or a member of the immediate family of any member of the loan recipient's Board of Directors or other governing body, officer, or employee of the loan recipient has any ownership, control or financial interest. For purposes of this paragraph, "ownership" means ownership, directly or indirectly, of more than five (5) percent of the assets, stock, bonds or other dividend or interest bearing securities; and "control" means serving as a member of the board of directors or other governing body, or as an officer in any of the above.
- Payment to any member of loan recipient's Board of Directors or other governing body of any fee, salary or stipend for employment or services, except as may be expressly provided for in WRC's loan agreement.

Please note also that the program is not intended to duplicate resources available from traditional downtown and central business district revitalization programs, facade renovation programs, urban parks programs, etc. Applications for funding from the WRC Downtown Revitalization Program that propose the utilization of such community development programs as matching funds will be scrutinized to determine whether in fact the proposed project is an appropriate project for funding by the WRC Downtown Revitalization Program. However, if the project is deemed appropriate, WRC may deem that funds provided by these other funding sources will be considered to be acceptable matching funds, provided that these funds are used for uses that otherwise are eligible for WRC Downtown Revitalization Program funding.

SECTION 3. FUNDING STRUCTURE AND PRIORITIES

Funding Structure

- **Range of Funding Awards:** WRC Downtown Revitalization Program loans will be in the amount of no less than \$100,000 and no more than \$500,000. WRC anticipates that most WRC Downtown Revitalization Program loans will be in the range of \$200,000 to \$400,000.
- **Term Length:** Maximum WRC loan term length is ten (10) years, with monthly loan amortization.
- **Interest Rate:** WRC will charge fixed (i.e., non-variable) interest rates in the range of 3 to 5%, to be assigned on a case-by-case basis by WRC according to its assessment of the application and project.
- **Cash Equity Requirement:** WRC requires that all applicants contribute a minimum 10% cash equity into their proposed projects in order to be eligible for WRC Downtown Revitalization Program funding. However, municipal applicants may propose a substitute for the 10% cash equity, having equal cash value, but must do so prior to submission of the loan application to WRC, so that such proposed substitution may be approved in advance of the submission. WRC gives priority consideration to those applicants who contribute more than 10% cash equity to their projects.
- **Matching Funds Requirement:** WRC loans will constitute no more than fifty percent (50%) of the total project cost. Matching fund contributions will be in the form of cash or equity contributions to the project and/or project loans from federal, state, and local government sources and/or cash or loans from private sector sources. The 10% cash equity or alternate pre-approved equity contribution may be counted as part of the 50% match contribution. WRC gives priority to those applicants who contribute greater than 10% cash equity to their projects, who contribute greater than 50% match contribution to their projects, and who contribute greater amounts of private sector funding participation in the total project funding structure.

All matching funds must be “firmly committed” before the WRC loan closes, which means that there must be a signed, written agreement with terms and conditions from each funding source, with terms consistent with the WRC Downtown Revitalization Program requirements and WRC’s commitment terms relating to the specific project. A letter of interest does not constitute a firm commitment for financing or property acquisition. The written commitment may be contingent upon an applicant receiving a WRC Downtown Revitalization Program loan approval. WRC may require intercreditor agreements with other project lenders. WRC will review applications that do not include firm commitments from other project lenders, but in these instances, WRC’s commitment will be made contingent upon the commitment of all other project funding being in place prior to closing, with terms and conditions consistent with the WRC loan approval.

Please Note: In-Kind match is not eligible as match for this program. All matching funds must be in the form of cash, equity contributions, or project loans. Exception: Applicants can match the value of their own or partnering organization’s or organizations’ contributed services if those services involve construction, professional services/consultant services, engineering services, inspection services, environmental assessment services, and legal services. However, administrative or other non-construction related project services are not eligible as matching funds. Also, WRC funds cannot be used to pay for project administration or other overhead or payroll services of the applicant or partnering organizations.

- **Collateralization:** WRC loans will be collateralized by mortgages on the subject real estate and improvements, and also by other additional security interests on other assets as deemed necessary, acceptable, and appropriate by WRC. WRC will consider subordinate collateral positions to senior project lenders, and to lenders that have provided loans relating to the acquisition of the subject building. WRC may require appraisals prior to closing. For loan recipients who are individuals or for-profit businesses, WRC also will require key person life insurance and personal guarantees for all individuals who own 20% or more of the for-

profit loan recipient. WRC also requires Commercial General Liability Insurance providing both bodily injury (including death) and property damage insurance in a limit not less than One Million Dollars (\$1,000,000) per occurrence and Five Million Dollars (\$5,000,000) aggregate (see additional discussion on insurance requirements in Section 11).

- **Application Fee:** WRC requires applicants to submit a \$250 non-refundable application fee to cover processing charges.
- **Administrative Fee:** In addition to deducting WRC's closing costs (attorney's fees, etc.) from loan proceeds at closing, WRC will charge loan recipients an administrative fee equal to 1% of the loan amount, to be paid at the loan recipient's option either at closing (can be deducted from loan proceeds) or prepaid prior to closing from loan recipient's own funds.

Because the terms and conditions of all funding source awards must be mutually consistent with each other, applicants are advised to secure advance agreement between WRC and all other project funding sources prior to submitting a loan application to WRC. Inconsistency of lender terms will lead to delay in advancing the project, which may include re-review of the loan application by WRC. Ultimately, failure to achieve consistency with WRC's approved loan terms and conditions will prevent the WRC loan from closing.

Funding Priorities

WRC will consider the following priorities in selecting projects for funding from the WRC Downtown Revitalization Program:

- Project feasibility, which shall be demonstrated through the provision of a market feasibility study, business plan with detailed pro forma, etc.
- Project readiness, which shall be demonstrated through documentation of site control; commitment of all other funding for the project; conformity with local planning and zoning requirements; the securing of federal, state and local permits; completion of the SEQR process; completion of the SHPO consultation and approval process; readiness to start within 3 months of the WRC Downtown Revitalization Program loan closing; etc. (Please note that WRC will consider project applications for projects that have not yet completed the SEQRA process and SHPO process, but WRC will give higher funding priority to projects that have completed both the SEQRA process and SHPO process. Additionally, SEQRA and SHPO reviews must be completed satisfactorily before WRC loan closing.) See Sections 8 and 9 herein.
- Project's projected economic impact, measured in terms of job creation and private sector investment by prospective tenant businesses of the project building, demonstrated by letters of commitment from prospective tenant businesses of the project building who commit to occupying the building, to creating jobs, and to investing funds.
- Project's demonstrated consistency with the WNY Regional Economic Development Council goals. See Section 6 herein.
- Project's projected impact on the community in terms of Smart Growth principles. See Section 7 herein.
- Projects that demonstrate the greatest MWBE impact, demonstrated by identification of processes under which the applicant will encourage MWBE's to participate in the project, by documentation of specific participation of certified MWBE's in the project, and by documentation of commitments of MWBE tenancy in the subject building. See Section 10 herein.
- Projects for which the applicant contributes greater than 10% cash equity to their projects, greater than 50% match contribution to their projects, and/or greater amounts of private sector funding participation in the total project funding structure

Depending on funds available at any time to fund loans from the Downtown Revitalization Program, WRC may have to reject some projects that do not score as well as others. See Section 5 herein.

