



Minority and Women Business Enterprises (M/WBE) Master Goal Plan

- 1. Agency Overview** — The Schenectady Metroplex Development Authority (“Metroplex” or the “Authority”) is a public benefit corporation established by the New York State Legislature in 1998 for revitalizing the Route 7 and Route 5 corridors within Schenectady County. The Authority is funded by a portion of the Schenectady County sales tax authorized by the enabling statute (70 percent of one-half of one percent of the county sales tax receipts).

The mission of Metroplex is to enhance the long-term vitality and quality of life in Schenectady County by cooperative, purposeful actions and investments within its corridor, with an emphasis on downtown Schenectady.

Metroplex works cooperatively with Schenectady County, the City of Schenectady, private developers, and other key private and public agencies to design, plan, finance, site, construct, administer, operate, manage and maintain facilities within its service district. Metroplex major capital projects are selected using three fundamental criteria:

1. Expand the real property tax base within Schenectady County;
2. Increase sales tax collections county-wide; and,
3. Create and maintain jobs within the County.

An 11-member Board of Directors leads the Authority along with an administrative staff comprised of four full-time employees. Metroplex collaborates with many municipal and private-sector entities through all stages of the development process from project planning and financing to construction of capital improvement projects utilizing Metroplex’s bonding capacity and/or discretionary funding as well as securing other public funds and private investment.

- 2. Policy Statement / M/WBE Goals for Contracts** — It is the policy of the Authority to encourage M/WBE vendor participation in its discretionary purchases for services and commodities. The Authority further requires M/WBE vendor participation for nearly every capital improvement construction project and related activities by including M/WBE goals in every contract that are binding on contractors and subcontractors. The policy applies to Metroplex financial assistance of more than \$100,000 with respect to construction, demolition, replacement, repairs, renovations or improvements to real property and shall result in a contractual obligation of the project beneficiary to make good faith efforts to achieve the Authority’s M/WBE goals. With a few exceptions noted herein, a written agreement or purchase order instrument providing for a total expenditure of more than \$25,000 by the Authority in return for labor, services, supplies, equipment and/or materials obligates the Authority to seek opportunities for M/WBEs.

3. Description of Procurement Strategy — Metroplex’s policy with respect to promotion of Minority and Women Business Enterprises (“MBE” or “WBE” or collectively, “M/WBE”) is contained within its Board-adopted *Procurement Policies and Procedures* and its *Master Goal Plan* contained herein. The Authority buys numerous goods and services and participates in capital improvement projects. Purchases usually fall into one of the following categories:

- Purchases of materials, supplies and commodities;
- Non-construction related services;
- Construction purchasing, i.e. building assembly and/or rehabilitation, demolition, etc.;
- Construction-related services.

It is the goal of Metroplex to award a fair share of procurement contracts to M/WBEs. Metroplex also seeks to award contracts to those vendors who have evidenced compliance with the laws of the State of New York prohibiting discrimination in employment.

4. Goals (Non Personal Services Spending for all Funds) — The Authority’s M/WBE goal this year is thirty percent (30%) including fifteen percent (15%) for minority-owned business enterprises (MBEs) and fifteen percent (15%) for women-owned business enterprises (WBEs) with respect to construction activities.

A. Projected Total Agency Budget: \$2,332,077 (*funded primarily through local sales tax receipts*)

B. Projected Exempt Contracts and Expenditures: \$ 901,914

C. Available Budget for Goals: \$1,430,163

Overall MBE/WBE Goal: 30%

MBE — 15%

WBE — 15%

Goal Categories:

D. <u>Commodities/Purchases</u>	1) Prime-15%
	2) Subcontractor- 15%
E. <u>General Consultant Services</u>	1) Prime- 15%
	2) Subcontractor- 15%
F. <u>Construction</u>	1) Prime- 5%
	2) Subcontractor- 25%
G. <u>Construction Services</u>	1) Prime- 20%
	2) Subcontractor- 10%
H. <u>Overall Total</u>	1) Prime- 10%
	2) Subcontractor- 20%

5. Self Determination Statement — The Authority believes that we have to the best of our ability integrated the goals of Article 15-A into the Authority’s procurement practices and

has shown a good faith effort to promote more opportunity for M/WBE contractors in Schenectady County.

