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Community Development Block Grant Program (CDBG)

DRAFT ~~2017~~ 2020

Housing Stabilization Program Application Guidelines

Open Cycle

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Alternative accessible formats of this document will be provided upon request. If you need this document in an alternative format, such as large print, Braille, audio tape, or computer diskette, please contact the Montana Department of Commerce Community Development Division at (406) 841-2770, TDD (406) 841-2702, or the Relay Services number, 711.

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**PROJECT GRANT APPLICATION GUIDELINES FOR
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)**

**~~Housing~~ ~~OUSING STABILIZATION~~ ~~PROGRAM~~ ~~SMALL-SCALE HOUSING DEVELOPMENT~~
~~AND REHABILITATION~~**

I. Introduction

The Community Development Block Grant Program (CDBG) is a U.S. Department of Housing and Urban Development (HUD) program designed to help communities provide decent housing, a ~~suitable~~ livingsuitable living environment, and expand economic opportunities for the state's low- and moderate-income (LMI) residents. The State of Montana receives an annual allocation of federal funds from HUD for CDBG grants and program administration through the Montana Department of Commerce (Commerce). The CDBG program helps local governments complete activities such as drinking water systems, wastewater treatment facilities, community facilities (nursing homes or Head Start centers, for example), job creation and retention, and affordable housing development and rehabilitation. CDBG Program application guidelines, the project grant administration manual, and other relevant information and resources are available on the Department of Commerce (Commerce) website <http://comdev.mt.gov/Programs/CDBG>. Interested persons may also ~~contacte-mail~~ CDDBG Program staff at DOCCDDDBG@mt.gov or ~~call staff at~~ (406) 841-2770 or Montana Relay Service at (406) 841-2702 or 711 regarding any questions they may have about the CDBG Program.

The State of Montana administers the CDBG Program through ~~five-four~~ distinct grant opportunities – planning; community and public facilities; economic development; ~~large-scale multi-family housing development and rehabilitation;~~ and ~~single-family~~ small-scale affordable housing development and rehabilitation. To better serve LMI households across the state, Commerce established the Housing Stabilization Program ~~an incremental affordable housing assistance program~~ to provide assistance with ~~single-family~~ small-scale housing development and rehabilitation activities. The Housing Stabilization Program (HSP) ~~se Small-scale Housing Development and Rehabilitation~~ application guidelines outline ~~all~~ the necessary application requirements and procedures and include ~~all~~ the application forms and materials ~~necessary you will need~~ to complete anyour application.

II. Eligible Applicants

Eligible applicants for CDBG assistance include Montana cities, towns, and counties with populations under 50,000. ~~The (currently all Montana cities, towns and counties except of~~ Billings, Great Falls, and Missoula are entitlement communities and are not eligible for state CDBG funds, as they ,which each receive ~~a CDBG entitlement allocation~~ directly from HUD). Tribal governments are not eligible applicants for state CDBG funds but are eligible for Indian CDBG funds directly from HUD. Local governments may apply for and use CDBG funds for project activities predominantly benefitting residents of a tribal reservation.

A Housing Stabilization Program project ~~CDBG-assisted small-scale housing projects~~ must be completed as a collaboration between a local government entity and a nonprofit organization, with preference given to projects involving a Certified Housing Development Organization (CHDO). Through this collaboration, the local government is the applicant and grantee and decides the nature and extent of involvement in CDBG-assisted projects and establishes project roles and responsibilities in a project management plan. Non-profit partners must have an Internal Revenue Service 501(c)(3) or 501(c)(4) non-profit designation to be an eligible subrecipient of CDBG funds. Partnering with a non-profit will help ensure that all financial requirements affecting an individual's existing or anticipated mortgage are met per lending requirements

and HUD's guidance, and that all assisted individuals are provided housing counseling.

III. Eligible Projects

The CDBG program requires projects to meet HUD's national objective to benefit persons of low- and moderate- income (LMI) levels, defined as households with incomes at or below 80% of area median income (AMI). As indicated in the ~~current~~2015-2020 Consolidated Plan, Montana's state objectives seek to provide these benefits by improving the safety and livability of neighborhoods and improving access to quality facilities, infrastructure, and services. Accordingly, Montana's CDBG funding is prioritized to projects that best meet these national and state objectives. Please visit the Commerce website at <https://commerce.mt.gov/conplan> for the current Consolidated Plan and Montana's state objectives. See Appendix B for more details about the national and state objectives.

The Housing Stabilization Program~~Small-scale application~~ guidelines are the mechanism that allows eligible entities to access the pool of funds set aside for these activities for a period of five (5) years. If approved, Commerce sends an ~~an-formal~~ award letter establishing the applicant's five ~~year-period~~year ~~to period~~ to propose activities according to the project strategy listed in the application, but does not award any funding to a grantee or their sub-recipients. During the five year certification the grantee will identify individual housing sites or units and request funds to complete housing development and/or rehabilitation activities to assist low ~~-to-~~ moderate ~~-income-households~~income households. Housing Stabilization Program~~Small-scale~~ housing funds are awarded for site-specific activities according to needs identified and the availability of funds on a first-come, first-served basis.

Recommendations for award are based, in part, upon an analysis of the proposed project's impact to address health and safety needs and/or ADA improvements and the coordinated partnerships that will support site-specific activities. The maximum per activity award will be determined ~~based on~~based on an Activity Request Form that is accompanied by a budget, implementation schedule and inspection report completed by an individual with ~~construction repair~~rehabilitation expertise.

A. Housing Development and Rehabilitation

Housing Stabilization Program~~Small-scale housing development and rehabilitation~~ funds are utilized for projects that will create or preserve affordable housing with a specific focus on addressing health and safety issues and ADA improvements for single family units. Each eligible unit must be inspected by an individual with construction repair expertise that will identify critical health and safety repairs needed for each activity. Eligible p~~P~~rojects involve the new construction or rehabilitation of single-family housing with 1 to 4 units, whether for rent or purchase or are owner-occupied by persons of low to moderate income.

Eligible activities include, but are not limited to:

- ✓ Rehabilitation of existing substandard housing that is suitable for rehabilitation;
- ✓ Acquisition of land and structures to complete infill development;
- ✓ Demolition ~~of resulting in the housing units when the existing~~ substandard housing that is not suitable for rehabilitation, or non-residential structures that are not suitable for rehabilitation that results in new alternative housing being developed;
- ✓ Conversion of non-housing structures into housing units; and,
- ✓ Replacement of manufactured housing through payment of installation and connection costs for housing units that are not less than 5 years old.

"Substandard suitable for rehabilitation" means any housing unit or a building containing housing units where the estimated cost of making necessary replacements and repairs is less than 75 percent of the estimated cost of new construction of a comparable unit or units.

"Substandard not suitable for rehabilitation" means any housing unit or a building containing housing units where the estimated cost of making the needed replacements and repairs is greater than or equal to 75 percent of the estimated cost of new construction of a comparable unit or units.

All housing units constructed with CDBG funds must meet Uniform Physical Conditions Standards or Housing Quality Standards, energy efficiency standards and comply with all zoning ordinances and uniform codes adopted by the state and local government. All housing systems or components that are improved through a rehabilitation activity funded through CDBG must meet current energy efficiency and code standards to the greatest extent possible. For example, if windows are replaced, the new windows must meet or exceed the most current energy efficiency standards. Renewable energy generation systems, such as solar, are encouraged.

Each eligible local government jurisdiction may have an open [Housing Stabilization Program](#) ~~Small-Scale~~ grant and apply for other CDBG grants as long as the applicant does not have an open CDBG project within that same category that was awarded more than four (4) years ago.

B. Additional Considerations

Grantees are strongly encouraged to promote equitable, affordable housing by designing and proposing projects for CDBG assistance that meet the following ~~2015-2020~~ [current](#) Montana Consolidated Plan goals to the maximum extent possible:

- ✓ Use energy-efficient design to help advance solar deployment and other on-site ~~renewable~~ energy installations in affordable housing that is aligned with the Federal Renewable Energy Target;
- ✓ Locate affordable housing in areas where existing investment in infrastructure, facilities, and services will leverage multiple economic, environmental, and community objectives;
- ✓ Prioritize the development of new housing or rehabilitate existing housing within walkable neighborhoods and neighborhoods served by public transportation systems, particularly for the disabled and the elderly;
- ✓ If proposing demolition of existing substandard housing units, replace those units with an equal or greater number of housing units;
- ✓ Include the three basic visitability features that increase access to friends and family for individuals with disabilities for new construction (a zero-step entrance, doors with 32 inches of clear passage space, and a wheelchair-accessible bathroom on the main floor).
- ✓ Housing units proposed for rehabilitation must have an inspection completed by a qualified professional to determine the specific health and safety deficiencies; and
- ✓ Establish and implement smoke-free housing policies for CDBG-assisted rental units. The Montana Tobacco Use Prevention Program Smoke-Free Housing Project can provide educational materials and smoke-free signage to property owners and managers free of charge.

C. Eligible and Ineligible Project Activity Expenses

Project activities eligible for reimbursement with CDBG funding include, but are not limited to:

- ✓ Expenses that directly relate to construction or rehabilitation activities that implement the scope of work identified in the CDBG grant contract, including materials, labor, land acquisition, and permanent furnishings, equipment, and fixtures;
 - ✓ Professional services that directly relate to design activities that implement the scope of work identified in the CDBG grant contract;
 - ✓ Repayment of interim financing directly related to project activities that implement the scope of work identified in the CDBG grant contract;
 - ✓ Legal costs and fees; and
 - ✓ Direct grant administration expenses, up to a maximum 10% of the total CDBG budget for the individual project activity.
- Expenses that are not eligible for CDBG grant funding include, but are not limited to:
- ✓ Operation and maintenance costs (such costs are eligible to be paid with program income generated from affordable housing rental units constructed or rehabilitated with CDBG funds, however);
 - ✓ Temporary furnishings, fixtures, or equipment; or
 - ✓ Any unauthorized costs incurred prior to the date identified in the Notice of Award letter.

Applicants that plan to commence a project before it has been awarded CDBG grant funding should discuss their plans with program staff to ensure they do not take any steps that could violate the various federal, state, and programmatic laws and requirements that apply to projects involving CDBG funds. Some project activities, such as land acquisition, are subject to CDBG regulations even if performed prior to [submitting an application](#) applying for CDBG funding or receiving an award of CDBG funds.

[For CDBG projects, some choice limiting actions may be triggered and could affect project eligibility. A choice limiting action could be triggered when there is acquisition or environmental review. In general, program requirements around the environmental review process are triggered when the public is first made aware of an entity's intent to use federal funds administered by Commerce's Community Development Division \(CDD\) or at the time the entity conducts the second CDBG public hearing to consider application for federal funds, whichever occurs first. Questions about triggering a choice limiting action, please contact \[DOCCDD@mt.gov\]\(mailto:DOCCDD@mt.gov\), before applying. For additional information about the Uniform Relocation Act \(URA\), see Section V, 5.](#)

IV. Application Submission

A. Public Notice and Participation

To receive CDBG funds, both Commerce and applicants for grants must carry out citizen participation in a manner that complies with the ~~2015-2020~~[current](#) Montana Consolidated Plan. For a proposed project to be eligible for a CDBG contract award, the applicant must hold a minimum of two public hearings prior to submission of the CDBG application.

