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TITLE 870 – RHODE ISLAND COMMERCE CORPORATION

CHAPTER 20 – LOANS AND GRANTS

SUBCHAPTER 00 – N/A

PART 6 – The Main Street Rhode Island Streetscape Improvement Fund

6.1 Purpose

These Rules and Regulations (the "Rules") are promulgated to set forth the principles, policies and practices of the Rhode Island Commerce Corporation in implementing and administering R.I. Gen. Laws Chapter 42-64.27, the Main Street Rhode Island Streetscape Improvement Fund Act (the "Act").

6.2 Authority

These Rules are promulgated pursuant to R.I. Gen. Laws Chapter 42-64.27. These Rules have been prepared in accordance with the requirements of the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

6.3 Scope

These Rules shall apply to any application received by the Rhode Island Commerce Corporation for funding under the Act. Notwithstanding anything contained in these Rules to the contrary, the Rhode Island Commerce Corporation shall have and may exercise all general powers set forth in the Act that are necessary or convenient to effect its purposes and these Rules shall be liberally construed so as to permit the Rhode Island Commerce Corporation to effectuate the purposes of the Act, the public interest, and other applicable State laws and Regulations. The Rhode Island Commerce Corporation, upon an affirmative vote of its board of directors, may provide exemption from the application of such portion of these Rules as may be warranted by extenuating circumstances arising from such application, based upon the written recommendation of the staff of the Rhode Island Commerce Corporation delineating the reasons for such exemption.

6.4 Severability

If any provision of these Rules, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules shall not be affected thereby.

6.5 Definitions

A. The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

1. "Act" means R.I. Gen. Laws Chapter 42-64.27 known as the Main Street Rhode Island Streetscape Improvement Fund.

2. "Agreement" means the contract between the Applicant and the Corporation, which sets forth the terms and conditions under which the Applicant shall be eligible to receive funding under the Act.

3. "Applicant" means a municipality, a political subdivision of a municipality, or an Economic Development Organization that applies for funding under the Act and these Rules.

4. "Application" means the application, promulgated by the Corporation, which must be completed and submitted by an Applicant pursuant to the requirements of the Act and these Rules.

5. "Award" means the approval of an Application for funding under the Act by the Board.

6. "Board" means the board of directors of the Corporation.

7. "Committed match" means a match for a Streetscape Improvement Project that is committed prior to the receipt of funds pursuant to the Act. The match shall be in the form of cash or the appraised value of any real estate necessary for the project that is contributed in order to construct the project; provided that a match comprised of real estate shall require the submission of an appraisal not older than one (1) year from the date of Application. A Committed Match may include funds expended within six (6) months prior to the date of the Application for engineering, design, investigations, environmental assessment or studies, legal fees, or costs incurred in obtaining necessary municipal approvals; provided that no funds expended or obligated to be paid prior to July 1, 2015 shall qualify as part of the Committed Match. A Committed Match shall not include funds expended on general overhead, salary, or other such expenses that are not incurred directly and exclusively for the Streetscape Improvement Project.

8. "Corporation" means the Rhode Island Commerce Corporation established pursuant to R.I. Gen. Laws Chapter 42-64.

9. "Economic development organization" means a nonprofit corporation, quasi-public corporation, association of businesses, or other entity whose purpose includes the enhancement of economic conditions or quality of life within its community or the State.

10. "Political subdivision" means a separate agency or unit of local government created or established by law.

11. "Streetscape improvement project" means a technical assistance project that supports future physical improvements to a streetscape or a project that creates a physical improvement to a streetscape, such as, but not limited to, enhanced sidewalks and sidewalk amenities, new street furniture, new wayfinding signage, upgraded building facades, or improved street and public space lighting.

12. "State" means the State of Rhode Island.

6.6 Eligibility

A. The following conditions must be met to be eligible for an Award under the Act:

1. The Applicant must be a municipality, a political subdivision of a municipality, or an Economic Development Organization;

2. The Applicant must have a Committed Match;

3. The Streetscape Improvement Project must be located in an area that is walkable, compact mix of land uses suitable for small business development and commerce and that attracts residents and visitors to frequent the activities located in the area;

4. The requested Award must not exceed thirty percent (30%) of funds available for the fiscal year and a requested Award for a technical assistance project may be no greater than $50,000; and

5. The requested Award must only be for expenses incurred directly and exclusively for the construction of the Streetscape Improvement Project.

B. If the Applicant is other than a municipality, the Applicant must secure a letter of support for the Streetscape Improvement Project from the mayor or elected City or Town Administrator of the municipality where the project is located or, in the absence of these officials, from either the City or Town Council President or the appointed City or Town Manager.

C. Commencement of construction work on the Streetscape Improvement Project prior to the filing of the Application will result in the project being ineligible for funding; provided that a Streetscape Improvement Project that is a distant phase of a larger, multiphase project shall not be ineligible for funding by virtue of the fact that construction on a different phase of the project commenced prior to the filing of the Application.