SECTION 4. APPLICATION AND APPROVAL PROCESS

To obtain a loan from the WRC Downtown Revitalization Program, applicants for funding assistance from the WRC Downtown Revitalization Program must submit a complete application and be successfully reviewed by WRC and NYS ESD. In the loan applications that they submit, applicants must demonstrate:

- Applicant and project eligibility
- Project feasibility
- Project readiness
- Project economic impact
- Consistency with WRC program requirements
- Compliance with federal, state and local laws, regulations, and requirements
- Consistency with WNY Regional Economic Development Council goals and strategies – see Section 6 herein
- Consistency with Smart Growth principles – see Section 7 herein
- Compliance with MWBE participation requirements – see Section 10 herein

Additionally, applicants must:

- demonstrate that the buildings or sites that are the subject of their projects are located in downtown commercial centers as specified in an approved municipal plan or strategic development document, and are local development priorities. This should be demonstrated by attaching a letter to this effect to the application, to be provided by the municipality in which the subject building is located.
- demonstrate that they have a financing strategy in place, including (a) funding for the entirety of the project and (b) repayment of all project loans (including the WRC project loan). WRC will give higher priority consideration to project applications that demonstrate the greatest potential to leverage other funds, including public, non-profit, and private funds. Projects will be required to be self-sustaining and supported by private sector investment (provided by project funding sources or post-completion by for-profit business tenants of the building). Documentation of the self-sustaining character of the project should be supported through the provision of pro forma income and balance statements beginning in the year of project award and ending three years after completion of project construction.
- demonstrate that their projects will attract and sustain both short term and long term private capital, will act as a catalyst for further development, and will have a market for the improved buildings. Again, projects will be required to be self-sustaining and supported by private sector investment.
- identify any current or projected beneficiary tenants of the subject buildings, identify projected job creation impacts by those tenants, and specify any additional economic development and private sector investment catalyzed by the project. WRC will give higher priority to project applications that demonstrate the greatest potential for cumulative economic development, measured in terms of job creation and retention and private sector investment by entrepreneurs and existing businesses. Applicants should attach tenant commitment letters to their applications to document these impacts.
- demonstrate that their projects either stabilize or enhance tax base.
- suggest a proposed collateral position for WRC, which WRC will consider when evaluating the loan application.

Applicants may direct questions regarding the WRC Downtown Revitalization Program and the application process to the County Industrial Development Agency (IDA) in the county in which the subject property is located.

Applications are submitted directly to Western Region Corporation, using the following address or email:

Richard T. Zink, President
Western Region Corporation
4039 Route 219, Suite 200
Salamanca, New York 14779
Email: rzink@southerntierwest.org

Please note: WRC only accepts digital submissions of applications, submitted via email or by conventional digital media (e.g., CD, DVD, thumb drive). WRC will not accept applications submitted in alternate formats (e.g., paper, fax).

Each application will undergo a comprehensive review by WRC to ensure that all required documents have been completed and submitted. In this process, WRC may ask applicants to submit additional information that WRC deems relevant. WRC may require a site visit by a WRC representative.

WRC reserves the right to seek additional information from applicants and related entities, including (a) information deemed appropriate by WRC to constitute an acceptable application and (b) information deemed by WRC to be essential for WRC's due diligence review and evaluation of the application.

WRC will evaluate each loan application on a case-by-case basis to assess the request for loan funding in terms of economic feasibility, conformity with WNY Regional Economic Development Council goals and strategies, conformity with Smart Growth principles, economic impact, credit analysis, and risk assessment. WRC will give careful and individual consideration to each application, and the final WRC funding award will be based on project feasibility, measurable impact, project readiness, leveraging of funds, and availability of funds in the WRC Downtown Revitalization Program. Depending on funds available at any time to fund loans from the Downtown Revitalization Program, WRC may have to reject some projects that do not score as well as others. See Section 5 herein.

WRC will endeavor to process and review applications in a timely fashion. However, applicants are advised to provide sufficient time for project development, SEQRA and SHPO reviews, WRC application review, NYS ESD review, satisfaction of WRC loan commitment contingencies, and loan closing.

Applications that have been approved by WRC will be forwarded to NYS ESD for review and approval.

Once WRC approval is in place and NYS ESD approval has been received, WRC will issue a loan commitment letter to the prospective borrower. The prospective borrower will have fifteen (15) calendar days to inform WRC in writing that it either declines the award or accepts the award and the award terms and is prepared to move forward with the project. WRC's attorney then will contact the prospective borrower to secure any additional information required to prepare the loan closing documents. The prospective borrower is responsible for timely compliance with any conditions indicated in the WRC commitment letter. Once all WRC commitment letter conditions have been complied with to the satisfaction of WRC's attorney, the WRC attorney will schedule the closing. WRC loan funds will be distributed at the time of closing. WRC closing costs, including attorney fees, will be deducted from closing proceeds at closing.

In the event that WRC does not approve an applicant's loan application, WRC will transmit a letter or email to the applicant indicating that the application was not approved, and stating the reasons for the denial of the loan application.

WRC will contact the borrower upon default of the loan agreement terms to inform the borrower of the delinquency. Delinquencies which continue for 30 days will be referred to WRC's attorney for further action. The outstanding principal and interest balance of the WRC loan will become due and payable immediately upon any default as defined in the loan documents.

SECTION 5. APPLICATION EVALUATION CRITERIA

WRC will award loan funds to those applicants whose proposals best meet the WRC program requirements, have the greatest impacts, and offer the greatest prospects of successful completion. As

part of the review process, WRC will assign points to loan applications that it reviews per the following list of application evaluation criteria:

Evaluation Criteria	Max Points
1. Completeness of the Application Proposal	
<ul style="list-style-type: none"> • All required documents have been submitted and the project is presented in a clear and concise manner 	10
2. Applicant Eligibility	
<ul style="list-style-type: none"> • Applicant is an eligible applicant (legal structure) 	10
<ul style="list-style-type: none"> • Applicant and any affiliated partners and team members demonstrate that they have successfully completed project(s) similar in size and scope 	10
<ul style="list-style-type: none"> • Applicant has site ownership or control, and can close on all properties included in the project within a reasonable period of time following execution of WRC loan documents 	10
3. Project Eligibility	
<ul style="list-style-type: none"> • Project is an eligible type of project in an eligible location 	10
<ul style="list-style-type: none"> • Project funding request is within program funding range 	10
<ul style="list-style-type: none"> • WRC is no more than 50% of total project cost 	10
<ul style="list-style-type: none"> • Enhance leverage of other funds (i.e., WRC is significantly less than 50% of total project cost) 	10
<ul style="list-style-type: none"> • Private sector funds are part of total project funding 	10
<ul style="list-style-type: none"> • Applicant has contributed 10% cash equity or approved substitute match into total project funding 	10
<ul style="list-style-type: none"> • Applicant has contributed 10% or greater cash equity into total project funding 	10
4. Feasibility of Project	
<ul style="list-style-type: none"> • Documentation that a financing strategy is in place to fund the entirety of the project, with all sources and uses of funds clearly defined and documented 	10
<ul style="list-style-type: none"> • Provision of commitment letters committing 100% of project funding 	10
<ul style="list-style-type: none"> • Provision of proposed collateral scheme and collateral analysis 	10
<ul style="list-style-type: none"> • Provision of a market study documenting the feasibility of the improved buildings, business plan with detailed pro forma financial statements, etc. 	10
<ul style="list-style-type: none"> • Documentation of ability to repay all project loans (including the WRC project loan) 	10
<ul style="list-style-type: none"> • Documentation of project self-sustainability 	10
<ul style="list-style-type: none"> • Applicant statement indicating a need for WRC funding (i.e., funding cannot be obtained through equity or conventional financing) 	10
<ul style="list-style-type: none"> • Construction and other project cost estimates prepared by a responsible source acceptable to WRC 	10
5. Project Readiness	
<ul style="list-style-type: none"> • Documentation of conformance with local planning and zoning requirements 	10
<ul style="list-style-type: none"> • Federal and state permits have been secured 	10
<ul style="list-style-type: none"> • Indication of readiness to start within 3 months of the WRC loan closing 	10
<ul style="list-style-type: none"> • Documentation of completion of the SEQr process 	10
<ul style="list-style-type: none"> • Documentation of completion SHPO consultation and approval process 	10
6. Economic Impact of Project	
<ul style="list-style-type: none"> • Documentation of economic impact of project, including direct and indirect economic impact catalyzed by the project 	10
<ul style="list-style-type: none"> • Identification of any beneficiary tenants of the subject buildings and jobs projected to be created by identified building tenants. 	10
<ul style="list-style-type: none"> • Provision of commitment letter of building tenants committing to occupy building, create jobs, and invest funds 	10