The first public hearing provides a forum for considering overall community needs and potentially competing or alternative proposals for CDBG funding within the local government's jurisdiction. In order to ensure the public participation is relevant and timely, the overall community needs hearing should be within 12 months prior to the date of application.

The second public hearing must be held once the applicant has selected the specific proposed project for CDBG funding. The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed CDBG project (especially LMI persons) or residents of the project area adequate opportunity to consider the potential impacts and benefits of the community's proposed project and to comment on it, before the community submits the application.

More detailed information regarding the public notice and participation requirements is located in [the Community Planning section of Section 1. Community Planning of Appendix A. Application Questions](#); and sample Public Notices are located in Appendix C.

B. ~~Deadlines and How to Submit an Application~~

~~Housing Stabilization Program~~ ~~Small-Scale Housing Development and Rehabilitation~~ funding applications do not have a deadline, but rather can be ~~submitted to~~ ~~accepted by~~ Commerce at any time.

Applicants must submit one (1) hard copy and one (1) electronic copy of the full CDBG application ~~submittal~~ as described below. The hard copy of the full CDBG application submittal must be sent to:

Community Development Division
Montana Department of Commerce
301 South Park Ave
P.O. Box 200523
Helena, MT 59620.

The electronic copy of the ~~Housing Stabilization Program-full CDBG~~ application ~~submittal~~ may be submitted through the State File Transfer service at <https://transfer.mt.gov>. To accomplish this, create an account in the transfer service, upload the files, and email the transfer to DOCCDBG@mt.gov. Please include the name of the grantee in files uploaded to the transfer service. If you are unable to use the State File Transfer service, you may also submit the application by CD, DVD, or compressed file by email.

C. Application Submittal Contents

The completed CDBG application ~~submittal~~ should be organized as follows:

1. Table of Contents

2. Responses to CDBG Application Questions

CDBG applicants are required to submit narrative responses that describe the relationship of their proposed CDBG project to each section of Appendix A. ~~Application Questions~~. Each application will be evaluated under the CDBG application questions to determine how the proposed project activities most closely align with the intent of the program, relative to local capacity and resources. Each applicant should identify the source of supporting data for any statements made in the application and provide documentation when applicable.

The ~~list of sections that contain the~~ application questions are presented in Appendix A in the following three sections: provided below.

1. Community Planning

2. *Project Strategy*
3. *Management and Implementation*

Once applications are reviewed, any proposal that is not granted a contract will receive technical assistance to improve the ~~if application-submission~~ or find more appropriate resources to accomplish the local community ~~the's~~ objectives.

3. Resolution to Authorize Submission of a CDBG Application

Each application for CDBG funds must be accompanied by a copy of a resolution formally adopted by the applicant, authorizing the submission of the CDBG application and authorizing the applicant's chief elected official or chief executive officer to act on its behalf to provide additional information as may be requested. The resolution must also indicate the governing body's intent to commit to any funding for the project that will be provided by the applicant. See Appendix D for more information and a sample resolution.

4. Certification for Application to the CDBG Program

Each applicant must agree to comply with all applicable state and federal laws and regulations in implementing activities using CDBG funds. The application must be accompanied by a copy of a Certification for Application, signed by the chief elected official or chief executive officer, which will be incorporated into the full project and contract, if awarded. See Appendix E for more information and the Certification for Application that must be submitted.

5. Residential Anti-displacement and Relocation Assistance Plan

The Uniform Relocation Act (URA) requirements apply if the applicant proposes to use CDBG funds to acquire, rehabilitate, construct, or demolish structures or property. Applicants must demonstrate that the project will comply with requirements of the URA. If proposing acquisition, applicants must provide documentation that the property can be purchased or leased within six (6) months of the date of tentative grant award.

In addition, applicants should consult the CDBG Grant Administration Manual for additional information. In particular, if applicants are contemplating CDBG assistance to properties already occupied by residential households, a General Information Notice (GIN) should be sent as soon as possible to all occupants informing them that the land on which they reside or building which they occupy is being considered to receive CDBG assistance and informing them that there is no intent to evict the occupants or involuntarily relocate them as a result of the proposed CDBG activity.

Land or easements must also not be firmly committed for purchase with CDBG funds or with any other proposed project funds until all CDBG-required URA and environmental review procedures, including a release of funds by Commerce, has been completed. If formal agreements to purchase either land or easements with CDBG or other project funds are executed prior to conduct of the required CDBG environmental review, the integrity of the URA and environmental review process is jeopardized, and CDBG funding may be lost. Each application for CDBG funds must be accompanied by a Residential Anti-displacement and Relocation Assistance Plan, which provides the policy that the applicant will follow if project activities trigger the federal Uniform Relocation Act. See Appendix F for more information and a sample Residential Anti-displacement and Relocation Assistance Plan.

V. Application Review Process

Community Development Division staff reviews CDBG applications for both technical feasibility and the extent to which the proposed project relates to each of the sections contained in these application guidelines. Commerce may request additional information when reviewing an application in order to clarify responses or ensure the activities meet national and state CDBG objectives. The ~~Director of the Montana Department of Commerce~~ Director makes all final decisions on grant awards.

VI. Administrative Procedures and Requirements

Once a project strategy has been approved and an initial contract is issued, the grantee is permitted access to the ~~Housing Stabilization Program~~ Small-Scale Housing Development and Rehabilitation pool of funds ~~to begin to request funding for site-specific housing units that have been identified~~ set aside for these activities for a period of five (5) years. ~~A standard contract will be executed and then~~ Subsequent contract amendments will be executed as for each home to be assisted is as identified housing unit to complete site-specific activities during the five-year period.

Please see the CDBG Grant Administration Manual on the Commerce website for information on how to administer a CDBG ~~Housing Stabilization Program~~ Small-scale Housing Development and Rehabilitation project (<http://comdev.mt.gov/Programs/CDBG/Housing/GrantAdmin>). ~~Grantees receiving a Housing Stabilization Program award~~ Successful applicants must submit the following items before executing the standard contract with Commerce:

6. Signature Certification form;
7. Designation of Depository form;
8. Sub-recipient agreement;
9. Final executed project management plan; and
10. Documentation of a completed environmental review process.

Once the standard contract is executed with Commerce, grantees will complete the civil rights requirements as stated in the Grant Administration Manual and begin to identify potential projects and present them for Commerce's consideration. Grantees present potential projects by submitting a draft Activity Request form indicating the nature of the proposed activity, estimated cost and estimated time frame. There are no established grant ceilings for the CDBG ~~small-scale housing program~~ Housing Stabilization Program, therefore the request for funds must be based on severity of the housing needs to be addressed, the timely completion of activities, and the total amount of funds available. If funds are available, Commerce will reserve an amount of funds equal to the estimated cost for a period of sixty (60) days. During this time period grantees will take actions to prepare final Activity Request that includes the following items:

1. Documentation of a completed site-specific environmental review process;
2. Documentation of compliance with Uniform Relocation Act requirements;
3. Scope of Work
 - a. Housing Rehabilitation projects will need to submit an inspection report conducted by a qualified professional with construction expertise that identifies the specific scope of work with cost estimates,
 - b. Housing Construction projects, where new construction is proposed, will need to submit site plans and design documents;
4. An activity-specific budget that addresses health and safety issues, accessibility

improvements, and energy efficiency measures and implementation schedule;

~~Projects must base the request on health and safety and/or ADA needs to be addressed,~~

~~5. Implementation schedule; and~~

~~6. Other items maybe requested on a case-by-case basis; and~~

~~5. Health and safety and/or ADA needs.~~

In accordance with the national and state CDBG objectives, Commerce may not be able to approve amendments to the scope or budget affecting priority activities that would materially affect the intent or circumstances under which the application was originally reviewed by Commerce staff and awarded by the Director. If a grantee requests a modification that significantly affects the scope of work, budget, or implementation schedule, Commerce may temporarily suspend activity reimbursements while reviewing the modification request.

Period of Affordability

CDBG recapture provisions are in effect for a period of affordability. CDBG-assistance will be secured by lien or other financial tool to ensure the investment on the property does not unduly enrich the assisted household. The lien and accompanying restrictions will be in place for a period of time based on the amount of direct CDBG subsidy to the buyer, as follows:

CDBG Assistance to Buyer	Period of Affordability
Less than \$15,000	5 years
\$15,000 - \$40,000	10 years
More than \$40,000	15 years
Newly constructed rental	20 years

APPENDIX A
Application Questions

DATE OF APPLICATION	DATE RECEIVED (AGENCY USE ONLY)		
APPLICANT INFORMATION			
NAME OF APPLICANT			
CHIEF ELECTED OFFICIAL			
TYPE OF ENTITY			
FEDERAL TAX ID NUMBER			
MAILING ADDRESS			
CITY, STATE, ZIP CODE			
DUNS #			
TELEPHONE #	FAX #		
CONTACT PERSON	E-MAIL		
TELEPHONE #	FAX #		
NON PROFIT/CHDO			
NAME			
TYPE OF ENTITY			
FEDERAL TAX ID			
MAILING ADDRESS			
CITY, STATE, ZIP CODE			
DUNS #			
TELEPHONE #	FAX #		
CONTACT PERSON	E-MAIL		
TELEPHONE #	FAX #		
OTHER			
GENERAL PARTNER		TELEPHONE #	
CONTRACTOR		TELEPHONE #	
MANAGEMENT COMPANY		TELEPHONE #	
GRANTWRITER/CONSULTANT		TELEPHONE #	
TAX ATTORNEY		TELEPHONE #	
ARCHITECT		TELEPHONE #	
DEVELOPMENT TEAM AND/OR OWNERSHIP IDENTITY OF INTEREST			
Do any members of the development team or ownership entity have any direct or indirect, financial or other interest with any of the other project team members (including owners interest in construction company or subcontractors)?			
YES* <input type="checkbox"/> NO <input type="checkbox"/>			
* If yes, provide a description of the relationship			

1. Community Planning

The Community Planning section considers the following, relative to the capacity of the ~~applicant~~ ~~and applicant and its/their~~ partner organization(s):

- The adequacy and thoroughness of the planning process used by the applicant to identify overall community development and housing needs, including the needs of LMI persons, and the activities or actions it plans to meet the identified needs;
 - The extent to which the proposed project is consistent with the applicant's community development objectives, as well as the National and State Objectives (Appendix B) for the CDBG Program;
 - Whether the applicant has provided a reasonable rationale for selecting the proposed CDBG project over other community development and housing needs that were identified;
 - The degree to which the applicant has considered the needs of LMI and other special needs residents and how the proposed project will benefit or impact those populations;
 - Whether the applicant has developed and uses its planning documents as a springboard for action in its community;
 - The extent to which local citizens have participated in the preparation of plans for the future development of the community, especially preparation of the community Growth Policy and similar plans addressing community development and revitalization needs; and
 - The extent to which planning supports community resilience through affordable housing, public works investments, vital employment centers, and the environment.
- ~~• Thorough outline of communities needs into relation with the Americans Disability Act (ADA). This includes but is not limited to age and disability.~~

Community Planning Questions

- ~~1. Describe and document the community's on going, long term commitment to housing by:~~
 - ~~a. Preparing and adopting a Growth Policy in accordance with Section 76-1-601, MCA, which includes the community's housing goals and objectives; maps and text describing an inventory of housing needs of the community; the projected trends of housing needs of the community over the life of the Growth Policy; and a description of policies, regulations, and other measures to be implemented to achieve the community's housing goals and objectives, including affirmatively furthering fair housing; and~~
 - ~~b. Implementing the housing goals and objectives identified in the adopted Growth Policy through policies, regulations, other plans, or other measures in support of housing, such as zoning, subdivision, design standards, community education and outreach, inclusionary housing incentives, etc.~~
- ~~2-1. Describe the extent to which the applicant the proposed project has been determined and prioritized has identified, discussed, or planned for based on the its housing needs in any as identified other in long-range community plans, {such as a Growth Policy, master plan, neighborhood plan, housing plan, needs assessment, CEDS, etc.}?~~
- ~~3. Has the community developed a Capital Improvements Plan (CIP) consistent with the adopted Growth Policy that considers public infrastructure needs in light of identified housing needs in the jurisdiction?~~

4.2. ~~What was the applicant's~~ Describe the process and rationale for selecting the proposed affordable housing ~~development~~ project over other community development needs? What specific goals, policies, objectives, or implementation strategies ~~adopted by the applicant~~ are supported in relevant ~~their~~ long-range community planning documents ~~support the proposed project~~?