6. Agency Related Legislation — The Authority is unique to the State Agencies and Authorities that are subject to Article 15-A in that we receive no support from the New York State General Fund and are primarily funded through local county sales tax receipts. NYS Public Authorities Law § 2650-2674 can be accessed here: <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>:

7. Boiler Plate Language — Standard Appendix A is attached.

8. Agency M/WBE Operations / Organizational Chart — The Authority’s Executive Director is responsible for overseeing contract compliance, procurement, real property disposition, and M/WBE outreach and compliance.

All communication regarding M/WBE compliance and reporting should be directed to:

Jayme B. Lahut
Executive Director
Telephone (518) 377-1109 ext. 2
Fax (518) 382-2575
Jlahut@schenectadymetroplex.org

David J. Hogenkamp
Project Director
Telephone (518) 377-1109 ext. 7
Fax (518) 382-2575
Dhogenkamp@schenectadymetroplex.org

9. Contracting or Procurement Unit’s Responsibilities — The Authority’s Executive Director is responsible for all contract negotiations and agreements, and distribution of Request for Proposals and Requests for Qualifications consistent with the Authority’s Procurement Policies and Procedures. Due to the size of the Authority staff, the Project Director serves as contract manager and purchasing manager in many circumstances. The Executive Director is responsible for determining the types of purchases that are eligible for participation by M/WBEs.

10. Contract Compliance Unit’s Responsibilities — Due to the size of the Authority staff, it does not maintain a separate compliance unit. The Executive Director is responsible for evaluating and monitoring goal attainment.

11. Outreach Efforts — The Authority works closely with the Affirmative Action Officers at the City of Schenectady and Schenectady County to develop equal employment opportunity and affirmative action mechanisms to ensure opportunities for certified contract vendors and vendors that provide opportunity to all qualified employment applicants without discrimination because of race, creed, color, national origin, sex disability or marital status. Additionally, the Authority works with local small businesses that meet eligibility criteria for certification as an M/WBE to become certified. Additionally, the Authority works with Schenectady-based small businesses that meet eligibility criteria for certification as an M/WBE to become certified. The Authority’s outreach efforts include using the Division’s M/WBE Searchable Database to identify state-certified M/WBEs.

12. Flow Chart — N/A

13. Procedures for Resolution of Contractor Issues — The Authority carefully monitors M/WBE compliance and works with all contractors to ensure that opportunities for M/WBE vendors are made available throughout the life of the contract. The Authority is committed to providing assistance to contractors that may be non-compliant with the Authority's M/WBE practices to resolve any issues. In instances, the Authority may at their sole discretion refer a case to Empire State Development's Division of Minority and Women's Business Development ("DMWBD") according to the procedures outlined in § 142.12 of the regulations.

In any instance of non-compliance, each contract shall be allowed Due Process which will include a formal notice of the extent to which the contractor/vendor is in violation of the outstanding contract document, a proposal which outlines the preferred action which will correct the problem and specific written instructions which permit the affected contractor/vendor to propose a suitable alternative to the corrective action proposed in the notice of non-compliance.

14. Standardized Forms — Standard forms are included as an attachment to this document.

- EEO Workforce Staffing Plan
- Utilization Plan for Contractors / Consultants
- Utilization Report for Contractors / Consultants
- Waiver Request

STANDARD CLAUSES FOR ALL METROPLEX CONTRACTS

1. Certification of Non-Sectarian Purpose. No funds received pursuant to this Agreement will be used for sectarian purposes or to further the advancement of any religion.
2. Rules and Regulations. Contractor agrees to comply with any Rules and Regulations of Metroplex, as amended from time to time, which are incorporated into and made a part of this Agreement.
3. Requests for Funds. The Contractor shall certify with each request for funds that (a) all statements and representations previously made regarding this Agreement are correct and complete, and (b) that the funds do not duplicate reimbursement of costs or services from any other source.
4. Performance Review. Metroplex will review Contractor in such manner and at such times as Metroplex shall determine for the purpose, among other things, of ascertaining the quality and quantity of the activities performed by Contractor, their conformity to the provisions of this Agreement, and the financial integrity and efficiency of Contractor.
5. Records. Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Agreement (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional calendar years. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as Metroplex and any other agencies involved in this Agreement, shall have access to the Records during normal business hours at an office of Contractor within the state or, if no such office is available, at a mutually agreeable and reasonable venue within the state, for the term specified above for the purposes of inspection, auditing and copying. Metroplex shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform an appropriate Metroplex official,

in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained in this Agreement shall diminish, or in any way adversely affect, Metroplex's right to discovery in any pending or future litigation.