7. Consistency with WRC and WNY Regional Economic Development Council Goals and Strategies

- Documentation of compliance with federal, state and local laws, regulations, and requirements 10
- Documentation of consistency and compliance with WRC program requirements 10
- Project creates/retains/fills jobs 10
- Project maximizes return on investment (i.e., project has a leverage ratio of a minimum 4:1, leverages significant non-state public and private funds, encourages exports from the region, and stimulates purchases from within the region) 10
- Project is inclusive (i.e., promotes diversity and reduce disparities within the region) 10
- Project promotes smart growth (i.e., integrates economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments, through, e.g., “infill” development, preservation of natural and cultural resources, reuse of buildings and brownfields, and energy sustainability) 10
- Project is oriented to young adults (i.e., project helps attract and retain young 18 to 35 year old adults) 10
- Project builds upon strengths (i.e., involves one or more of the seven target industries identified by the WNY REDC Council or builds upon natural resource assets, such as fresh water and renewable energy, architecture, etc.) 10
- Project is regional in scope [i.e., project has an impact (jobs, investment or visitors) in more than one county] 10
- Project improves the WNY region’s image so as to attract businesses and workers 10
- Project promotes the growth of high-growth manufacturing sectors 10
- Project accelerates health and life sciences commercialization 10
- Project promotes the growth of the tourism sector 10
- Project promotes entrepreneurship 10
- Project promotes workforce skill development in skills required for growth in core industries, such as manufacturing, healthcare, tourism, etc. 10
- Project makes targeted capital investments in priority “turn around” areas with a specific focus on disadvantaged neighborhoods, areas where the presence of anchor tenants reduce development risks and community-owned assets that enhance attractiveness and livability of communities, through investing in housing, build or enhancing infrastructure in an environmentally sustainable fashion, supporting and improving high potential quality of life impact assets (e.g. waterfront; public parks), and encouraging public private partnerships with respect to financing, operating and maintaining assets 10
- Project will result in the stabilization or enhancement of local tax base 10
- Project supports the recruitment and retention of a talent-based workforce 10
- Project promotes the growth of value-added businesses 10
- Project promotes the growth of technology-based businesses 10
- Project promotes the growth of businesses involved in regional exports 10
- Project is consistent with or supports green building and renewable energy strategies 10
- Project will result in increased densification of residential development in downtown commercial center 10
- Project will result in the creative and architecturally appropriate adaptive reuse of a historic or significant building or a problem building 10
- Subject building is located in close proximity to public transportation 10
- Project involves redevelopment of Brownfield Opportunity Areas 10
- Project is architecturally consistent with nearby and adjacent properties or is architecturally consistent with an economic development, local revitalization or an urban development plan 10

8. Consistency with Smart Growth Principles	
• Project supports existing communities and growth centers	10
• Project supports transportation choice and accessibility	10
• Project supports community character and collaboration	10
• Project supports environmental protection and public health	10
• Project supports housing choice and affordability	10
• Project supports economic development	10
9. Consistency with MWBE Participation Requirements	
• Proposal documents agreement of applicant to comply with MWBE requirements (Attachment 16 – see Application Form)	10
• Proposal documents applicant’s internal process under which MWBE’s will be encouraged to participate in the project (Attachment 16 – see Application Form)	10
• Proposal documents (by letters of commitments of MWBE businesses identifying themselves as certified MWBE businesses) participation of certified MWBE’s in the project as contractors or subcontractors to the project (Attachment 17 – see Application Form)	10
• Proposal documents (by letters of commitments of MWBE businesses identifying themselves as certified MWBE businesses) participation of certified MWBE’s in the project as tenants of the subject building (Attachment 17 – see Application Form)	10
• Proposal documents the agreement of the applicant to comply with all MWBE and EEO requirements (Attachment 18 – see Application Form)	10
<p>Note: The WRC loan agreement also will require WRC Downtown Revitalization loan recipients to require all contractors and consultants engaged on the project to complete Attachment 18 Form. The WRC loan agreement also will require WRC Downtown Revitalization loan recipients to submit completed Attachment 18 Forms for all contractors and consultants engaged on the project to WRC.</p>	

Maximum total points: **650**

Please note: In situations where WRC does not have sufficient fund capital to fund all applications received, WRC may decide to award loan funds to those applicants whose proposals best meet the WRC program requirements, have the greatest impacts, offer the greatest prospects of successful completion, and score highest relative to the above application evaluation criteria.

Section 6. WNY Regional Economic Development Council Goals and Strategies

In evaluating projects per their consistency with the goals and strategies of the Western New York Regional Economic Development Council, WRC will consider how well the proposed project conforms to the Council's endorsed goals and strategies. Many of these goals and strategies are discussed in the Council's regional economic development strategic plan, "A Strategy for Prosperity." WRC considers the following list to be representative of the Council's goals and strategies:

- Does the project create/retain/fill jobs?
- Does the project maximize return on investment (i.e., have a leverage ratio of a minimum 4:1, leverage significant non-state public and private funds, encourage exports from the region, and stimulate purchases from within the region)?
- Is the project inclusive (i.e., promote diversity and reduce disparities within the region)?
- Does the project promote smart growth (i.e., integrate economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments, through, e.g., "infill" development, preservation of natural and cultural resources, reuse of buildings and brownfields, and energy sustainability)?
- Is the project oriented to young adults (i.e., help attract and retain young 18 to 35 year old adults)?
- Does the project build upon strengths (i.e., involve one or more of the seven target industries identified by the WNY Regional Economic Development Council or build upon natural resource assets, such as fresh water and renewable energy, architecture, etc.)?
- Is the project regional in scope (i.e., have an impact (jobs, investment or visitors) in more than one county)?
- Does the project improve the WNY region's image so as to attract businesses and workers?
- Does the project promote the growth of high-growth manufacturing sectors?
- Does the project accelerate health and life sciences commercialization?
- Does the project promote the growth of the tourism sector?
- Does the project promote entrepreneurship?
- Does the project promote workforce skill development in skills required for growth in core industries, such as manufacturing, healthcare, tourism, etc.?
- Does the project make targeted capital investments in priority "turn around" areas with a specific focus on disadvantaged neighborhoods, areas where the presence of anchor tenants reduce development risks and community-owned assets that enhance attractiveness and livability of communities, through investing in housing, build or enhancing infrastructure in an environmentally sustainable fashion, supporting and improving high potential quality of life impact assets (e.g. waterfront; public parks), and encouraging public private partnerships with respect to financing, operating and maintaining assets?
- Does the project result in the stabilization or enhancement of local tax base?
- Does the project support the recruitment and retention of a talent-based workforce?
- Does the project promote the growth of value-added businesses?
- Does the project promote the growth of technology-based businesses?
- Does the project promote the growth of businesses involved in regional exports?
- Is the project consistent with or does the project support green building and renewable energy strategies?
- Does the project result in increased densification of residential development in a downtown commercial center?
- Does the project result in the creative and architecturally appropriate adaptive reuse of a historic or significant building or a problem building?
- Is the subject building in close proximity to public transportation?
- Does the project involve redevelopment of Brownfield Opportunity Areas?
- Is the project architecturally consistent with nearby and adjacent properties or is the project architecturally consistent with an economic development, local revitalization or an urban development plan?

In their applications, applicants must demonstrate how their proposed projects are consistent with any or all of the above. See Application Form.