5. ~~Has the applicant identified any significant patterns or concentrations of lower income households or groups of other disadvantaged persons within the community? How has the applicant identified,~~

6. ~~discussed, or planned for the specific housing needs of these persons? Does the applicant show how the proposed project would address these patterns or concentrations, or especially benefit or impact these residents?~~

7.3. Describe the efforts the applicant has made to engage residents or otherwise encourage citizen participation in the development of the Growth Policy or other planning efforts to identify, discuss, or plan for housing needs in the jurisdiction?

8.4. Describe the public and private sector agencies, groups, and organizations the applicant involved in the planning process, including those representing disadvantaged persons in the community.

9.5.

10. ~~Describe any significant patterns or concentrations of lower income households or groups of other disadvantaged persons within the community. Identify and discuss any planning completed for the specific housing needs of these persons. Does the proposed project address these patterns or concentrations, or especially benefit or impact these residents? the targeted demographic for the target area and provide an explanation how the Housing Stabilization Program will improve the housing of the targeted demographic.~~

11. ~~Describe and document the extent to which the applicant:~~

- ~~a. Comprehensively plans for community resilience through the availability of affordable housing, investment in public works, creating a diverse economy, and protecting the environment;~~
- ~~b. Prioritizes funding toward existing community revitalization to improve the efficiency of public works investments while safeguarding rural landscapes and natural resources;~~
- ~~c. Enhances the unique and resilient characteristics of the community by investing in healthy, safe, and walkable neighborhoods;~~
- ~~d. Actively supports the rehabilitation of existing housing units, particularly for those with disabilities and the elderly; and~~
- ~~e. Prioritizes the development or rehabilitation of community facilities and services, particularly those serving the disabled and the elderly, in walkable neighborhoods or where served by public transportation systems.~~

Commented [SP1]: Repetitive

Citizen Participation

To receive CDBG funds, both Commerce and applicants for grants must carry out citizen participation in a manner that complies with the [2015-2020 current Montana Consolidated Plan](#). Montana's CDBG Citizen Participation Plan is found on Commerce's website <http://commerce.mt.gov/conplan/documents>. Please provide responses to the following three questions based on the citizen participation requirement identified in the section below.

1. Please submit documentation demonstrating compliance with the two public hearing requirements discussed above.
2. How do comments made during the public hearings support or oppose the proposed strategy?
3. How has the proposed strategy evolved based on public input?

Citizen Participation Requirements

1. Each applicant for CDBG must hold a minimum of two public hearings prior to submission of the CDBG application. Applicants should hold the first public hearing not more than twelve months prior to the date of application. The second public hearing should be held not more than three months prior to the date of application.
 - The first public hearing should be designed to assess overall housing, economic development and community development needs within the community and should be held in a neutral location (usually at the town or city hall, or county court house) to solicit public views about these needs.
 - This hearing should include the amount of CDBG funds available for the federal fiscal year;
 - The technical assistance available from local governments and the State to assist in the development of the proposals;
 - Review of past program performance by the local government, where applicable; and
 - Discussion of community surveys of housing and community needs the jurisdiction has completed.
 - The second hearing should focus on the proposed CDBG activities. The second public hearing must clearly identify the proposed project area and the term of the certification period. In any case, the public hearings must be conducted by the city, town, or county government that will sponsor the application; it is also recommended that the applicant's partner organizations participate in the hearings.
2. All hearings must provide reasonable and timely access to the hearing, information and records about proposed projects.
3. Local government hearing advertisements should include information such as clear location that is convenient and accessible to potential or actual beneficiaries and accommodations for individuals or groups with disabilities.
4. For hearings where a significant number of non-English speaking residents might be reasonably expected to participate, ~~and~~ accommodations for non-English speaking residents must be made available and ~~also includes~~ advertisements in non-English must be used.
5. A record of the required hearings must be submitted with the application for CDBG funds, along with copies of the public notices for the hearings or affidavits of publication for the notices. A verbatim record is not necessary; applicants should provide a list of the names of persons who attended and a summary of comments by local officials and citizens which is sufficient to reflect the comments made by those attending the hearing.

6. Hearings should follow local government practice, but not to the exclusion of federal requirements.

The First Public Hearing

- is intended to give citizens an opportunity to identify and discuss their community's overall community development and housing needs, including the needs of LMI persons, and to propose possible community improvement projects to meet those needs, before the local government makes a decision on what project or projects it will seek CDBG assistance for, and
- should inform the public about the amount of state CDBG funds estimated to be available to Montana communities, and the kinds of activities that are eligible to be assisted with CDBG funds.

The purpose of the first public hearing is to provide an objective and neutral forum for considering overall community needs and potentially competing or alternative proposals for CDBG projects to deal with those needs, within the local government's jurisdiction.

Applicants should hold the first public hearing not more than twelve months prior to the date of application. The CDBG website provides a sample model notice for the first public hearing. The site of the first public hearing should be a neutral one that would encourage fair and impartial consideration of all potential CDBG projects.

The Second Public Hearing

The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed CDBG project (especially LMI persons) or residents of the project area adequate opportunity to consider the potential impacts and benefits of the community's proposed project and to comment on it, before the community submits the application. The second hearing should be held not more than three months prior to the date of application.

At the second public hearing, specific CDBG program requirements and related project issues should be reviewed. For example, if taxes or user charges will be increased as part of the cost of financing a CDBG activity, it is especially important that residents be informed and understand the necessity of raising user costs. This is the key hearing at which the public should have the full opportunity to review and comment on the details of the scope and design of the proposed project, as well as all projected financial responsibilities falling on project beneficiaries.

The CDBG Program encourages a neutral setting that promotes open discussion and an exchange of ideas regarding all community development and housing needs, and possible solutions for those needs. This may include an open town meeting or facilitated small group discussion with a final summation of identified community needs and solutions. Local officials may also want to use additional public involvement techniques such as open houses or presentations to local organizations to make more citizens aware of community needs and to solicit their comments on activities or projects to address community problems.

2. Project Strategy

The Project Strategy section considers the following, relative to the capacity of the applicant and their partner organization(s):

- Addressing housing problems which especially affect low- and moderate-income residents of the community or particularly for the homeless, disabled, elderly, and other disadvantaged populations;
- The extent to which the proposed activities provide the greatest impact on identified housing needs in a targeted approach;
- The extent to which the target area enhances the unique and resilient characteristics of the community through investments in healthy, safe, and walkable neighborhoods – rural, urban, or suburban; and is located within walkable neighborhoods and/or served by public transportation systems, particularly for the homeless, disabled, elderly and other disadvantaged populations; and
- The degree to which the project addresses the impediments to fair housing choice.

Activity Description

1. Provide a detailed description of the specific activities that are planned in the area – e.g. acquisition, demolition with new construction, rehabilitation, or infill development on vacant lots including:

2. a. What types of units are anticipated to be completed?

3. 1. b. What are the number of projected units and number of households to be assisted during the 5-year period?

2. Describe the ~~What~~ process that will be used to identify and select housing units. ~~2. What~~

3. Describe the process that will be used to identify and select beneficiaries for occupied housing units. ~~3~~

~~4. 1. What process will be used to identify and select beneficiaries for occupied housing units?~~

5. 4. Discuss other funding sources anticipated to assist with CDBG-assisted project activities. Are any sources discussed firmly committed?

6. 5. Are there any limitations or restrictions the other funding sources require that may impact CDBG assistance?

7. 6. How will the applicant document compliance with property standards requirements, including Uniform Physical Conditions Standards (UPCS) and/or Housing Quality Standards (HQS)?

7. Define the process and standards or measures that will be used to assess the health and safety deficiencies of individual units and then used to determine health and safety issues have been addressed. Describe the process for how ~~How will the applicant determine if non-health and safety deficiencies will be remedied, if necessary.~~ are necessary to remedy?

- Reducing Impediments to Fair Housing

How does the proposed project address each of the following impediments to fair housing identified in the ~~2015-2020~~current Consolidated Plan?

1. Impediment 1: Discriminatory terms and conditions in the rental markets.
2. Impediment 2: Failure to make reasonable accommodation.
3. Impediment 3: Lack of understanding of fair housing laws.
4. Impediment 6: Limited knowledge of the fair housing infrastructure.
5. Impediment 7: Insufficient outreach and education.
6. Impediment 8: Presence of "Not In My Back Yard" (NIMBYism).
7. Impediment 9: Some units of local government lack sufficient understanding of the responsibilities to affirmatively further fair housing.
8.
9.

~~How will the applicant determine if non-health and safety deficiencies are necessary to remedy?~~

8. If rental housing is allowed, will the applicant prohibit smoking in the units and indoor common areas of every CDBG-assisted rental unit? Will the non-smoking clause be in the lease of every project unit, as applicable?

~~10-9.~~ Describe any energy efficient elements incorporated in the project design. CDBG grant applicants are encouraged to integrate renewable energy generation and energy efficiency measures in their projects. These measures help reduce energy costs, which can facilitate improved operations and maintenance, and HUD released a toolkit to help grantees integrate renewable energies into their project. HUD and the Department of Energy (DOE) announced a goal of generating 300 MW of energy through renewables for low-and-moderate income housing by 2020, and broadening the goal to include community and shared solar installations. More information on HUD's Renew 300 initiative can be found online here. HUD also released a toolkit to help CDBG grantees integrate renewable energies into their projects that can be found on HUD's website here.

Commented [RA2]: Links should work, hard to see in track changes.