6. Contracts. All contracts entered into by the Contractor for legal, accounting, architectural, engineering, technical, professional, consulting or other services which are to be paid for, in whole or in part, with Metroplex funds shall be arms-length transactions and shall be entered into only after an appropriate evaluation by Metroplex of the experience and qualification of the contracting firm or individual and submission of the contract to Metroplex for approval.
7. Notice of Investigation or Default. The Contractor shall notify Metroplex within five (5) days after obtaining knowledge of (a) the commencement of any investigation or audit of its activities by any governmental agency; (b) the alleged default by the Contractor under any mortgage, deed of trust, security agreement, loan agreement or credit instrument, whether executed in connection with the Services or otherwise; or (c) any alleged breach by the Contractor of the terms of any agreement, credit agreement, lease or other instrument executed in connection with the Services. The Contractor shall insure that, in the event of any alleged default under any of such instruments, the mortgagee, secured party, lender or lessor, as the case may be, shall simultaneously send to Metroplex a copy of any notice of such alleged default sent to the Contractor, and shall give Metroplex a reasonable opportunity to cure such alleged default.
8. Dissolution, Liquidation or Termination. In the event of dissolution, liquidation or termination of the Contractor (whether voluntary, involuntary or by operation of law), this Agreement may be terminated. Such termination shall not relieve the Contractor from liability to Metroplex pursuant to this Agreement or this Appendix. Where dissolution occurs by operation of law or in accordance with Article 10 or Article 11 of the Not-For-Profit Corporation Law, the Contractor shall obtain the prior approval of Metroplex of its plan of dissolution and distribution of assets.
9. Liability on Termination or Expiration. In the event of termination of this Agreement for any reason or upon the expiration of the Period of Agreement, unless Contractor obtains the prior written consent of Metroplex to the contrary, all unspent funds held by Contractor shall immediately be returned to Metroplex, and Metroplex shall have no further liability or obligations under this Agreement, including any obligation to make additional disbursements of funds. Notwithstanding any such termination or expiration, Contractor shall remain liable to Metroplex for any unspent funds, the expenditure or use of the funds in a manner or for a purpose not authorized by this Agreement and/or damages as a result of any breach of this Agreement by Contractor. Metroplex shall have the right, at any time prior or subsequent to any such termination or expiration, to pursue any and all available remedies, including seeking injunctive or other equitable relief, to enforce the provisions of this Agreement and/or recover funds, which are unspent, expended or used in an unauthorized manner or for an unauthorized purpose and/or damages sustained by Metroplex as a result of any breach of this Agreement by Contractor.
10. No Oral Modification. This Agreement may not be amended, modified or rescinded unless such amendment, modification or rescission is in writing, signed by Metroplex and Contractor and delivered to both parties.
11. No Waiver. No waiver of any term, provision or condition of this Agreement by Metroplex shall be effective unless the waiver is in writing, signed by Metroplex and delivered to Contractor. No waiver by Metroplex of any term, provision, or condition or of any failure by Contractor to perform any of the terms, provisions, or conditions of this Agreement shall be construed to be a waiver by Metroplex of any other or subsequent breach of any term, provision, or condition or failure to perform any of such terms, provisions, or conditions.
12. No Political Activity. Contractor agrees that no portion of the compensation under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public or political office. Contractor and all directors, trustees, officers and employees of Contractor and members of their immediate families shall comply throughout the term with all restrictions on political activities and personal benefit to which they may be subject under any statute, regulation, rule or other governmental requirement including, without limitation, the rules and regulations of Metroplex.