Section 7. Smart Growth Considerations

WRC and the Western New York Regional Economic Development Council consider Smart Growth impacts and considerations to be important to investments that are to be made with the WRC Downtown Revitalization Program. WRC Downtown revitalization program projects should adhere to Smart Growth principles to integrate economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments. A project that meets one or more Smart Growth principles would comply with WRC's program criteria. However, WRC will give higher priority to projects that (a) meet more than one Smart Growth principles and that (b) project the greatest economic impact. Accordingly, WRC requires that applicants must demonstrate in their applications that their projects consistent with one or more of the following six Smart Growth principles:

1. Support of Existing Communities and Growth Centers

Relevant considerations include:

- Will the project be located within a strategic target downtown commercial center of a city, town, village, or hamlet?
- Will the project be located in Brownfield Opportunity Area or a Local Waterfront Revitalization Program area?
- Will the project be located in an environmental justice area or a hardship area (Census Tract with a poverty rate of at least 20%)?
- Will the project require an extension of the water and sewer service? Locating a project in close proximity to existing utility infrastructure encourages more resource-efficient development of land, reduces development costs, and conserves energy.
- Will at least 50% of the project's perimeter border on an already developed non-agricultural parcel? Locating a project adjacent to existing built non-agricultural parcels encourages more resource-efficient development of land, reduces development costs, and conserves energy. It also can reduce travel distances and costs for those coming to and from the project site.
- Will the project contain a mix of different uses (e.g., housing, retail, office, commercial/retail, services, institutional) within the project site, or will it provide one or more desirable new land uses within ½ mile of the project? Mixing land uses at a project site (or adding new land uses to a neighborhood) can shorten travel distances and can make people more likely to use alternative modes of transportation, such as walking, bicycling, or transit.
- Does the project have significant services and amenities within ½ mile of the project location? Having commonly used services and amenities within close proximity of a project location makes it more likely that people will make more trips using alternative modes of transportation, such as walking, bicycling, or transit. Relevant examples of services and amenities are supermarkets (or other food markets with produce), pharmacies, hardware stores, primary health care, banks/credit unions, gyms/fitness centers, laundry/dry cleaners, restaurants, licensed child care, police or fire stations, public libraries, post offices, educational facilities (e.g., K-12 school, community college), places of worship, public recreation facilities (e.g., park, ball field, swimming pool), and cultural arts facilities (e.g., museum, performing arts).
- Does the project involve compact non-residential or mixed-use development? Compact building design is necessary to support wider transportation choices, and it can reduce the cost of providing public services such as water and sewer. Compact development also relieves development pressure on undeveloped land. For non-residential or mixed-use structures, a commonly used metric to describe density is Floor Area Ratio (FAR), which is the ratio of the floor area of a building to the area of the lot on which the building is located. For a non-residential or mixed-use project, the relevant threshold for desirable Floor Area Ratios are:
 - Within a regional center (Erie and Niagara Counties as defined in the Framework for Regional Growth) or city (Chautauqua, Cattaraugus, and Allegany Counties): Floor Area Ratio of 2.5
 - Within a growth corridor (Erie and Niagara Counties as defined in the Framework for Regional Growth): Floor Area ratio of 1.5
 - Within a rural center (Erie and Niagara Counties as defined in the Framework for Regional Growth) or town/village/hamlet (Chautauqua, Cattaraugus, and Allegany Counties): Floor Area Ratio of 0.5

2. Transportation Choice and Accessibility

Providing more transportation choices – such as public transit, walking, or bicycling – can provide access to more destinations, decrease household transportation costs, reduce energy costs and dependence on foreign oil, improve air quality, decrease greenhouse gas emissions, and promote public health. Priority projects enable or encourage the use of multiple modes of transportation. Traditional neighborhoods – with smaller blocks, a connected grid of streets, shaded sidewalks, safe street crossings, and moderate density – can be serviced well by transit. Locating housing and commercial buildings closer together and adjacent to transit stops has been shown to increase walking and transit usage. Increasing transportation choice and multimodal mobility is especially critical for residents who may not have full access to driving (e.g., young, old, disabled, or economically disadvantaged people). Relevant considerations include:

- How many public transit routes have stops or stations within 1/4 mile of the proposed project site? Are there "Park and Ride" locations within 1/4 mile of the proposed project site? Locating a residential project within walking distance of scheduled transit service makes it more likely that residents will use transit for a portion of their trips. Similarly, locating a non-residential project near scheduled transit service makes it more likely that employees, customers, and other visitors will use transit to get there.
- Will the project contribute to developing a complete street, or will the project building be located on an existing complete street? Complete streets are those that adequately provide for all roadway users, including bicyclists, pedestrians, transit riders, and motorists, to the extent appropriate to the function and context of the street. For example, to facilitate walking and bicycling where appropriate, a project should include sidewalks with widths of at least 6 ft, well-marked crosswalks, bicycle lanes, street trees in the buffer area between the roadway and the sidewalk, benches, and sidewalk lighting.
- Will the project building be located on or nearby an interconnected road, sidewalk, and trail system, or will it be located on an existing network that is interconnected? An interconnected street network – like those found in traditional downtowns and neighborhoods – supports walking, biking, and transit access, and can make all trips shorter. A connected grid of streets can also allow more streets to have fewer lanes – making them easier to cross and more pleasant to walk or live on – compared to forcing all traffic onto wider, fast-moving highways.
- Will any parking lot have interior and border plantings, and a marked pedestrian walkway connecting the sidewalk to the storefront? Will the parking lot separate the sidewalk from the building edge by less than 30 feet? Will the parking lot be shared with other uses (i.e. businesses or housing units nearby)? Parking lots can serve as obstacles between pedestrians and their destinations. Excess parking also can increase stormwater runoff, if not managed properly. The amount of parking needed for a particular project can be reduced through means such as sharing parking for land uses that have different patterns of parking demand.

3. Community Character and Collaboration

Community character is usually reflected in values and goals that are built into local plans and visions, which are best developed through a collaborative process. A clear set of principles, developed in a broad community process (including the involvement of development stakeholders) and incorporated into locally adopted plans and policies, can provide a framework for determining whether proposed projects are achieving sustainability goals and will fit in with desired community character. This can include treasured historic and cultural resources, rural landscapes and working lands, historic architecture and neighborhood parks, coastlines and harbors, and downtown streetscapes. Appropriate building design and siting that reflects local character while providing modern amenities can increase acceptance of growth and development, especially for more dense development in existing neighborhoods. A set of design guidelines can help ensure that development meets a community's expectations. Collaborative community involvement can help ensure that development fits with community context and conforms to adopted plans. Relevant considerations include:

- Will the project reuse or rehabilitate historic buildings in a manner that preserves their scale, materials, and character, or reuse a non-historic building in a manner that fits with the community's architectural character? Preservation or adaptive reuse of historic and other existing buildings can be more resource-efficient than

new construction on greenfield sites, in part because such buildings are already tied into public infrastructure. Historic buildings also make a unique contribution to community character.

- Does the building design incorporate siting, architecture, and landscaping that fit with the community context? Community character is expressed in part through shared architectural, siting, and landscape design elements in the buildings that make up a community or neighborhood, and is often incorporated into adopted community plans or vision documents.
- Is the project consistent with the approved local comprehensive plan and any other place-specific plans (e.g., corridor or neighborhood plans)? If the plan is more than fifteen years old or no longer reflects the community's goals, does the project reflect current community values? A proposed project should be consistent with the local comprehensive plan, as well as any other smaller-scale plans that pertain to the project location.
- With respect to community involvement, communities have different needs and therefore will emphasize some livability principles over others when deciding on how they wish to develop. To discern how a project can align with the vision and preferences of a community, project sponsors should solicit the involvement of the people who live and work there. Involving the community early and often in the project development process can improve public support for projects that promote livability. In this regard, project developers/sponsors should use one or more of the following community involvement methods during the project's design:
 - Engaging key stakeholders and the surrounding community in a planning charrette prior to project design.
 - Meeting with the local project review staff to discuss a concept plan prior to formal submittal.
 - Attending local neighborhood meetings to present project plans and get feedback.
 - Posting information about the proposed project on an easily located and navigable website.

4. Environmental Protection and Public Health

How communities develop affects both the natural environment and public health. Development can result in the replacement of natural areas and wildlife habitat with impervious surfaces such as concrete or asphalt. Development patterns and practices also indirectly affect environmental quality because they influence how people get around. Sustainable development encourages fewer and shorter vehicle trips, resulting in lower emissions of air pollutants and greenhouse gases. How developments handle stormwater affects water quality. Cleaning up and redeveloping a brownfield can remove blight and environmental contamination from a community. Green construction practices can reduce energy consumption and operating costs, while improving indoor air quality. Development patterns affect public health in many ways. More compact, connected communities and active transportation choices can increase physical activity, as well as access to healthy food. By reducing dependence on automobiles, sustainable development reduces air emissions, thus decreasing the incidence of respiratory illnesses. Relevant considerations include:

- Will the project result in the clean-up and/or reuse of a brownfield? Brownfields are formerly-used sites (typically industrial) that may have contamination issues. By cleaning up and reusing a brownfield, a project avoids the use of previously undeveloped land. Also, brownfield sites typically already have access to existing infrastructure such as roads and utilities.
- Preservation of agricultural and recreational land is important. Farms contribute to economic development and provide farm vistas and local food, as well as tourism opportunities and wildlife habitats. Recreational lands provide opportunities for residents and visitors to enjoy the outdoors. Will the project be built on land currently NOT zoned for agricultural or recreational use?
- Preservation of environmentally sensitive land is important. Proper site selection avoids damage to or loss of fragile and scarce environmental resources. Will the project avoid impacts to land physically unsuitable for development, such as slopes greater than 25%, wetlands, and aquifer recharge areas?
- Preservation of open space is important. Open space preservation promotes livability by preserving critical environmental areas, improving community quality of life, and guiding new growth into existing communities. Will the project:
 - Set aside at least 10% of total acreage as public open space?