Targeted Impact

- ~~1. Describe the target area and discuss why it was selected and include maps showing target area(s).~~
- ~~2. What are the characteristics of the target area; e.g., market values of housing in the neighborhood, demand for housing, demographics, etc.?~~
- ~~3. What other projects will complement the small-scale project to bring about re-use or redevelopment of the property or neighborhood?~~
- ~~4. Will activities include energy efficiency construction or rehabilitation components that incorporate~~

~~energy efficient design to help advance solar deployment and other on-site renewable energy installations?(Please visit the Federal Renewable Energy Target(FRET)~~

~~†~~

~~5.) and National Renewable Energy Laboratory (NREL) online tools.)~~

~~6. How does the target area's connectivity score support investments in healthy, safe, and walkable neighborhoods—rural, urban, or suburban? (Please visit the connectivity tool found nfo/lat.aspx)~~

~~7. How does the target area's connectivity score support beneficiary mobility through walkable neighborhoods and/or neighborhoods served by public transportation systems?~~

3. Management and Implementation

The Management and Implementation section considers the following, relative to the capacity of the applicant and their partner organization(s):

- Whether the applicant has clearly demonstrated that the proposed activities are feasible and achievable, taking into consideration the capacity, experience, and resources of the applicant and partner organizations;
- The soundness and appropriateness of the applicant's plan for assuring proper overall management of the CDBG project, including financial management of grant funds, compliance with State and federal requirements, and cost-effective completion of project activities;
- The applicant's readiness to implement the project activities if accepted into the program;
- Whether the applicant (or ~~subor sub~~ recipient entity) has carefully considered all potential environmental, regulatory, and technical issues which could impact the timely start-up and successful implementation of project activities;
- The soundness of the applicant and partner organizations' plans for assuring effective operation and long- term management of the period of affordability requirements.

Capacity of Applicant and Partner Organizations

Applicants and/or their partner organizations must have the management capacity to undertake and satisfactorily complete the proposed project.

~~1. What qualifications do the applicant and partnering non-profit have that will enable them to successfully execute project activities and fulfill responsibilities identified in the management plan?~~

Commented [RA3]: Delete for repetition

~~2. What past housing projects have the applicant and partner organizations completed?~~

~~1. Please provide a preliminary management plan, using the template included in Appendix G. of these application guidelines. In narrative, for each organization involved, describe the staff member(s) that will work on this program and how much of their time will be dedicated to these projects (include percentage of time allocated to the program). Describe their qualifications and relevant past experience.~~

~~3. For each organization involved, which staff member(s) will work on this program and how much of their time will be dedicated to these projects (include percentage of time allocated to the program)? What are their qualifications and relevant past experience?~~

~~4. What percentage of each staff member's time will be allocated to this program?~~

~~5.2.~~ If the partnering non-profit is a Community Housing Development Organization (CHDO), has the applicant been approved as a CHDO? Or has a request been submitted for approval? If so, when?

~~6.3.~~ If the proposed project will generate program income (income generated from the CDBG activity) in the future, please describe the plan for future administration and expenditure of the anticipated program income funds?

~~7.4.~~ Who will oversee compliance with the Period of Affordability?

~~8.5.~~ What is the expected timeframe to complete individual activities?

~~9.1. Please provide a preliminary management plan, using the template include in Appendix G of these application guidelines.~~

Continued Affordability

HUD encourages, to the maximum extent practicable and for the longest feasible term, the continued affordability of housing units assisted with CDBG funds, including homes sold, rented, rehabilitated, improved or redeveloped. These housing units must remain affordable to individuals or families whose incomes do not exceed 80 percent of Area Median Income (AMI).

CDBG funds that directly benefit eligible households must be provided in the form of a loan (including zero percent loans) with a period of affordability, secured through Recapture Provisions discussed in Appendix H of these application guidelines. The local government and the homeowner are required to sign a contract between one another agreeing to the terms of the loan.

1. What types of financing mechanisms are anticipated to be used to carryout project activities?
2. How will prospective beneficiaries be informed of the CDBG Recapture Provisions and period of affordability requirements?
3. How will the applicant verify the CDBG-assisted property meets the period of affordability requirements for the duration for the applicable timeline, e.g. rental units are rented to LMI households or the unit is the principal residence of the CDBG beneficiary?

Environmental Review

1. ~~Has the applicant completed and included~~Complete and include the environmental checklist found in Montana's Uniform Application for Housing Loan, Grant, and Tax Credit programs.~~?~~
2. ~~Has the applicant included~~Include documentation of direct contact with all appropriate state or federal agencies or other interested parties~~included in the application.?~~
3. ~~Has the applicant thoroughly completed~~In completing the environmental checklist~~by:~~
 - a. provid~~e~~ing thorough and credible responses to each item, and
 - b. supply~~ing~~ specific sources of information for each of the environmental checklist topic areas.~~?~~
4. ~~Has the applicant demonstrated~~Demonstrate that project activities will avoid adverse impacts on the environment, including potential historic resources?
5. ~~Has the applicant described~~Describe its effort to avoid adverse environmental impacts on project activities, including proximity to flood plains, hazardous facilities or sites, or incompatible land uses?
6. If any concerns or adverse impacts, ~~identify have been identified~~ how ~~they will~~ the applicant appropriately~~be~~ mitigated~~d~~ them?

7. ~~Has the applicant explained~~Explain how the analysis of any potential environmental concerns (such as lead-based paint, asbestos, and requirements for preservation of historic architecture) has been closely coordinated with the project design.²

8. ~~Has the applicant provided~~Provide evidence that ~~it-the applicant~~ has adequately anticipated and has thoroughly addressed all potential environmental, community planning, and regulatory constraints, such as consistency with local growth policy, zoning ordinances, building codes, state agency administrative orders, etc.?

Project Aggregation

Project aggregation should be considered and included during the development of environmental review documents and process. To consider project aggregation a grantee must group together and evaluate, as a single project, all individual activities which are related either on a geographical or functional basis, or logical area parts of a composite of a contemplated project. The aggregated project should capture the maximum scope of the proposed project that relates to functional or geographical aggregation, not just a single activity that the federal dollars are funding.

- Functional aggregation is when a specific type of activity (e.g., water improvements) is to take place in several separate locations.
- Geographical aggregation is when a mix of dissimilar but related activities are concentrated in a specific project area (e.g., combining water, sewer and street improvements and economic development activities).

The purpose of project aggregation is to group together related activities so the grantee can:

- Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other actions or activities.
- Consider reasonable alternative courses of action.
- Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects; and,
- Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

To consider project aggregation, an applicant should consider the following questions. Please respond the questions below in narrative form:

1. Is the project site just one phase of a large development?
2. Is the activity part of a larger project?
3. Have additional phases of the project applied for funding?
4. Do the activities take place in a target area where a whole range of varying activities are planned?

If any of the above are yes, the project should be aggregated and the composite of the contemplated project should be used as the activities included in the environmental review process; and most specifically in maps, pictures or other narrative that is used during the environmental review process.

Procurement of Professional Services

1. If procurement is necessary for design, implementation, and/or management of the project and has already been completed, please provide the following documents:

- a. Affidavit of publication for the Section 3 Notice
- b. Direct Solicitation of Disadvantaged Business Enterprises
- c. The full Request for Proposals (RFP) or Request for Qualifications (RFQ) including but necessarily limited to:
 - i. The affidavit of publication for the RFP/RFQ
 - ii. Meeting minutes and/or interviews with prospective entities
 - iii. The scoring criteria used to select the successful entity
2. If procurement is necessary for design, implementation, and/or management of the project and has not already been completed, describe the steps that will be taken to document procurement complying with federal, state and local laws.

Financial Management System and Audits

Commerce will check with the Department of Administration's Local Government Assistance Bureau for information about compliance with these requirements

1. Is the applicant compliant with the auditing and annual financial reporting requirements provided for in the Montana Single Audit Act, 2-7-501 to 522, MCA?
2. Has the applicant established a financial accounting system to properly account for grant funds according to generally accepted accounting principles?

Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) Considerations

Applicants must demonstrate that activities will comply with requirements of the URA. If proposing acquisition, applicants must provide documentation that the property can be purchased or leased within six (6) months of the date of tentative grant award. Applicants are required to submit a Residential Anti-displacement and Relocation Assistance Plan with the application. A template can be found in Appendix F of these application guidelines.

Applicants should consult the CDBG Grant Administration Manual for additional information. In particular, if applicants are contemplating CDBG assistance to properties already occupied by residential households, a General Information Notice (GIN) should be sent as soon as possible to all occupants informing them that the land on which they reside or building which they occupy is being considered to receive CDBG assistance and informing them that there is no intent to evict the occupants or involuntarily relocate them as a result of the proposed CDBG activity.

If a property has been identified, applicants must answer the following questions and submit documentation with this application related to the specific property. However, if a property has not been identified, applicants do not need to provide a response until an Activity Request form has submitted to Commerce.

1. If applicant owns the property and/or easement(s) on which a proposed activity will take place, the following information and supporting documentation must be submitted once a specific property has been identified:
 - a. When were the property and/or easements acquired?

- b. When did the applicant begin considering the use of federal funds for the proposed project?
 - c. If federal funds were considered for the proposed project before the property was acquired:
 - i. Please provide documentation that the owner made aware of his/her rights under the Uniform Relocation Act including the right to receive fair market value for the property or ~~/~~ easements.
 - ii. Was the fair market value established prior to purchase?
 - iii. Was fair market value offered to previous owner?
2. a. Will property need to be acquired?
b. Will easement(s) need to be acquired?
3. If the answer to either question 1a. or 1b. is 'yes', the applicant will need to document compliance with URA and answer the following questions.
- a. If property or easements will be acquired to complete activities, what steps will the applicant take to document compliance with URA?
 - b. If property or easements have been acquired to complete activities, evidence documenting the following must be submitted once a specific property has been identified:
 - i. The fair market value of the property or easement was established by a certified, licensed appraiser
 - ii. The seller has been made aware of his/her rights under the URA;
 - iii. The seller was made aware of the fair market value of the land and/or easement, and his/her right to just compensation;
 - iv. The sale is voluntary; and
 - v. The acquisition process is URA-compliant.
4. If CDBG assistance is proposed for an identified property that is currently occupied, has a General Information Notice (GIN) been received by all occupants informing them that the land on which they reside or building which they occupy is being considered to receive CDBG assistance and informing them that there is no intent to evict the occupants or involuntarily relocate them as a result of the proposed CDBG activity? Please provide supporting documentation. A GIN template may be found on the CDD web site: <https://comdev.mt.gov/Programs/CDBG/Housing/GrantAdmin#Chapter-7-Acquisition-and-Relocation-1116>
5. Will any person or business need to temporarily relocate to complete activities? Will this temporary relocation last for more than one year? If activities involve temporary relocation, provide the following information:
- a. Will this temporary relocation last for more than one year?
 - b. Will any person or business be prohibited from returning after temporarily relocating?
 - c. Identify each household and/or business that will need to be temporarily relocated.
 - d. How will the temporary relocation affect the activity budget?
 - e. How will the temporary relocation affect implementation and/or construction?
 - f. Who will be responsible for documenting compliance with URA?