13. Officials not to Benefit. No member of the Legislature of the State of New York, and no public official whether federal, state or municipal, shall be entitled to any share or part of the benefits hereof.
14. Executory Clause. Metroplex shall have no liability under this Agreement to Contractor or to anyone else beyond funds appropriated and available for this Agreement.
15. Set-Off Rights. Metroplex shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, Metroplex's option to withhold for the purposes of set-off any moneys due to Contractor under this Agreement up to any amounts due and owing to Metroplex with regard to this Agreement, any other contract with any State department or agency, including any Agreement for a term commencing prior to the term of this Contract, plus any amounts due and owing to Metroplex for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. Metroplex shall exercise its set-off rights in accordance with normal practices including, in cases of set-off pursuant to an audit, the finalization of such audit by Metroplex, its representatives, or the State Comptroller.
16. No Arbitration. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.
17. Confidential Information. The Contractor acknowledges and agrees that any information disclosed to the Contractor and its employees and agents by Metroplex or developed pursuant to this Agreement, subject to the definition of the term "confidential information" below and unless otherwise classified by Metroplex, is CONFIDENTIAL INFORMATION that shall be maintained in confidence and not revealed to others by the Contractor, except with prior written approval of Metroplex as necessary to perform the services hereunder, or as legally required by lawful subpoena, discovery request or other similar process (in which event the Contractor shall provide Metroplex with prompt written notice thereof so that Metroplex may seek a protective order or other appropriate relief). CONFIDENTIAL INFORMATION shall be maintained by the Contractor in the same manner in which the Contractor maintains its own confidential and proprietary information, and only those persons in the Contractor's organization having a need to know any of such CONFIDENTIAL INFORMATION in order to carry out the purposes of this Agreement shall have access thereto. Such persons shall be made aware of the confidentiality requirements of this Agreement and shall be bound thereby.

The term "CONFIDENTIAL INFORMATION" as used herein means all information, data and analyses, whether of a technical, engineering, operational or economic nature, developed pursuant to this Agreement and/or supplied to or obtained by the Contractor from Metroplex in writing, in the form of drawings, orally or by observations. CONFIDENTIAL INFORMATION does not include information that is now or hereafter becomes part of the public domain through publication or information that was already in Contractor's possession at the time of receipt of the information for the first time from Metroplex, or information that hereafter comes into the Contractor's possession and was not or is not acquired by the Contractor directly or indirectly: (1) from Metroplex, (2) from sources under obligation of secrecy to Metroplex, e.g., other Contractor's or legal counsel, or (3) information, data or analysis obtained or derived in the course of the Contractor's performance under this Agreement.

18. Documents. Pursuant to any request by Metroplex, or if this Agreement is terminated for any reason, or upon completion of the Services, all finished or unfinished documents, data, studies, surveys and reports, video or audio tapes, training manuals, policy and procedural manuals computer tapes and discs, or any item prepared by the Contractor under this Agreement shall, at the option of Metroplex, become its property and the Contractor shall, upon the exercise of such option, be required to turn over such items upon request, and as a condition precedent to the receipt of any compensation or reimbursement due under this Agreement.

In the event the Contractor breaches the requirements of this section by failing to provide such documents to Metroplex, Metroplex reserves the right to seek any legal remedy available to it which may include an injunction, monetary damages, court costs, attorney fees, and in addition, daily liquidation damages in the amount of \$ 1,000.00 until the Contractor is in compliance with this section.

All finished or unfinished documents, data, studies, surveys and reports, video or audio tapes, training manuals, policy and procedural manuals prepared pursuant to this Agreement are works for hire; Metroplex shall be the

author of such materials for the purposes of copyright, and shall own the copyright to such materials. In the event that materials prepared pursuant to this Agreement are not works for hire as defined by applicable law, Contractor transfers all rights in the copyright of such works, if any, to Metroplex. Metroplex grants the Contractor the right and use, for portfolio and promotional purposes, sketches, drawings, plans or similar materials prepared for the project. Unless specifically prohibited by Metroplex, in writing, Contractor may identify Metroplex as the client for portfolio and promotional purposes.