- Or, if within a Regional Center (Erie and Niagara Counties)/city boundary (Chautauqua/Cattaraugus/Allegany Counties), will the project be located within ¼ mile of a dedicated public open space of at least ¾ acre?
- Green building techniques provide both environmental and health benefits. Environmental benefits derive from the use of building designs, materials, and appliances that reduce the use of energy and water, as well as from the use of materials with other environmental benefits (e.g., made with recycled content). Health benefits result from the use of building designs and materials that reduce exposure to potentially harmful substances, such as mold, lead, radon, or volatile organic compounds (VOCs). Will the project meet any established sustainable design criteria (e.g., LEED)?
- Energy-efficient buildings achieve energy savings through heating, cooling, hot water, lighting, and appliance efficiencies, which improve occupant comfort, reduce operating costs, and decrease emissions of air pollutants and greenhouse gases. Will new or rehabilitated structures meet or exceed the energy efficiency standards incorporated into the applicable state building code (see *Energy Conservation Construction Code of New York State 2010*)?
- Renewable energy reduces environmental impacts that are associated with energy sourced and produced from fossil fuels. Use of on-site renewable energy can also result in energy cost savings. Will the project provide on-site or commit to purchase a significant portion of its electricity (or direct heating/cooling) from renewable energy sources (measured as a % of the project's estimated annual electricity demand)?
- Reducing or eliminating stormwater runoff through design and management techniques increases on-site filtration, reduces the amount of pollutants entering waterways, and decreases soil erosion. Low-impact development techniques are an important method of stormwater control for developments. Use of these techniques helps to reduce net runoff and ensure adequate groundwater recharge. Will the project implement any EPA stormwater management best practices? EPA best practices are: bioretention cells; curb and gutter elimination; grassed swales; green parking design; infiltration trenches; inlet protection devices; permeable pavement; rain barrels and cisterns; riparian buffers; sand and organic filters; soil amendments; stormwater planters; tree box filters; vegetated filter strips; and vegetated roofs. See http://www.epa.gov/oaintrnt/stormwater/best_practices.htm.
- Good nutrition is vital to good health, disease prevention, and the growth and development of children and adolescents. Low-income and underserved communities often have limited access to stores that sell healthy food, especially high-quality fruits and vegetables. In addition, rural communities often have a higher number of convenience stores where healthy foods are less available than in larger, retail food markets. If the project involves a mixed use building with a residential component, will it improve the availability of fresh produce by involving a location within ½ mile of a supermarket or a weekly farmer's market, providing a drop-off site for community-supported agriculture, or providing an appropriate space for a community garden or be located within ¼ mile of an off-site community garden?
- Priority projects should have access to areas for physical activity. Will the building be located within ½ mile of parks, playing areas, trails, or other open space areas that are publicly accessible and can facilitate active recreation (e.g. walking, cycling, and organized games)?

5. Housing Choice and Affordability

If the project involves a mixed use building with a residential component, the project should increase the diversity of housing types and housing prices in a neighborhood so as to promote equitable, affordable housing choices. Additionally, a mixed use building with a residential component should have a compact design, which affects the cost of providing public services, as well as the transportation choices made by residents. Mixed use, compact development can improve housing choice, affordability, walkability, and water quality. When considering affordability, it is also important to consider the combined cost of housing and transportation. WRC encourages projects that result in lower transportation costs for residents, employees, or other visitors. Relevant considerations include:

- Will the project increase the diversity of housing types within 1/4 mile of the project? A mix of housing types provides a range of housing choices allows people of all ages and stages of life to find a niche in a community.

- Will the project provide a range of housing prices accessible to different income levels, or will it increase the diversity of housing prices within 1/4 mile of the project? Ensuring that communities provide homes that are affordable to rent or own, especially to those who work close by, is important for creating sustainable, equitable communities. Providing a range of housing prices provides people of all income levels the opportunity to live in or near the communities in which they work, which lowers household transportation costs. Diversity of housing prices is defined here as including both affordable and market-rate homes.
- Compact site design is necessary to support wider transportation choices, because minimum levels of density are required to make public transit networks viable. Compact development also provides cost savings for localities, because it is cheaper on a per-unit basis to provide and maintain services like water, sewer, electricity, and other utilities in more compact neighborhoods. Compact development also protects open, undeveloped land that absorbs and filters rain water, reduces flooding and stormwater drainage needs, and lowers the amount of pollution washing into our streams, rivers, and lakes. Compact development also is critical to establishing viable transit service. Six to 7 dwelling units per acre is the minimum needed to support scheduled bus service, while 12 to 13 units per acre is preferable for more frequent bus service. Density can be calculated by dividing the total dwelling units after construction by the acreage of the entire tract, minus the dedicated acreage of public street rights of way, riparian and wetland buffers, open space that has been dedicated through a conservation program, and other non-buildable areas. For mixed used building with a residential component, does the number of dwelling units per acre meet the relevant threshold below?
 - Within a regional center (Erie and Niagara Counties) or city (Chautauqua, Cattaraugus, and Allegany Counties): 24 dwelling units per acre.
 - Within a growth corridor (Erie and Niagara Counties): 12 dwelling units per acre.
 - Within a rural center (Erie and Niagara Counties) or town/village/hamlet (Chautauqua, Cattaraugus, and Allegany Counties): 6 dwelling units per acre.
- There is a critical need for housing that serves extremely low-income households and persons with special needs. Will the project include housing that serves extremely low-income households or those with special needs?

6. Economic Development

Incorporating livability approaches into economic development strategies can enhance economic competitiveness by encouraging reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers, as well as giving business expanded access to markets and customers. More transportation choices and appropriately located housing can reduce employee transportation and housing costs and reduce business parking costs. Livability approaches can also be a catalyst for reinvesting in aging suburban corridors, restoring complete streets and networks, and revitalizing rural small towns and historic districts. Reinvented suburban corridors and revitalized main streets are prime targets for business reinvestment, especially when coupled with public infrastructure investments, an adopted plan, and new codes that support innovative project design. Preserving and supporting existing communities makes more efficient use of existing infrastructure and reduces long-term operating and maintenance costs. Project sponsors should assess the extent to which projects will improve economic conditions for local residents, the host community, and Western New York. Relevant considerations include:

- Is the project likely to promote economic development by creating new permanent jobs within the areas of Western New York that are designated as appropriate for development? Can the project be reasonably expected to create permanent jobs within a downtown commercial center? (To be counted, jobs must pay at least \$10.15 per hour or about \$25,000 per year.)
- Projects that include a workforce training component will enhance the economic competitiveness of the community and WNY by improving the skills of those working on the project or future employees at the project location. Will the project include an education or training component for likely employees, residents, or construction workers?
- Does the project target business clusters identified in the Western New York Regional Economic Development Council strategic development plan (“A Strategy for Prosperity”) as sectors targeted for investment? Is the project eligible for state or federal tax breaks or other incentives for stimulating sustainable jobs considered to

be economically important to the state or regional economy? Will the project be eligible to receive state or federal tax credits or other incentives due to its economic development potential?

- Projects should spur economic development, but not at the cost of residents and existing businesses. If a project involves a displacement of residents or existing businesses, the project also should address their retention or relocation. Will the project avoid displacing residents or businesses? If not, will the project provide for the retention or relocation of any displaced businesses or residents?