APPENDIX B

CDBG National and State Objectives

This appendix will be used to help determine how the proposed project will further the state's community development objectives identified in the ~~2015-2020~~current Montana Consolidated Plan. Commerce may use this appendix to prioritize proposed projects in light of available funding.

National Objective:

Montana CDBG program require projects meet the benefit to low- and moderate- income (LMI) national objective. Proposed community and public facilities projects meet this national objective by providing new or improving existing public infrastructure or community services to communities where 51% or more of the population is LMI or by providing direct assistant to persons of LMI. Proposed projects that do not meet the LMI national objective will not be funded.

State Objective:

The goals of the HUD programs administered by the state of Montana are to provide decent housing, a suitable living environment, and expanded economic opportunities for the state's low- and moderate-income residents. The state of Montana strives to accomplish these goals by maximizing and effectively utilizing all available funding resources to conduct housing and community development activities that will serve the economically disadvantaged residents of the state. By addressing need and creating opportunity at the individual and neighborhood levels, the state of Montana aims to improve the quality of life for all residents of the state. HUD's Community and Development Programs help to develop viable communities by funding a number of potential activities within the umbrella of the following three goals:

- *Providing decent housing* by obtaining appropriate housing for homeless persons and assisting those at risk of homelessness; preserving the affordable housing stock; increasing the availability of permanent affordable housing, without discrimination; increasing the supply of supportive housing for persons with special needs; and providing affordable housing near job opportunities.
- *Providing suitable living environments* by improving the safety and livability of neighborhoods; improving access to quality facilities, infrastructure, and services; reducing the isolation of income groups within communities through de-concentration of low-income housing; revitalizing deteriorating neighborhoods; restoring and preserving properties of special historic architectural or aesthetic value; and conserving energy resources.
- *Expanding economic opportunities* by creating and retaining jobs; establishing, stabilizing, and expanding small businesses; providing public employment services; encouraging the employment of low-income persons in projects funded under this Plan; providing reasonable mortgage financing rates without discrimination; providing access to capital and credit for development activities that promote long-term economic and social viability of the community; and reducing generational poverty of those living in publicly assisted housing by providing empowerment and self-sufficiency opportunities.

The state of Montana works to integrate efforts in these three areas into broader community development

of public and community facilities, economic development, and housing strategies that recognize the limitations in traditional affordable housing initiatives and look to identify and capitalize on opportunities to innovate. The state of Montana seeks to identify projects that satisfy criteria developed to help communities improve access to affordable housing and transportation while protecting the environment and will leverage emerging data and tools that measure the true cost of commuting to residents of affordable housing.

The following list presents the objectives and outcomes of the 2010-2015 Montana Consolidated Plan for Housing and Community Development. There may be a need to direct and refine such resources by use of project selection criteria, which may be updated annually, based upon year-to-year need and local circumstances. The objectives and intended outcomes the state will pursue over the next five years are as follows:

1. Support existing Montana communities:

- a. Target funding toward existing communities to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes and natural resources;
- b. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans that support the sustainability of local communities, affordable housing, public works investments, vital employment centers, and the environment;
- c. Enhance the unique and resilient characteristics of all communities by investing in healthy, safe, and walkable neighborhoods—rural, urban, or suburban;
- d. Encourage the rehabilitation of existing rental and owner-occupied homes, particularly for those with special needs and the elderly;
- e. Encourage the development and rehabilitation of community facilities and services located within walkable neighborhoods and/or served by public transportation systems, particularly for those with special needs and the elderly.

2. Invest in vital public infrastructure:

- a. Encourage appropriate and comprehensive pre-development planning activities for public infrastructure, including asset management, needs analysis, preliminary engineering and/or architectural reports, and other studies or plans;
- b. Provide funding opportunities to improve the safety and efficiency of public infrastructure, promote healthy, safe, and walkable neighborhoods, and safeguard the environment; and
- c. Provide funding opportunities to serve eligible Montanans, particularly those special needs and elderly populations, with safe, efficient public infrastructure.

3. Enhance Montana's economic competitiveness:

- a. Provide reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets;
- b. Support comprehensive planning for downtown revitalization, business development, and other studies or plans to attract and retain talent in Montana communities;
- c. Provide job opportunities to eligible Montanans to strengthen communities within the state;
- d. Encourage activities that support and strengthen new and existing businesses, particularly those located within traditional downtown business centers comprising a mix of businesses, housing, and services;
- e. Encourage mixed-use development that contributes to broader revitalization efforts in Montana communities; and

- f. Seek opportunities to achieve multiple economic development goals, such as removing barriers to collaboration, leveraging multiple funding sources, and increasing energy efficiency, through a single investment.

4. *Promote equitable, affordable housing in Montana*

- a. Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation;
- b. Encourage housing activities that incorporate energy-efficient design to help advance solar deployment and other on-site renewable energy installations in affordable housing that is aligned with the Federal Renewable Energy Target;
- c. Encourage activities to acquire and/or construct new affordable housing for homeownership or rental in areas where existing investment in infrastructure, facilities, and services leverages multiple economic, environmental, and community objectives;
- d. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans in support of the efficient construction of affordable housing;
- e. Encourage financial mechanisms that increase homeownership opportunities and provide rental assistance to eligible Montanans, particularly those with special needs and the elderly.

5. *Reduce homelessness in Montana:*

- a. Encourage activities that address the housing needs of homeless Montanans and/or those at risk of homelessness;
- b. Encourage activities that increase the level of assistance programs to homeless Montanans and/or those at risk of homelessness, with the goal of achieving stable and sustainable housing; and
- c. Encourage the development and rehabilitation of non-rental facilities for the shelter of temporarily homeless Montanans.

APPENDIX C

Sample Notice for the First CDBG Public Hearing

Information listed in italics or underline should be replaced with grantee specific data.

The (*Town of _____, the City of _____ or _____ County*) will hold a public hearing on (*day*), (*date*), (*time*), in the (*...building name and address...*), Room _____, for the purpose of obtaining public comments regarding the *City's (Town's or County's)* overall community development needs (public facilities, economic development, and housing needs), including the needs of low and moderate income persons. *The Town/City Council of _____ (or _____ County Commissioners)* will also seek the views of citizens on the activities that should be undertaken to meet the identified needs and their relative priority. The (*City, Town or County*) may apply for funding from the Montana Community Development Block Grant (CDBG) Program (federal funding administered by the Montana Department of Commerce) and other state and federal funding sources to deal with local housing, public facilities, or other community needs and would like comments or suggestions from local citizens regarding the *City's (Town's or County's)* needs and the type of projects which should be considered. Comments may be given orally at the hearing or submitted in writing before (*time and date*).

Anyone who would like more information or who wants to submit suggestions should contact (*person*), (*title*), (*telephone number*).

If it is the intent of the applicant to coordinate the second project public hearing with hearings for other programs, this notice may be combined with information from other programs but must contain CDBG project specific details as listed below.

Sample Notice for the Second CDBG Public Hearing

The (*Town of _____, the City or County of _____*) will hold a public hearing on (*day*), (*date*), (*time*), in the (*location or building name and address, Room _____*) for the purpose of obtaining public comments regarding a proposed application to the Montana Department of Commerce's Community Development Block Grant (CDBG) Program for a (*type of project, description of project, and project area, as applicable*). At the public hearing, the proposed project will be explained, including the purpose and proposed area of the project, activities, budget, possible sources of funding, and (*if applicable, any costs that may impact local citizens as a result of the project*). All interested persons will be given the opportunity to ask questions and to express their opinions regarding this proposed project.

Comments may be given orally at the hearing or submitted in writing before (*time and date*). Anyone who would like more information or who wants to submit questions or comments should contact (*person*), (*title*), (*telephone number*). A copy of the application to be submitted for funding the project is available for review at (*location*) during regular office hours.

APPENDIX D
Resolution to Authorize Submission of a CDBG Application

Each application for CDBG funds must be accompanied by a copy of a resolution formally adopted by the applicant and authorizing:

- the submission of the CDBG application in compliance with the CDBG Application Guidelines, and
- the applicant's chief elected official or chief executive officer to act on its behalf in regard to the application and to provide such additional information as may be required.

The resolution must also indicate the governing body's intent to commit to any funding for the project that will be provided by the applicant.

Applicants and/or their partner organizations must have the legal jurisdiction and authority to finance, operate and maintain the proposed housing development and, where applicable, must have the demonstrated financial capacity to repay any debt incurred. In all cases, the applicant assumes complete responsibility for:

- proper financial management of the CDBG funds awarded to it; and
- compliance with all federal and state laws and regulations; and
- compliance with the auditing and annual financial reporting requirements provided for in the Montana Single Audit Act, 2-7-501 to 522, MCA; and
- the establishment of a financial accounting system that can properly account for grant funds according to generally accepted accounting principles.

See sample resolution on next page and provide information listed in italics specific to the applicant.

Sample
RESOLUTION TO AUTHORIZE SUBMISSION OF CDBG APPLICATION

WHEREAS, the *(Name of applicant)* is applying to the Montana Department of Commerce for financial assistance from the Community Development Block Grant Program (CDBG) to *(describe purpose of project)*;

WHEREAS, the *(Name of applicant)* has the legal jurisdiction and authority to construct, finance, operate, and maintain *(the proposed affordable housing project)*;

That the *(Name of applicant)* agrees to comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited herein, as well as with other applicable federal laws and regulations, and all state laws and regulations and the requirements described in the CDBG Affordable Housing Development Application Guidelines and those that are described in the CDBG Grant Administration Manual;

That *(name of Chief Elected Official or Chief Executive Officer)*, *(title)*, is authorized to submit this application to the Montana Department of Commerce, on behalf of *(Name of applicant)*, to act on its behalf and to provide such additional information as may be required.

Signed: _____

Name: _____

Title: _____

Date: _____

Attested: _____

Local Government's DUNS Number: _____

APPENDIX E
Certification for Application

- Each applicant must agree to comply with all applicable state and federal laws and regulations in implementing their proposed CDBG project, if selected for funding.
- A copy of the Certifications for Application (provided below), signed by the chief elected official or executive officer of the applicant must accompany the application for CDBG funds.
- Applicants should carefully review the following certifications for application and consider their potential impact when designing and implementing the CDBG project strategy.
- Since this is a brief summary and not intended to be a comprehensive description of each law, local officials who have any questions or concerns regarding the applicability of these requirements should contact Commerce for guidance.

MONTANA CDBG CERTIFICATION FOR APPLICATION

The Applicant hereby certifies that:

It will comply with all requirements established by the Montana Department of Commerce (Commerce) and applicable state laws, regulations, and administrative procedures and accept all Montana Community Development Block Grant (CDBG) program requirements.

It accepts the terms, conditions, selection criteria, and procedures established by the CDBG program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of CDBG funds.

National Objective

It will complete a project that meets the benefit to low- and moderate- income (LMI) national objective, by serving no less than 51% of LMI residents as part of the project activities.

State Objectives

It will complete project activities that meet one or more of the goals and objectives established in the most current version of the Montana Consolidated Plan.