19. **Non-Liability**. Nothing in this Agreement or otherwise shall impose any liability or duty whatsoever on the State of New York, Metroplex, or any agency or subdivision of the foregoing (collectively, the State) except as expressly stated in this Agreement.
20. **Service of Process**. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon Metroplex's receipt of its return by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify Metroplex, in writing, of each and every change of address to which service of process can be made. Service by Metroplex to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after its service is complete in which to respond.
21. **Severability Clause**. If any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and if this Agreement shall, for any reason, be held to be excessively broad as to term, duration, scope, activity or subject, it shall be construed by limiting and reducing itself as to be enforceable to the extent compatible with the applicable law as it pertains.
22. **Entire Agreement**. This Agreement, including exhibits and appendices, constitutes the entire Agreement between the parties hereto, and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid, and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties hereto and approved in the same manner as this Agreement.
23. **Applicable Law**. This Agreement shall be governed by the laws of New York, without giving effect to the conflict of laws or choice of law principles thereof. Each of the parties (a) consents and submits to the jurisdiction of the Courts of New York and of the Courts of the United States for a judicial district within the territorial limits of New York for all purposes of this Agreement to which it is a party, including, without limitation, any action or proceeding instituted for the enforcement of any right, remedy, obligation or liability arising under or by reason hereof and thereof; and (b) consents and submits to the venue of such action or proceeding in New York in the County of Schenectady.

14. Internal Reporting Mechanisms — The Executive Director reviews all purchases processed in the fiscal quarter, the amount of purchases, and the total amount of M/WBE purchasing. A report is transmitted electronically to the Division of M/WBE.

15. Agency Initiatives/Determination for Areas of Business Development — The Authority has no recommendation currently to enhance the M/WBE program.

16. Definitions - Exclusions/Exemption List — The following is the Authority's exemption list for the 2019-2020 Master Goal Plan. It is the Authority's Board-approved procurement policy to purchase goods, such as, office and cleaning supplies; printing, postage and subscriptions; and other goods less than \$5,000 without a formal bid but with a preference for Schenectady County businesses. For purchases between \$5,000 and \$20,000 for goods and services solicitation of quotes is required though the Authority also maintains a preferred vendor list. Accounting services, legal services and snow-plowing services are sole source,

but subject to annual Board authorization and compensation review and approval. Contract expenses under \$25,000 are exempt as are project expenses under \$100,000.

Exemptions	
Amount	Description
\$66,500	Rent and utilities for office space at 433 State Street, Schenectady
\$18,600	Rent for garage space for equipment
\$71,714	Rent for parking lots
\$305,000	Parking lot services (snow-plowing, maintenance, staff, and services)
\$3,500	Staff travel expenses, conference and training expenses
\$600	Mail meter, postage, and delivery charges
\$10,400	Telephone expenses
\$75,000	Authority Accounting Oversight
\$50,000	Authority Legal Counsel
Est. \$50,000	Real Estate Purchases
Est. \$250,000	Exempt Project Expenses (Projects under \$100,000/Contracts under \$25,000)
TBD	Grants from non-public sources (National Grid, Private Foundations)*
\$901,914	Total Exemptions

*Grants from other sources are not included in the Authority's annual budget and therefore are not reflected in the total fund exemptions. This exemption applies to grants which are passed through for private projects.

17. Previously Excluded Contracts — All expenses that are not included in the M/WBE program are exempt expenses. The Authority has no excluded contracts.

18. Attachments — No change.

CHECKLIST

The following is a checklist of the basic information required for an agency's or authority's Master Goal Plan, as described above. The agency or authority **must attach** this to their completed plan with each item checked off and submit to the Division.

1. Agency Overview _____ x _____
2. Policy Statement/MWBE Goals for Contracts _____ x _____
3. Description of Procurement Strategy _____ x _____
4. Agency Specific Goals _____ x _____
5. Self Determination Statement _____ x _____
6. Copy of Agency Related Legislation _____ x _____
7. Boilerplate Language _____ x _____
8. MWBE Program Responsibilities _____ x _____
9. Administrative Unit's Responsibilities _____ x _____
10. Contract Compliance Unit's Responsibilities _____ x _____
11. Outreach Efforts _____ x _____
12. Flow Chart _____ N/A _____
13. Procedures for Resolution of Contractor Issues _____ x _____
14. Standardized Forms _____ x _____
15. Internal Reporting Mechanisms _____ x _____
16. Agency Initiatives/Determination for Areas of Business Development _____ x _____
17. Definitions _____ x _____
18. Previously Excluded Contracts _____ x _____
19. Attachments Section _____ x _____