In their applications, applicants must demonstrate how their proposed projects are consistent with any or all of the above. See Application Form.

SECTION 8. STATE HISTORICAL PRESERVATION OFFICE (SHPO) CONSULTATION INSTRUCTIONS

Under the New York State Historic Preservation Act, Section 14.09 and its associated rules and regulations, State funded (in whole or in part) activities (i.e., projects funded by the WRC Downtown Revitalization Program) that have the potential to affect historic properties, either directly or indirectly, must be evaluated by the State Historic Preservation Office (SHPO) of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). Regulations associated with this law define a Historic and/or Cultural Place or Property as “any building, structure, district, area, site or object including underground and underwater sites, that is of significance in the history, architecture, archeology or culture of this state, its community or the nation.”

Additionally, projects involving a building, structure, district, or site, including underground or underwater sites, listed on or eligible for listing on the State or National Register of Historic Places (S/NR) must be evaluated by the SHPO. Buildings that are more than 50 years old that are historically, architecturally, archeologically, or culturally significant also may meet the eligibility criteria for S/NR listing.

The applicant must demonstrate compliance with the Section 14.09 SHPO review process. In order to complete the SHPO review process, the applicant must write to SHPO, notifying them of the proposed state funded project and requesting comment on the project, and submit project materials along with the Project Review Submission Cover Form found on the SHPO web site at <http://nysparks.state.ny.us/shpo/environ/forms.htm>. Upon completion of the SHPO review process, SHPO will determine whether or not the project will have an adverse impact on historical or cultural resources and will then provide a letter of comment on the project.

WRC recommends that the applicant contact SHPO’s regional staff during the SHPO application process. Regional staff contact information can be found at <http://nysparks.state.ny.us>. Click on Historic Preservation; next click on Territorial Assignments. Staff members are listed by the counties they service.

In order to expedite the SHPO review process, the applicant must provide the information outlined below for the appropriate project category.

- **Demolition**

For projects involving small scale demolition (i.e., fewer than 20 individual buildings), provide the following for each building:

- An individual Building/Structure Inventory Form (at <http://nysparks.state.ny.us> under Environmental Review/Forms).
- Color photographs (digital are acceptable). These should depict the building on the exterior (1-3 views), representative interior views if accessible (2-5 views) and at least one image of the building in its streetscape (showing the buildings to either side).
- Map depicting the location of the project.

- **Rehabilitation Projects**

For individual rehabilitation projects, provide the following:

- An individual Building/Structure Inventory Form (at the OPRHP web site under Environmental Review /Forms).
 - Color photographs (digital are acceptable). These should depict the building on the exterior (1-3 views), representative interior views if accessible (2-5 views) and at least one image of the building in its streetscape (showing the buildings to either side).
 - Map depicting the location of the project.
 - Project narrative explaining work to be proposed. For small façade improvement projects, sketch plans and materials descriptions are very helpful. For large scale projects, plans may be requested.
- **New Construction Projects**
For new construction projects, provide the following:
 - Color photographs (digital are acceptable). These should depict the lot on which the building is being placed. Additional photographs should depict the setting of the new construction.
 - Document what had previously been on the site if demolition project is not part of the proposal.
 - Map depicting the location of the project.
 - Depiction of proposed construction including a site plan and at least one elevation.

To check for National Register listed properties, historic districts and archaeologically sensitive areas that may include or involve a project, please go to <http://nysparks.state.ny.us>, then select HISTORIC PRESERVATION, then select On Line Resources, then go to the Public GIS Program.

Send SHPO forms directly to the address below.

New York State Historic Preservation Office
Peebles Island Resource Center
Delaware Avenue
Cohoes, NY 12047
(518) 237-8643

WRC requires that applicants submit the following SHPO documentation with their applications:

- Letter of No Adverse Impact determination, or
- Letter of Resolution – required if SHPO determines that the project will have an Adverse Impact on historic or cultural resources.

SECTION 9. SEQRA PROCESS INSTRUCTIONS

WRC requires WRC Downtown Revitalization Program loan recipients to comply with environmental review requirements under New York State regulations. The information below provides a brief guide to the review processes. If you have any questions about the required documentation or how to proceed in these areas, please contact New York State Empire State Development's (NYS ESD's) Planning & Environmental Review Office at (212) 803-3252 or 3253. Physical work on a WRC-funded project must not be started prior to the completion of any necessary environmental review. Additionally, the WRC loan will not close until any necessary environmental review has been completed.

Introduction to SEQRA

New York's State Environmental Quality Review Act (SEQRA, at 6 NYCRR Part 617) requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. This means these agencies must assess the environmental significance of all actions they have discretion to approve, fund or directly undertake. SEQRA requires the agencies to balance the environmental impacts with social and economic factors when deciding to approve or undertake an "Action".

If an action is determined not to have significant adverse environmental impacts, a determination of nonsignificance (Negative Declaration) is prepared. If an action is determined to have potentially significant adverse environmental impacts, an "Environmental Impact Statement" (EIS) is required. The SEQRA process uses the EIS to examine ways to avoid or reduce adverse environmental impacts related to a proposed action. This includes an analysis of all reasonable alternatives to the action.

SEQRA applies to all state or local government agencies including districts and special boards and authorities whenever they must approve or fund a privately or publicly sponsored action. It also applies whenever an agency directly undertakes an action. Applicants who seek project approval or funding may be responsible for preparing an EIS.

When actions consist of several steps or sets of activities, the entire set must be considered the action, even if several separate agencies are involved. Segmentation of an action into components for individual review is contrary to the intent of SEQRA. No agency involved in the overall action can make a final decision until the SEQRA process is completed. The SEQRA "decision making process" encourages communication among government agencies, project sponsors and the general public.

Actions that NEVER require an EIS are Type II actions. Type II actions listed in the statewide and agency SEQRA regulations are determined not to have a significant adverse impact on the environment. Some examples of Type II actions are:

- rebuilding or replacement of facilities, in-kind, on the same site
- constructing minor structures, such as garages, barns or home swimming pools, routine permit and license renewals with no substantial change in permitted activities
- constructing or expanding either primary or accessory nonresidential structures in an appropriate zone with less than 4,000 square feet of gross floor space or constructing or expanding a single, two or three family residence on an approved lot
- routine activities of educational institutions, including expansions of existing facilities by less than 10,000 square feet
- nondiscretionary (ministerial) approvals
- maintenance and repair activities
- emergency actions
- actions of the New York State Legislature and the Governor or of any court enforcement actions

For an outline of SEQRA's basic requirement and additional information on the SEQR process, see Guiding the Process at <http://www.dec.ny.gov>.

SEQRA Implications for WRC Downtown Revitalization Program Applicants:

- Projects or physical activities, such as construction or building rehabilitation or other activities that may affect the environment by changing the use, appearance or condition of a site or structure require review under SEQRA.
- WRC Downtown Revitalization Program loan applicants must demonstrate compliance with SEQRA. If SEQRA review is required for the project, the SEQRA review must be completed by a Lead Agency such as a municipal planning or zoning board, common council, or county industrial development agency. WRC Downtown Revitalization Program loan applicants should contact one of these municipal or county entities to start the SEQRA environmental review by the Lead Agency.
- Please note that if the project consists of more than one phase, a SEQRA review must be completed for all known or reasonably foreseeable phases of the project, not only the phase that is the subject of WRC funding.

An environmental review of only a portion of a project constitutes improper segmentation under SEQRA and is not accepted except in special circumstances.

- Required SEQRA documentation:
 - If the project has been determined to have no significant effect on the environment, the following two documents must be provided:
 1. Environmental Assessment Form (EAF) –Short or Full EAF, as appropriate for the project. All parts must be fully completed; and
 2. Negative Declaration
 - If a Positive Declaration was issued for the project, indicating that the project may have a significant adverse impact on the environment, the following documents must be provided:
 1. Draft and Final Environmental Impact Statement (DEIS and FEIS) – digital copy is preferable; and
 2. Lead Agency Statement of Findings.

For further information about SEQRA, please visit the New York State Department of Environmental Conservation’s web site at <http://www.dec.ny.gov/63.html>.