Goals of the HUD programs administered by the State of Montana are:

- *Providing decent housing* by obtaining appropriate housing for homeless persons and assisting those at risk of homelessness; preserving the affordable housing stock; increasing the availability of permanent affordable housing, without discrimination; increasing the supply of supportive housing for persons with special needs; and providing affordable housing near job opportunities.
- *Providing suitable living environments* by improving the safety and livability of neighborhoods; improving access to quality facilities, infrastructure, and services; reducing the isolation of income groups within communities through de-concentration of low-income housing; revitalizing deteriorating neighborhoods; restoring and preserving properties of special historic architectural or aesthetic value; and conserving energy resources.
- *Expanding economic opportunities* by creating and retaining jobs; establishing, stabilizing, and expanding small businesses; providing public employment services; encouraging the employment of low-income persons in projects funded under this Plan; providing reasonable mortgage financing rates without discrimination; providing access to capital and credit for development activities that promote long-term economic and social viability of the community; and reducing generational poverty of those living in publicly assisted housing by providing empowerment and self-sufficiency opportunities.

The objectives and outcomes of the Montana Consolidated Plan are:

1. Support existing Montana communities:

- f. Target funding toward existing communities to increase community revitalization, improve the

efficiency of public works investments, and safeguard rural landscapes and natural resources;

g. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans that support the sustainability of local communities, affordable housing, public works investments, vital employment centers, and the environment;

h.

i. Enhance the unique and resilient characteristics of all communities by investing in healthy, safe, and walkable neighborhoods—rural, urban, or suburban;

j. Encourage the rehabilitation of existing rental and owner-occupied homes, particularly for those with special needs and the elderly;

k. Encourage the development and rehabilitation of community facilities and services located within walkable neighborhoods and/or served by public transportation systems, particularly for those with special needs and the elderly.

2. Invest in vital public infrastructure:

d. Encourage appropriate and comprehensive pre-development planning activities for public infrastructure, including asset management, needs analysis, preliminary engineering and/or architectural reports, and other studies or plans;

e. Provide funding opportunities to improve the safety and efficiency of public infrastructure, promote healthy, safe, and walkable neighborhoods, and safeguard the environment; and

f. Provide funding opportunities to serve eligible Montanans, particularly those special needs and elderly populations, with safe, efficient public infrastructure.

3. Enhance Montana's economic competitiveness:

g. Provide reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets;

h. Support comprehensive planning for downtown revitalization, business development, and other studies or plans to attract and retain talent in Montana communities;

i. Provide job opportunities to eligible Montanans to strengthen communities within the state;

j. Encourage activities that support and strengthen new and existing businesses, particularly those located within traditional downtown business centers comprising a mix of businesses, housing, and services;

k. Encourage mixed-use development that contributes to broader revitalization efforts in Montana communities; and

l. Seek opportunities to achieve multiple economic development goals, such as removing barriers to collaboration, leveraging multiple funding sources, and increasing energy efficiency, through a single investment.

4. Promote equitable, affordable housing in Montana

f. Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation;

g. Encourage housing activities that incorporate energy-efficient design to help advance solar deployment and other on-site renewable energy installations in affordable housing that is aligned with the Federal Renewable Energy Target;

h. Encourage activities to acquire and/or construct new affordable housing for homeownership or rental in areas where existing investment in infrastructure, facilities, and services leverages multiple economic, environmental, and community objectives;

i. Encourage appropriate and comprehensive planning, market studies, preliminary architectural reports, and other studies or plans in support of the efficient construction of affordable housing;

j. Encourage financial mechanisms that increase homeownership opportunities and provide rental assistance to eligible Montanans, particularly those with special needs and the elderly.

5. *Reduce homelessness in Montana:*

d. Encourage activities that address the housing needs of homeless Montanans and/or those at risk of homelessness;

e. Encourage activities that increase the level of assistance programs to homeless Montanans and/or those at risk of homelessness, with the goal of achieving stable and sustainable housing; and

f. Encourage the development and rehabilitation of non-rental facilities for the shelter of temporarily homeless Montanans.

ACQUISITION, DISPLACEMENT AND RELOCATION

It will minimize displacement as a result of activities assisted with CDBG funds and assist persons actually displaced.

It will comply with:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The Uniform Act) as amended and implementing regulations 49 CFR part 24 and the requirements of section 570.496a. These laws and accompanying regulations require the grantee to provide relocation payments and offer relocation assistance to all persons displaced as a result of acquisition of real property for an activity assisted under the CDBG program. Such payments and assistance must be provided in a fair and consistent and equitable manner that ensures that the relocation process does not result in a different or separate treatment of such persons on account of race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children). The grantee must assure that, within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children); and
- The grantee must also inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations of 49 CFR, Part 24, Subpart B, and found in the local government's Anti-displacement and Relocation Assistance Plan.
- The Residential Anti-displacement and Relocation Assistance Plan adopted by the Montana Department of Commerce for the CDBG program and the Anti-displacement and Relocation Assistance Plan adopted by the applicant.

Assessments for Public Improvements

It will not attempt to recover any capital costs of public improvements assisted with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

- a. CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or,
- b. for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause a., above.

Building Standards

It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under the CDBG program to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1R 1971, subject to the exceptions contained in CFR 101-19.604.

It will also comply with the Architectural Barriers Act of 1968 and HUD regulations 24 CFR part 8, "Nondiscrimination Based on Handicap in Federally Assisted Activities of HUD." The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor; and will comply with HUD Cost-Effective Energy Standards, 24 CFR Part 39.

Citizen Participation

It will comply with the detailed Citizen Participation Plan adopted by Commerce for the CDBG program (see pages Q-14 through Q-18, below).

CIVIL RIGHTS, EQUAL OPPORTUNITY, FAIR HOUSING REQUIREMENTS

Civil Rights

It will comply with Title VII of the Civil Rights Act of 1964 (42 U.S.C. d et seq.), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied in the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

Equal Opportunity

It will comply with:

- Section 109 of the Housing and Community Development Act of 1974 as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part

with funds provided under the Act;

- The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.). The act provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance;
- Section 504 of the Rehabilitation Act of 1973, amended (29 U.S.C. 794). The act provides that no otherwise qualified individual shall, solely, by reason of his or her disability, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds;
- Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 170/u) (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in which the project is located, and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the project area. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3; and
- Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a CDBG recipient and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action must include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and subcontractors must post in conspicuous places, available to employees and applicants for employment, notices to be provided setting for the provisions of this nondiscrimination clause. For contracts over \$10,000 the grantee or subcontractors will send to each applicable labor union a notice of the above requirements, the grantee and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The grantee or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.

Fair Housing

It will affirmatively further fair housing and will comply with:

- Title VIII of the Civil Rights Act of 1968 (also known as The Fair Housing Act) (42 U.S.C. 3601 et seq.), as amended by the Fair Housing Amendments Act of 1988 and the regulations issued pursuant thereto. The law states that it is the policy of the United States prohibiting any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, disability, or familial status. CDBG grantees must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and

- Executive Order 11063, as amended by Executive Order 12259, requires CDBG recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

Prohibition Against Discrimination on Basis of Religion

It will comply with section 109(a) of the Housing and Community Development Act that prohibits discrimination on the basis of religion or religious affiliation. No person will be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds on the basis of his or her religion or religious affiliation.

Prohibition Against Excessive Force

It will, if awarded CDBG funds, adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 104(1) of the Housing and Community Development Act, as amended.

ADA Compliance

It will do a self-assessment of impediments to accessibility in compliance with the Americans with Disabilities Act (ADA) of 1990. Grantees are required to find a means of making CDBG program activities and services accessible to persons with disabilities; to review their communities for impediments to disabled citizens; and develop a plan to address those impediments.

CONFLICT OF INTEREST

It will comply with the provisions of 24 CFR 570.611 and with sections 2-2-125, 2-2-201, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

ENVIRONMENTAL REQUIREMENTS

Air Quality

It will comply with the Clean Air Act (42 U.S.C. 7401, et seq.) which prohibits engaging in, supporting in any way or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the state implementation plan for national primary and secondary ambient air quality standards.

Environmental Impact

It will comply with:

- Section 104(f) of the Housing and Community Development Act of 1974, as amended through 1981.

This section expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act be most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purpose of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to Section 104(f) of the Act and contained in 24 CFR Part 58; and

- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58). The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety or other undesirable and unintended consequences. Environmental review procedures are a necessary part of this process. Pursuant to these provisions, the grantee must also submit environmental certifications to the Department of Commerce when requesting that funds be released for the project. The grantee must certify that the proposed project will not significantly impact the environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Its chief executive officer or other officer of the applicant approved by the state:

1. consents to assume the status of responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such federal law apply to the CDBG program; and
2. is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

EPA List of Violating Facilities

It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Department of Commerce of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.

Farmlands Protection

It will comply with the Farmlands Protection Policy Act of 1981 (7 U.S.C. 4202, et seq.) and any applicable regulations (7 CFR Part 658) which established compliance procedures for any federally assisted project which will convert farmlands designated as prime, unique or statewide or locally important, to non-agricultural uses.

Floodplain Management and Wetlands Protection

It will comply with:

- the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood

hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;

- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.). The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplain and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If a grantee proposes to conduct, support or allow an action to be located in the floodplain, the grantee must consider alternatives to avoid adverse effects and incompatible involvement in the floodplains. If siting in a floodplain is the only practical alternative, the grantee must, prior to taking any action: (1) design or modify its actions in order to minimize a potential harm to the floodplain; and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain; and
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.). The intent of this Executive Order is to avoid adverse impacts associated with the destruction or modification of wetlands and direct or indirect support of new construction in wetlands, wherever there is a practical alternative. The grantee must avoid undertaking or providing assistance for new construction located in wetlands unless there is no practical alternative to such construction and the proposed action includes all practical measures to minimize harm to wetlands which may result from such use.

Historic Preservation

It will comply with:

- Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, as amended) through completion of the procedures outlined in 36 CFR 800 and 36 CFR 63. Compliance with these procedures should include:
 1. consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that exist with a proposed CDBG project's area of potential environmental impact, and/or to determine the need for professional archaeological, historical, or architectural inventory of potentially affected properties to determine whether they would qualify for register listing; and
 2. consulting, with the SHPO and THPO, Keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by CDBG work and to determine how to avoid or mitigate adverse effects to significant properties from project work.

Lead-Based Paint

It will comply with current requirements of Title X of the Residential Lead Based Paint Hazard Reduction Act of 1992. Both Commerce and DPHHS provide education and information on LBP hazards to parents, families, healthcare providers, grant recipients, and contractors. Commerce requires that any contractor or subcontractor engaged in renovation, repair and paint activities that disturb lead-based paint in homes, child and care facilities built before 1978 must be certified and follow specific work practices to prevent lead contamination. In addition to complying with Title X, UPCS inspections will be performed at rental

properties assisted with HTF, HOME, Section 8, and other public rental properties throughout the state.

Noise, Facility Siting

It will comply with HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979) which prohibit HUD support for most new construction of noise-sensitive uses is prohibited in general for projects with unacceptable noise exposures is discouraged for projects with normally unacceptable noise exposure. Additionally, projects may not be located near facilities handling materials of an explosive or hazardous nature, or in airport clear zones.