6.7 Application

A. The Application promulgated by the Corporation shall require submission of the following information from each Applicant:

1. The name of the Applicant and contact information for the individual(s) primarily responsible for oversight and management of the Application;

2. If the Applicant is an Economic Development Organization, a brief description of the organization, its governance structure, its members, and its activities, as well as appropriate evidence demonstrating that the Applicant has the organizational capacity to undertake and complete the Streetscape Improvement Project;

3. A detailed description of the Streetscape Improvement Project, which shall include its specific location, a map delineating the project area, conceptual drawings, and an anticipated construction schedule;

4. A budget for the Streetscape Improvement Project supported by project cost estimates for the work to be performed on the project; such budget shall reflect compliance with the requirements of R.I. Gen. Laws Chapter 37-13 in the event such Chapter applies to the Streetscape Improvement Project;

5. A detailed schedule of the sources and uses of funds for the Streetscape Improvement Project;

6. Evidence of the Committed Match;

7. A plan for the maintenance or upkeep of the Streetscape Improvement Project after completion, including the identification of sources of funds;

8. A description of the economic benefits of the Streetscape Improvement Project, including a discussion of how the project is consistent with existing and planned economic development investment (both public and private) in the area;

9. A delineation of all approvals necessary to complete the Streetscape Improvement Project and evidence that such approvals have been obtained or the anticipated time-frame for the issuance of such approvals; and

10. Any other necessary and relevant information as determined and/or requested by the Corporation.

6.8 Application Review

A. The Corporation shall conduct a review of the Applications received on a rolling basis, which may include periodic deadlines that will be published on the Corporation's web site from time to time, until such time as well as available funds under the Act have been committed, at which point the Corporation will cease reviewing Applications until such time as additional funding is available.

B. Each Application shall be reviewed to confirm compliance with the Act and these Rules, and the Corporation may reject any incomplete or deficient Application.

C. The Corporation may require the submission of additional information in connection with any Application or the revision of an Application, and may permit the resubmission of an Application rejected as being incomplete or deficient.

D. After submission of a complete Application and review by the Corporation in accordance with the requirements of the Act and these Rules, the Corporation will determine whether to recommend to the Board that it make an Award to the Applicant. Factors considered in formulation of the recommendation may include:

1. The economic conditions of the municipality where the Streetscape Improvement Project is located;

2. The economic benefits of the project;

3. Consistency with local and statewide planning;

4. Technical and financial feasibility of the project;

5. Level of the Committed Match;

6. Amount of the Committed Match allocated to direct construction costs, as opposed to soft costs;

7. Amount of the Committed Match, if any, coming from the municipality;

8. Firmness of the commitment of the funds constituting the Committed Match;

9. The capital efficiency of the project;

10. Project readiness;

11. Any benefits to public transportation and/or bicycle transportation;

12. Energy efficient of the project; and

13. Operational sustainability.

E. If the Corporation determines that it will not recommend a complete Application to the Board for approval, it shall notify the Applicant in writing of such decision.

6.9 Board Approval

A. The Corporation shall not make any Award without Board approval.

B. The Board approval shall indicate whether the Award is made as a grant or a loan.

C. In addition to those findings required under R.I. Gen. Laws § 42-64-10, the Board shall make a finding in connection with approval of any Award that the Streetscape Improvement Project will create an attractive environment for small business development and commerce in the area in which it is located.

6.10 Agreement

A. Upon approval of an Award by the Board, the Corporation and the Applicant will enter into an Agreement prior to any funding to the Applicant.

B. In order to safeguard the expenditure of public funds and ensure that the disbursement of funds further the objectives of the Act, the Agreement shall include, among others, the following terms:

1. The maximum amount of the Award;

2. The anticipated deadline for completion of the Streetscape Improvement Project;

3. A schedule and conditions for the disbursement of the Award;

4. a procedure for the certification and auditing of project costs;

5. A provision that the failure to adhere to a certain timeline or to certain conditions may result in forfeiture of the all or a portion of the Award;

6. If the Applicant is not a municipality or political subdivision thereof, representations and warranties that the Applicant is in good standing with the Secretary of State and Division of Taxation at the time of execution of the Agreement and will remain so through the duration of the Agreement; good standing with the Division of Taxation means that the Applicant is current on all taxes or that the Applicant is current on a workout agreement with the Division of Taxation;

7. Indemnification requirements;

8. Default and remedies including events other than those set forth above, if any, that would trigger forfeiture or revocation of the Award; and

9. Reporting requirements including, but not limited to, any requirements under the Act.

6.11 Discretion and Judicial Review

A. The Corporation shall not have any obligation to make any Award or grant any benefits under the Act or these Rules, and may decline to make Awards to any project with respect to which the Corporation has received a completed Application that meets the eligibility requirements of § 6.5 of this Part.

B. A review of an Application shall not constitute a "contested case" under the Administrative Procedures Act, R.I. Gen. Laws § 42-35-9, and no opportunity to object to an Application shall be afforded, nor shall judicial review be available from a decision rendered by the Board in connection with any Application.

6.12 Administration and Examination of Records

The Corporation may examine any books, papers, records or memoranda bearing upon the approval of any grant awarded under the Act, and may require the attendance of any person executing any application, report or other statement, or the attendance of any other person, and may examine such person under oath respecting any matter which the Corporation deems pertinent or material in determining eligibility for Awards claimed under the Act.

6.13 Inspection Rights

The Corporation shall have the right at reasonable times to make an inspection and to enter upon any property that is the subject of an Application during the Application process or term of an Agreement to verify compliance with the Act, these Rules and such other conditions imposed in the Agreement or by the Corporation.