SECTION 10. MWBE PROVISIONS

New York State Empire State Development’s (NYS ESD’s) Non-discrimination and Contractor Diversity policy will apply to the Project. In this regard, WRC Downtown Revitalization Program loan recipients will solicit and encourage New York State Empire State Development certified Minority and Women Business Enterprises (“MWBE’s”) to be involved in their projects as contractors and employees engaged in relation to their project. WRC Downtown Revitalization Program loan recipients also will encourage the tenancy of MWBE firms in buildings that are the subject of the proposed project. WRC Downtown Revitalization Program loan recipients must demonstrate to WRC that locally owned MWBE’s are afforded the maximum opportunity to participate in the provision of goods and services that are acquired by the applicant using WRC Downtown Revitalization Program funds.

The following are specific MWBE and Equal Employment Opportunity (EEO) provisions that pertain to the WRC Downtown Revitalization Program with respect to participation by minority group members and women:

1. General Provisions

- A. WRC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all agreements 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. This covers all projects proposed by applicants to the WRC Downtown Revitalization Program to be funded by the program.
- B. WRC Downtown Revitalization Program loan recipients will agree, in addition to any other nondiscrimination provision of the Downtown Revitalization Program, and at no additional cost to WRC, to fully comply and cooperate with WRC in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBE’s”). Contractor’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, breach of contract, and/or a loan default, leading to the termination of the WRC loan commitment, the withholding of funds or such other actions, liquidated damages pursuant to sub-section 7 of Section 9 of this Program Guide, or enforcement proceedings as allowed by the WRC loan agreement.
- D. WRC Downtown Revitalization Program loan recipients also will encourage the tenancy of MWBE firms in buildings that are the subject of the proposed project.

2. Program Goals

- A. At the direction of New York State Empire State Development, WRC has established for the Downtown Revitalization Program an overall goal of 20% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, based on the current availability of qualified MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on this Program and achieving the Program Goals established in sub-section 2-A of Section 10 of this Program Guide, contractors should reference the directory of New York State Certified MWBEs found at the following internet address:

<https://ny.newnycontracts.com>

Additionally, WRC Downtown Revitalization Program loan recipients are encouraged to contact the Division of Minority and Woman Business Development (518-292-5250; 212-803-2414; or 716-846-8200) and the New York State Empire State Development Office of Contractor and Supplier Diversity at ocsd@esd.ny.gov to discuss additional methods of maximizing participation by MWBEs for projects funded by loans from the WRC Downtown Revitalization Program loan recipients.

- C. Pursuant to 5 NYCRR §142.8, WRC Downtown Revitalization Program loan recipients must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of their proposed projects. In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, WRC Downtown Revitalization Program loan recipients agree that if they are found to have willfully and intentionally failed to comply with WRC’s MWBE participation goals, such a finding will constitute a breach of their WRC loan agreements and the loan recipients and/or contractors shall be liable to NYS ESD and WRC for liquidated or other appropriate damages or actions, as set forth herein. Additionally, the WRC Downtown Revitalization Program loan recipient agrees that if the WRC Downtown Revitalization Program loan recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals and requirements of the WRC Downtown Revitalization Program, this will act as a default of the WRC loan, and WRC may proceed to recover the loan proceeds in full, and if the loan has not yet been fully disbursed, may terminate its commitment to disburse any additional loan proceeds per the loan agreement.

3. Equal Employment Opportunity (EEO)

- A. WRC Downtown Revitalization Program loan recipients agree 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 (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, WRC Downtown Revitalization Program loan recipients agree that such laws and regulations shall supersede these requirements.
- B. WRC Downtown Revitalization Program loan recipients shall comply with the following provisions of Article 15-A:

1. WRC Downtown Revitalization Program loan recipients and their contractors and 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. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. WRC Downtown Revitalization Program loan recipients shall submit an EEO policy statement to WRC/NYS ESD within seventy two (72) hours after the date of the notice by WRC Downtown Revitalization Program to award the loan to the loan recipient.
3. If the WRC Downtown Revitalization Program loan recipient or its contractors and subcontractors do not have an existing EEO policy statement, NYS ESD/WRC may provide the contractor or subcontractor a model statement (see the loan application Attachment 18 Form – Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement, found in Application Form).
4. WRC Downtown Revitalization Program loan recipients, their contractors and subcontractors' EEO policy statement shall include the following language:
 - a. The (loan recipient/contractor) 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 (loan recipient/contractor) 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 (loan recipient/contractor) 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 Contractor's obligations herein.
- C. Loan recipients and contractors shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractors and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- D. Loan recipients and contractors will include the provisions of sub-section 3, paragraph B, items (a) through (c) of Section 10 of this Program Guide and sub-section 3, paragraph C of Section 10 of this Program Guide, 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 the WRC loan agreement.
- E. To ensure compliance with this Section, the loan recipient shall submit to WRC a staffing plan in form acceptable to WRC to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and

Federal occupational categories. Loan recipients shall complete the Staffing plan form and submit it as part of the executed Contract.

- F. Work Force Employment Utilization Report (“Workforce Report,” in form acceptable to WRC): Loan recipients are responsible for updating and providing notice to WRC and NYS ESD of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information. Separate forms shall be completed by the loan recipient and any subcontractor performing work on the project funded by the WRC loan. In limited instances, the loan recipient may not be able to separate out the workforce utilized in the performance of the project from loan recipient's and/or subcontractor's total workforce. When a separation can be made, the loan recipient shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the project. When the workforce to be utilized on the project cannot be separated out from loan recipient's and/or subcontractor's total workforce, the loan recipient shall submit the Workforce Report and indicate that the information provided is the loan recipient's total workforce during the subject time frame, not limited to work specifically under the contract.

4. MWBE Utilization Plan

- A. WRC Downtown Revitalization Program loan recipients represent and warrant that they have submitted an MWBE Utilization Plan in form acceptable to WRC either prior to, or at the time of, the execution of the WRC loan agreement.
- B. WRC Downtown Revitalization Program loan recipients agree to use such MWBE Utilization Plan for the performance of MWBEs on the project funded by the WRC Downtown Revitalization Program pursuant to the prescribed MWBE goals set forth in sub-section 2-A of Section 10 of this Program Guide.
- C. WRC Downtown Revitalization Program loan recipients further agree that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of their WRC loan agreements. Upon the occurrence of such a material breach, WRC shall be entitled to any remedy provided herein, including but not limited to, a finding of loan recipient non-responsiveness, non-responsibility, liquidated or other appropriate damages, and/or a loan default, leading to the termination of WRC's loan commitment, the withholding of funds or such other actions, liquidated damages pursuant to sub-section 7 of Section 10 of this Program Guide, or enforcement proceedings as allowed by the WRC loan agreement.

5. Waivers

- A. If the WRC Downtown Revitalization Program loan recipient, after making good faith efforts, is unable to comply with MWBE goals, for example, in circumstances where MWBE contractors or suppliers cannot be practically obtained for comparable quality and price, the WRC Downtown Revitalization Program loan recipient may submit a Waiver Request documenting good faith efforts by the Loan Recipient to meet such goals. If the documentation included with the Waiver Request is complete, WRC and the New York State Empire State Development Office of Contractor & Supplier Diversity shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- B. For Waiver Requests, WRC Downtown Revitalization Program loan recipients should contact WRC to obtain a Waiver Request Form.

- C. If WRC and the New York State Empire State Development Office of Contractor & Supplier Diversity, upon review of the Utilization Plan and updated Compliance Reports, determine that the WRC Downtown Revitalization Program loan recipient is failing or refusing to comply with the WRC Downtown Revitalization Program goals and no waiver has been issued in regards to such non-compliance, either WRC or the New York State Empire State Development Office of Contractor & Supplier Diversity may issue a notice of deficiency to the Contractor. The WRC Downtown Revitalization Program loan recipient 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 Goals.

6. Quarterly MWBE Contractor Compliance Report

- A. WRC Downtown Revitalization Program loan recipients are required to submit a Quarterly MWBE Compliance Report to WRC by the 10th day following each end of quarter over the term of the loan agreement documenting the progress made towards achievement of the MWBE goals of the WRC loan agreement.
- B. WRC will provide Quarterly MWBE Compliance Report Forms to WRC to loan recipients at closing and upon request by the loan recipients.