Solid Waste

It will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.). The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

Water Quality

It will comply with:

- the Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349), as amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and
- the Federal Water Pollution Control Act of 1972, as amended, including the Clear Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

Wildlife

It will comply with:

- the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical; and
- the Fish and Wildlife Coordination Act of 1958, as amended, (U.S.C. 661 et seq.) which requires that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

Wild and Scenic Rivers

It will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to

protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism may not be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

FINANCIAL MANAGEMENT

It will comply with the applicable requirements of:

- OMB Circular A-87, "Cost Principles for State and Local Governments," as specified by Commerce;
- HUD "Administrative Requirements for Grant and Operative Agreements to State, Local, and Federally-Recognized Indian Tribal Governments," (24 CFR, Part 85), or any equivalent procedures and requirements that the Montana Department of Commerce may prescribe. The HUD Administrative Requirements are the basis for a number of specific requirements on the financial management and record keeping of CDBG funds. The requirements apply to cash depositories, bonding and insurance, record keeping, program income, property management, procurement, closeout, audit, and other requirements; and
- The Single Audit Act of 1984, as amended by the Single Audit Act of 1996 (the "Single audit Act Amendments") which establishes criteria for determining the scope and content of audits and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", revised June 24, 1997. (OMB Circular A-133.)

It will promptly refund to Commerce any CDBG funds determined by an audit to have been spent in an unauthorized or improper manner or for ineligible activities.

It will give Commerce, the Montana Legislative Auditor, HUD, and the Comptroller General, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

Labor Standards

It will comply with:

- Section 110 of the Housing and Community Development Act of 1975, as amended, 24 CFR 570.605, and State regulations regarding the administration and enforcement of labor standards. Section 110 requires that all laborers and mechanics employed by contractors or subcontractors on construction work assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276-1- 276a-5). By reason of the foregoing requirement the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to rehabilitation of residential property only if such property is designed for residential use for eight or more families;
- Davis-Bacon Act, as amended (40 U.S.C. et seq.), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(c)), popularly known as the Copeland Anti-Kickback Act. The Act mandates that all laborers

and mechanics be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except "permissible" salary deductions, the full amounts due at the time of payments, computed at wage rates not less than those contained in the wage determination issued by the U.S. Department of Labor. Weekly compliance statements and payrolls are required to be submitted to the federally funded recipient by the contractor;

- Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.). According to the Act, no contract work may involve or require laborers or mechanics to work in excess of eight hours in a calendar day, or in excess of 40 hours in a work week, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours. If this Act is violated, the contractor or subcontractor is liable to any affected employee for unpaid damages as well as to the United States for liquidated damages; and
- Federal Fair Labor Standards Act, (29 U.S.C.S. 201 et seq.) The act requires that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed workweek.

Legal Authority

It possesses legal authority to apply for the grant and to execute the proposed project under Montana law and, if selected to receive a CDBG grant, will make all efforts necessary to assure timely and effective implementation of the project activities described in the submitted application.

Lobbying

It certifies that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Political Activity

It will comply with the Hatch Act (5 U.S.C. 1501, et seq.; 5 CFR Part 151) which restricts the political activity of individuals principally employed by a state or local agency in connection with a program financed in whole or in part by federal loans or grants. An affected employee may not be a candidate for public office in a partisan election.

Procurement

Consulting Services will be procured in a manner that provides fair and unbiased, full and open competition, without conflicts of interest.

Signed: _____

Name: _____

Title: _____

Date: _____

DUNS No.: _____

EIN No.: _____

APPENDIX F

Residential Anti-Displacement and Relocation Assistance Plan

This Residential Anti-displacement and Relocation Assistance Plan is prepared by the Montana Department of Commerce (Commerce) and [*Grantee City, Town, Or County*] in accordance with the Housing and Community Development Act of 1974, as amended (the “Act”) and HUD regulations at 24 CFR 42.325 and is applicable to our Community Development Block Grant (CDBG) assisted programs and projects.

Minimize Displacement

Consistent with the goals and objectives of activities assisted under the Act, [*Grantee City, Town, or County*] will implement policies to minimize the direct and indirect displacement of persons (families, individuals, businesses, for-profit organizations, not-for-profit organizations and farms) from their homes and neighborhoods as a result of assisted activities including:

- Encouraging (alternate; mandate) its subrecipient partners to stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
- Assisting its subrecipient partners with locating facilities to house persons who must be relocated temporarily during rehabilitation by offering vacant units in other regulated properties in the immediate area, if any.
- Supporting local efforts to enact tax assessment policies which reduce the impact of potentially increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.
- Where feasible, giving priority to rehabilitation of housing, as opposed to demolition, to avoid displacement.
- Where feasible, allowing for demolition or conversion of only dwelling units that are not occupied or vacant occupiable dwelling units (especially those units which are “lower-income dwelling units” (as defined in 24 CFR 42.305)) or structures that have not been used for residential purposes.
- Targeting only those properties deemed essential to the need or success of the project.
- Acquisition of easements or property related to community and public facility projects.

Relocation Assistance to Displaced Persons

[*Grantee City, Town, Or County*] will provide relocation assistance for eligible beneficiaries (as defined by CDBG regulations) who, in connection with an activity assisted under the CDBG program, move permanently or move personal property from real property as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit. Depending upon their status, a displaced person may qualify assistance under either the Uniform Relocation Assistance and Real Property Acquisitions Act (“URA”) and its implementing regulation at 49 CFR 24 or under Section 104(d) of the Act, including:

1. Advisory Services – A displaced person will be advised of his or her rights under the Fair Housing Act. If a comparable replacement dwelling to be provided to a minority person is located in an area of minority concentration (as may be identified in the Consolidated Plan) the minority person will also be given, if possible, referrals to comparable and suitable decent, safe and sanitary replacement dwellings not located in such areas. (24 CFR 42.350(a))

2. Moving Expenses – Payment for moving expenses at levels described in the URA. (24 CFR 42.350(b))
3. Security Deposits and Credit Checks – The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and for credit checks required to rent or purchase the replacement dwelling unit. (24 CFR 42.350(c))
4. Interim Living Costs – Displaced persons shall be reimbursed for actual, reasonable, out-of-pocket costs incurred in connection with a displacement, including moving expenses and increased housing costs, if (24 CFR 42.350(d)):
 - a) a person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public; or
 - b) a person is displaced from a “lower income dwelling unit”, none of the comparable replacement dwelling units to which the person has been referred qualifies as a lower income dwelling unit and a suitable lower income dwelling unit is scheduled to become available in accordance with the one-for-one replacement rule discussed below.
5. Replacement Housing Assistance – Displaced persons are eligible to receive one of the following two forms of replacement housing assistance [(24 CFR 42.350(e)):
 - a) rental assistance equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of utilities for a replacement dwelling (comparable replacement dwelling or decent, safe, and sanitary replacement dwelling to which the person relocates, whichever costs less) to the "Total Tenant Payment," as determined by 24 CFR 5. (All or a portion of this assistance may be offered through a certificate or voucher for rental assistance, if available, provided under Section 8. If a Section 8 certificate or voucher is provided, the subrecipient partner must provide referrals to comparable replacement dwelling units where the owner is willing to participate in the Section 8 Tenant-Based Assistance Existing Housing Program 24 CFR 982); or
 - b) If a displaced person purchases an interest in a housing cooperative or mutual housing association and occupies a decent, safe, and sanitary dwelling in the cooperative or association, the person may elect to receive a payment equal to the capitalized value of 60 times the amount that is obtained by subtracting the "Total Tenant Payment," as determined under 24 CFR 5, from the monthly rent and estimated average monthly cost of utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings deposits by a federally insured financial institution conducting business within the recipient's jurisdiction. To the extent necessary to minimize hardship to the displaced household, subrecipient partners will, subject to appropriate safeguards, issue a payment in advance of the purchase of the interest in the housing cooperative or mutual housing association.

A displaced person who is not a lower-income tenant will be provided relocation assistance in accordance with the URA. Businesses relocated as a result of assisted activities will also be provided relocation assistance in accordance with the URA.

One-for-One Replacement of Lower-Income Dwelling Units

[Grantee City, Town, Or County] will replace all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a project

assisted with funds provided under the CDBG programs in accordance with 24 CFR 42.375, as follows:

1. To the extent feasible, *[Grantee City, Town, Or County]* will require that replacement units be located within the same neighborhood as the units demolished or converted.
2. *[Grantee City, Town, Or County]* will require that replacement units be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted. The number of occupants who could have been housed in units shall be determined in accordance with applicable local housing occupancy codes. Demolished or converted units may not be replaced with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units).
3. The replacement units must be provided in standard condition. Replacement lower-income dwelling units may include units that have been raised to standard from substandard condition if:
 - a) No person was displaced from the substandard unit; and
 - b) The substandard unit was vacant for at least 3 months before execution of the agreement between the *[Grantee City, Town, Or County]* and the property owner.
4. The replacement units will be required to be designed by *[Grantee City, Town, Or County]* to remain lower-income dwelling units for the minimum number of years required by regulation. Replacement lower-income dwelling units may include, but are not limited to, public housing or existing housing receiving Section 8 project-based assistance.

Replacement Not Required Based on Unit Availability

Under 24 CFR 42.375(d), *[Grantee City, Town, Or County]* may submit a request to Commerce (if the project is funded through the State) for a determination that the one-for-one replacement requirement does not apply based on objective data that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the area. Commerce, upon receipt of such submission, will promptly put notice of the request on its website and inform interested persons that they have 30 days from its posting to comment and provide additional information to Commerce.

Appeals

Any displaced person who disagrees with *[Grantee City, Town, Or County]*'s determination of eligibility for benefits or the amount of relocation assistance for which the person is eligible may file a written appeal to *[Grantee City, Town, Or County]*. Appeals may be directed to *[Grantee City, Town, Or County]*, *[Mailing Address]* AND *[Phone Number]*. Further appeal, in writing, may be submitted to the Montana Department of Commerce, Community Development Division, PO Box 200523, Helena, MT 59620-0523.

Contacts

[Grantee City, Town, Or County] is responsible for tracking the replacement of lower-income dwelling units and ensuring that they are provided within the required period. The *[Grantee City, Town, Or County]* and/or a partner organization monitors this tracking throughout the development process.

[Grantee City, Town, Or County] is responsible for providing relocation payments and other relocation assistance to any lower-income person displaced by the demolition of any dwelling unit or the conversion of lower-income dwelling units to another use. *[Grantee City, Town, Or County]* will monitor the payment of relocation assistance throughout the development process.

APPENDIX G

Preliminary Project Management Plan

The *(City, Town or County)* of ___ is an incorporated *(city, town or county)* with a *(Mayor-Council or other)* form of government. The following persons will have lead responsibility for administering the *(city, town or county)*'s Community Development Block Grant (CDBG) grant.

(Chief Elected Official), as the *(city, town or county)*'s chief elected official will have responsibility for all official contacts with the Montana Department of Commerce (Commerce) and ultimate authority and responsibility for the management of project activities and expenditure of CDBG funds.