7. Liquidated Damages - MWBE Participation

- A. Where WRC or the New York State Empire State Development Office of Contractor & Supplier Diversity determine that the WRC Downtown Revitalization Program loan recipient is not in compliance with the MWBE requirements of the WRC Downtown Revitalization Program and the WRC Downtown Revitalization Program loan recipient refuses to comply with such requirements, or if the WRC Downtown Revitalization Program loan recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals, the WRC Downtown Revitalization Program loan recipient shall be obligated to pay liquidated damages to WRC or New York State Empire State Development.
- B. Such liquidated damages shall be calculated and determined by increasing the interest on the principal of the WRC loan to the rate of interest per annum provided in the WRC loan agreement plus 5%, but in no event to exceed the maximum rate allowed by law.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by WRC or New York State Empire State Development, the WRC Downtown Revitalization Program loan recipient shall pay such liquidated damages to WRC or New York State Empire State Development within sixty (60) days after they are assessed by WRC or New York State Empire State Development unless prior to the expiration of such sixtieth day, the WRC Downtown Revitalization Program loan recipient has filed a complaint with the Director of the New York State Empire State Development Division of Minority and Woman Business Development pursuant to subdivision 8 of section 313 of the Executive Law, in which event the liquidated damages shall be payable if the Director of the New York State Empire State Development Division of Minority and Woman Business Development renders a decision in favor of WRC or New York State Empire State Development.
- D. In the event any contractor shall fail to forthwith pay such amounts upon such demand, WRC or New York State Empire State Development shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the WRC Downtown Revitalization Program loan recipient and collect, out of the property of the WRC Downtown Revitalization Program loan recipient, wherever situated and in any manner provided by law, money adjudged or decreed to be payable.

Please note the reporting requirements related to MWBE compliance in Section 11 herein.

SECTION 11. POST-CLOSING MONITORING, REPORTING, AND OTHER REQUIREMENTS

Documentation of Project Expenditures

Loan recipients will provide WRC with documented evidence of the project expenditures using Exhibit G-2(a) or G-2(b) within 90-days of the completion of their projects or the completion of components thereof. Exhibit G-2(a) should be used if the total project cost can be documented in under 40 invoices; Exhibit G-2(b) should be used if the invoices required to document the project cost total 40 or more. The use of Exhibit G-2(b) will require the engagement of an independent CPA at the loan recipient's expense after all WRC loan funds have been expended to verify that WRC loan funds have been expended consistent with the WRC loan agreement. A template letter will be provided for the CPA's use. The executed CPA letter must be provided to WRC.

Documentation of Equity Contribution

Loan recipients will complete and submit to WRC "Exhibit G-3: Equity Expenditures Affidavit" upon completion of the recipient's project.

Annual Reports

For a period of 5 years after the closing of the WRC loan, the WRC loan recipient must submit a written report on an annual basis to WRC indicating:

- Names of all current tenants of the subject building (commercial and residential tenants), percentage / square footage of space leased by each tenant (commercial and residential tenants), and jobs created and private sector investment made by each tenant (commercial tenants only)
- Vacancy rates, on both a square footage and unit basis (commercial and residential tenant space)
- MWBE participation information – in particular, MWBE impact during construction phase of project

Quarterly Reports

Additionally, WRC Downtown Revitalization Program loan recipients are required to submit a Quarterly MWBE Compliance Report to WRC by the 10th day following each end of quarter over the term of the WRC loan agreement documenting the progress made towards achievement of the MWBE goals of the WRC loan agreement. WRC will provide Quarterly MWBE Compliance Report Forms to loan recipients at closing and upon request by the loan recipients. Reports will include information on leveraged funds, job creation outcomes, MWBE compliance, and other information as specified by WRC and NYS ESD.

Acknowledgment of NYS Funding

Any report or other product of the WRC loan shall contain the following acknowledgment: "Funding provided by a grant from Empire State Development."

Maintenance of Insurance

WRC Downtown Revitalization Program loan recipients shall maintain in full force and effect insurance, including, but not limited to, the insurance described hereafter, in such amounts and covering such risks as WRC or NYS ESD may require from time to time naming WRC and NYS ESD as additional insureds on a primary and non-contributory basis, with full waiver of subrogation. Loan recipient shall comply with the following, and as required by WRC,

shall make copies of insurance policies available to WRC in advance of loan closing and shall provide documentation of maintenance of insurance to WRC during the course of the loan:

- (a) Loan recipients shall keep the buildings at the Project Location and the building equipment insured against: (i) loss by fire, (ii) additional perils customarily covered under an all-risk policy and (iii) flood hazard, if the Project Location is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended. The insurance required in this paragraph (a) shall provide coverage for an amount not less than the full replacement value of the buildings at the Project Location and the building equipment, or such other amount as WRC and NYS ESD may reasonably require, provided that (i) the amount of insurance coverage shall be in an amount sufficient to satisfy, at all times, any co-insurance requirements, and (ii) the amount of any flood hazard insurance shall not exceed the maximum amount of coverage available under the National Flood Insurance Act. For the purposes hereof, the replacement value of the buildings on the Project Location and the building equipment shall be determined by a qualified appraiser satisfactory to WRC and NYS ESD.
- (b) When and to the extent required by the WRC or NYS ESD, loan recipients shall maintain in full force and effect insurance against (i) loss of rental income, (ii) loss of business income, (iii) damages to boiler, and (iv) any other risk as is customary in the industry of the loan recipient. The insurance required in this paragraph shall provide coverage in an amount satisfactory to WRC and NYS ESD.
- (c) Loan recipients shall maintain Commercial General Liability Insurance providing both bodily injury (including death) and property damage insurance in a limit not less than One Million Dollars (\$1,000,000) per occurrence and Five Million Dollars (\$5,000,000) aggregate. The limits may be met with an appropriate Umbrella Policy. WRC, NYS ESD, and each of WRC's and NYS ESD's directors, officers, employees, agents and representatives shall be named as additional insured and certificate holders, on a primary and non-participatory basis, with full waiver of subrogation (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85).
- (d) All insurance required in this Section shall be issued by companies authorized to do business in the State of New York, satisfactory to WRC and NYS ESD pursuant to policies satisfactory to WRC and NYS ESD in form and substance. Without limiting the generality of the foregoing, the policies of insurance required hereby shall provide for ten (10) days' prior written notice of cancellation and shall be payable to WRC and NYS ESD pursuant to a New York standard WRC and NYS ESD endorsement.
- (e) Loan recipients shall give prompt written notice to WRC and NYS ESD in the event of substantial damage to the Project Location by reason of fire or other hazard or casualty.
- (f) Notwithstanding the provisions of Subdivision 4 of Section 254 of the Real Property Law, WRC and NYS ESD shall be entitled to retain and apply the proceeds of any insurance required hereby to the payment of any obligations or, in the discretion of WRC and NYS ESD, apply any or all such proceeds to the cost of restoration of the Project Location, in which case the loan recipient shall proceed with reasonable diligence to repair, replace or rebuild the Project Location to substantially their condition prior to such damage in full compliance with all legal requirements.
- (g) Loan recipients shall provide WRC and NYS ESD with copies of all policies of insurance (or certificates thereof) for the required insurance coverages in form and substance satisfactory to WRC and NYS ESD. In addition, loan recipients shall provide WRC and NYS ESD with copies of renewal policies (or certificates thereof) or temporary binders in the event renewal policies have not been issued, in a timely manner. Loan recipients must, in any event, provide WRC and NYS ESD with satisfactory confirmation of renewal coverage by the renewal date.

- (h) In the event that the loan recipient fails to maintain the insurance required hereby, WRC and NYS ESD may obtain such insurance and pay the premiums therefor and the loan recipient shall, on demand, reimburse the WRC and NYS ESD for any insurance premiums paid, together with interest thereon computed at the highest rate per annum allowable under New York State law.
- (i) Loan recipients will not take any action, or permit any condition to exist, with respect to the Project Location which may, in any manner, partially or wholly invalidate the insurance on the Project Location required hereby.