The *(city, town or county)*'s chief financial officer, will be designated as the *Financial Officer* and will be responsible for management of, and record keeping for, the CDBG funds involved in the financing of project activities.

The *(city, town or county, engineer, architect, grant administrator or other)*, will be designated as *Project Manager* and be responsible for overall project management and reporting and for assuring compliance with applicable requirements.

The *(city, town or county)* Attorney, as the *(city, town or county)*'s legal counsel, will provide legal guidance as requested and help determine the lowest responsible, responsive bidder.

The Project Architect/Engineer will be responsible for construction-related activities including preparation of preliminary studies and designs, final design plans and specifications, as well as construction inspection.

A. The ***Project Manager*** will be responsible for:

1. Familiarity with the current *Grant Administration Manual* and its requirements and for assuring compliance with the CDBG contract and with CDBG policies for project activities and administration.
2. Preparing any additional environmental review to assure full compliance with the National and Montana Environmental Policy Acts, including meeting any applicable environmental requirements and documenting any mitigating actions or additional consultation is completed pursuant to the findings of the environmental review.
3. Documenting compliance with applicable civil rights requirements.
4. Assisting the *(city, town or county)* with all requirements related to effective project start-up and maintaining compliance with the implementation schedule attached to the contract.
5. Assisting the *(city, town or county)* with procuring professional services and/or a general contractor.
6. Monitoring and enforcing compliance with labor standards requirements.
7. Documenting compliance with URA requirements, as applicable.
8. Documenting compliance with all applicable underwriting and lending requirements, including but not limited to the Truth in Lending Act and Real Estate Settlement Procedures Act.

9. Documenting compliance with the period of affordability requirements, including but not limited to the recapture requirements.

10. Preparing all required performance reports and closeout documents.

B. The **Project Architect/Engineer** will be responsible for:

1. Designing architectural and/or engineering plans necessary for successful completion.
2. Preparation of the construction bid package in conformance with applicable CDBG requirements.
3. Overseeing construction bidding and award process, including the preparation of the advertisements for bid solicitation, the bid opening, and helping to determine the lowest responsible, responsive bidder in coordination with the *(city, town or county)*'s legal counsel.
4. Conducting the pre-construction conference.
5. Supervision of the construction work and preparation of inspection reports.
6. Reviewing and approving all requests from contractors for payment and submitting the approved requests to the Project Manager.

C. The **Financial Officer** will be responsible for:

1. Establishing the non-interest bearing CDBG bank account and making CDBG-eligible payments to vendors on behalf of the *(city, town or county)*, based on claims and supporting documents. Ensuring balances in that account will not exceed \$5,000 for a period of three days, to comply with CDBG requirements.
2. Disbursing funds in accordance with the *(city, town or county)*'s established procedures for reviewing claims.
3. Entering all project activity transactions into the *(city, town or county)*'s existing accounting system, and preparing checks/warrants for approved expenditures.
4. Ensuring all Requests for Reimbursement are signed by authorized representatives.
5. Ensuring no expenditures will be made without proper *(city, town or county)* approval.

APPENDIX H

Recapture Provisions

The state will use recapture provisions for the Montana CDBG program for all CDBG ~~Small-scale Single-Family Housing Rehabilitation projects~~[Housing Stabilization Programs](#). State recipients and sub-recipients are eligible entities (entities) to carry out eligible activities and must use the recapture provisions. The CDBG subsidy can be structured through zero-interest or low interest loans, deferred payment loans, or interest rate subsidies.

Recapture Requirements

Commerce expects that all activities will include direct assistance to LMI beneficiaries or result in affordable housing made available to LMI households. Therefore, recapture provisions will be used. Any of the entities who have elected to provide financial assistance under this program are required to specify their recapture provisions as applicable to the period of affordability. Written agreements for CDBG assistance activities funded by Commerce will include the recapture provisions to ensure the period of affordability, principal residency requirements, and any other recapture terms and conditions.

During grant monitoring of the CDBG program entities, the state will review the deed restrictions, trust indenture, covenants running with the land, mortgages, or other similar mechanisms placed on the CDBG-assisted property to ensure the provisions being used are in accordance with those stated in the written agreement with the entities.

During the period of affordability, the entities must complete an annual compliance check to ensure that the initial homebuyer still resides in the property as their principal residence. The most current utility statement, proof of paid taxes, or certificate of homeowner's insurance are acceptable documentation.

Noncompliance occurs when the owner does not comply with the terms and conditions of the written agreement during the period of affordability, which includes when the homeowner does not occupy the unit as their principal residence, when the home is voluntarily or involuntarily sold or a transaction changing ownership has occurred without notice and the recapture provisions were not enforced, or when the housing unit is not rented to qualified LMI households. In the event of noncompliance, the beneficiary is subject to repayment of all CDBG assistance invested in the housing unit. This is based on the amount of direct subsidy invested in the property (direct subsidy includes any program income or direct CDBG funds invested). The repayment amount is not subject to any reductions that might be otherwise apply under the recapture provisions listed in this document.

Required Recapture Provisions

During the period of affordability, Commerce must be notified of a voluntary or involuntary sale or transaction changing ownership, and the applicable recapture provisions must be carried out. Recapture provisions must ensure that the entity recoups all or a portion of the CDBG assistance to the beneficiary when a voluntary or involuntary sale or transaction changing ownership occurs during the period of affordability (see Period of Affordability Table). The CDBG investment subject to recapture is based on the amount of CDBG assistance that enabled the beneficiary to buy the dwelling unit. The CDBG funds subject to recapture include any direct subsidy and may include down payment assistance, closing costs, the amount reducing the purchase price from fair market value to an affordable price, rehabilitation, new construction, or any other CDBG assistance provided directly to the beneficiary. The recaptured funds must

be used to carry out CDBG -eligible activities.

The recapture provisions must be established and enforced through a written agreement as well as deed restrictions, trust indenture, covenants running with the land, mortgages, or other similar enforcement mechanisms. Commerce or any entity will specify which enforcement mechanism it will use. In addition, a written agreement with each beneficiary will be executed and will specify the affordability requirements to enable Commerce to retain the authority to enforce them.

Low- to Moderate-Income Household Residency

The beneficiary must reside in the home as his/her principal residence for the duration of the period of affordability (see Period of Affordability Table) or the residence must be rented to qualified LMI households for the duration of the period of affordability.

Triggering Recapture

If an owner voluntarily or involuntarily transfers his or her property (e.g., through sale or foreclosure) during the period of affordability, or if the unit is not rented to a qualified LMI household the recapture provisions will go into effect.

Direct CDBG Subsidy/Amount Subject to Recapture

The amount subject to recapture is the direct CDBG subsidy. The direct CDBG subsidy is the total amount of CDBG assistance. This amount includes assistance for: down payment assistance, closing costs, the amount reducing the purchase price from fair market value to an affordable price, rehabilitation, new construction, or any other CDBG assistance provided directly to the beneficiary. Commerce has adopted the following provisions for recapture that are outlined in the CDBG regulations and in CPD notice 12-003:

- a. Recapture of the entire direct CDBG subsidy; and
- b. Owner investment is returned first.

Commerce may also adopt recapture provisions that differ from the model provisions in the CDBG regulations. The particular recapture provision adopted (whether one of the models or an alternate approach) requires an amendment to the Annual Action Plan and with specific HUD approval.

Commerce or an entity can never recapture more than the amount of available net proceeds upon voluntary or involuntary sale or transaction changing ownership, unless noncompliance has occurred. Net proceeds is defined as the sale price of the home minus the superior loan repayment (not including CDBG loans) and any closing costs. If the amount to be recaptured is more than the net proceeds (i.e., foreclosure or declining housing markets) the seller would be required to repay the balance of the net proceeds, which could be less than the original CDBG direct subsidy.

Recapture of the Entire Direct CDBG Subsidy

The following are the conditions under which Commerce will enforce the use of recapture of the Entire Direct CDBG Subsidy as a recapture provision. In this recapture provision, Commerce or the entity recaptures the entire amount of CDBG subsidy provided to the beneficiary before the household receives

proceeds from the sale of the property. This recapture is limited to the net proceeds available from the voluntary or involuntary sale or transaction changing ownership during the period of affordability or the total amount of CDBG assistance in the event the property is not rented by qualified LMI households.

This recapture provision will be enforced upon a triggering event that occurs during the period of affordability years zero through 9, as applicable to the Period of Affordability Table. Enforcement of the recapture provision that occurs during the period of affordability year 10 through year 15 (see Period of Affordability Table) will follow the recapture provision: Owner Investment is Returned First. If the period of affordability is less than 10 years, recapture of the entire direct CDBG subsidy will only be used, no other recapture provision will be permitted. This will be enforced through the written agreement with the household.

As an example, if the assisted unit received \$12,000 in CDBG assistance and the unit is voluntarily or involuntarily sold or a transaction changing ownership has occurred during year 4, the entire direct CDBG subsidy (\$12,000) would need to be repaid according to the net proceeds calculation. If the assisted unit received \$42,000 in CDBG assistance and the unit is voluntarily or involuntarily sold or a transaction changing ownership has occurred during year 11, the Entire Direct Subsidy recapture provision would not be triggered, rather the Owner Investment Returned First recapture provision would be triggered.

Owner Investment Returned First

The following are the conditions under which Commerce will enforce the use of Owner Investment Returned First as a recapture provision. In this recapture provision, Commerce or the entity recaptures all or a portion of the CDBG subsidy provided to the beneficiary but allows the beneficiary to recover their entire investment (down payment and capital improvements made by the owner since the purchase) before recapturing the CDBG investment. This recapture includes the net proceeds available from the voluntary or involuntary sale or transaction changing ownership, or the total amount of CDBG assistance in the event the property is not rented by qualified LMI households, during the period of affordability. However, if net proceeds are insufficient, the homebuyer may not receive their entire investment back, and Commerce or the entity may not be able to recapture the full amount due from the net proceeds available.

Eligible capital improvements include permanent property improvements that improve or enhance the basic livability or utility of the property but are not normal or recurring maintenance items. The value of capital improvements will be based on the actual costs of the improvements as documented by the homeowner's receipts.

This recapture provision will be enforced in the event of a voluntary or involuntary sale or transaction changing ownership, or the total amount of CDBG assistance in the event the property is not rented by qualified LMI households, that occurs during the period of affordability years 10 through the minimum years (see Period of Affordability Table) to include owner investment returned first. This will be enforced through the written agreement with the household.

As an example, if the assisted unit received \$40,000 and the unit is voluntarily or involuntarily sold or a transaction changing ownership has occurred during year 10, the homebuyer's investment would be calculated based on the documented capital improvements made during the period of affordability and any investment made during the original sale. This amount would be deducted from the amount to be repaid according to the net proceeds calculation that would be paid to homeowner and Commerce or the

entity.

Period of Affordability

The recapture provisions are in effect for a period of affordability. This period is based on the amount of direct CDBG subsidy to the buyer, as follows:

CDBG Assistance to Beneficiary	Period of Affordability
Less than \$15,000	5 years
\$15,000 - \$40,000	10 years
More than \$40,000	15 years
Newly constructed rental	20 years