

Community Facilities Fall 2016 RFP

Request for Proposals (RFP) for
Community Development Block Grant Funds (CDBG)
for Community Facility Projects

Issue Date: September 28, 2016
Closing Date: 11:59 PM, November 30, 2016

I. Introduction

The D.C. Department of Housing and Community Development (DHCD) seeks impactful proposals from nonprofit organizations to produce, expand, or enhance community facilities, which may include service-oriented facilities (i.e., housing counseling centers, small business technical assistance centers), urban agriculture, facilities targeted to special needs populations (i.e., day care centers, senior centers), and maker spaces designed to promote the creative economy. With this Request for Proposals (RFP), DHCD has made \$3.6 million available from the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) Program.

While federal regulations broadly define community facilities, for the purpose of this RFP, DHCD will not consider proposals for the following types of facilities: parking lots or garages; prisons or detention centers; police or fire stations; homeless shelters or group homes for special needs populations; public art or other aesthetic amenities; projects that focus only on sewer and water facilities, streets and sidewalk improvements, curbs and gutter improvements, and utility line installation.

Successful applications will demonstrate that the project will:

- Result in the creation of :
 - a new facility,
 - the renovation of an existing facility that expands services to a wider range of the District's demographics;
 - retrofits that eliminate health and safety problems, OR
 - removal of material and architectural barriers that restrict the mobility and accessibility of the elderly or persons with disabilities who use a wheelchair or other walking assistive devices or the project leads to an expansion of services to these groups;
- Provide targeted direct services and programs to predominately low- and moderate-income persons or in low- and moderate-income areas for which there is documented need;
- Does not duplicate existing or planned municipal public facility activities within the project service area;
- Has financial and economic feasibility, reasonable construction and acquisition cost estimates, and long-term viability for a minimum of 10- years; and
- Has appropriate site selection and design characteristics.

Preference points will be offered to projects that demonstrate one or more of the following criteria:

- Longer operational viability greater than the minimum 10 years;
- Use of rigorous green building techniques;
- Projects which promote equal opportunity for all residents and provide a community amenity in underserved neighborhoods;
- Preference for projects using District Land; and

- Greater Non-DHCD funding leverage.

Financing Terms:

- Awards not less than \$500,000 and up to \$3.6 million;
- Total funding allotted depends upon the number of eligible projects as well as project financials, therefore, applicants may not receive the full loan amount requested;
- Loan terms: 10-year term, 0% interest, loan repayment reduced by 10% each year; and
- DHCD loan cannot exceed 50% of total development costs

All prospective applicants are strongly encouraged to read this document in its entirety prior to beginning an application. The requirements contained in this RFP represent have a number of substantive changes from past practices. Please read this entire document carefully.

II. Who Should Apply

DHCD will only consider eligible development proposals from nonprofit organizations. Specific requirements for development team members and required application components are located in the Selection Criteria section. Applicants should represent a development team that includes a developer, architect, attorney general contractor, operations manager, services provider (for projects providing direct, targeted services to households, businesses, or organizations), lenders and investors, and any other team members necessary to finance, construct, and operate the development.

Together, the team must have the experience, financial and technical capacity to deliver a project that meets all of DHCD's eligibility requirements while remaining operational and compliant for the life of the project.

Applicants may be based within or outside the District of Columbia. District and Federal requirements regarding partnerships with District-based enterprises and hiring District residents are outlined in the Selection Criteria and the Compliance & Monitoring Requirements sections of this document.

Applicants may submit development proposals for more than one project in the same funding round. The applicant must successfully demonstrate their project team's capacity for more than one project.

Projects must be far enough along in the pre-development process to meet all Threshold Eligibility Requirements. Failing to meet even a single Threshold Eligibility Requirement will result in disqualification and the application will not be scored for further evaluation. Applicants who know that a project will not pass Threshold are encouraged to further develop the application's proposals prior to applying for funding.

III. How to Apply

All proposals in response to this RFP must be created and submitted in DHCD's online submission system, located at the following web address: <https://goo.gl/DvyJ6R>. The system will be available by October 10, 2016.

Applications are due by 11:59 PM on November 30, 2016.

Applicants should visit the website as soon as possible, to register as users and become familiar with the electronic system. Detailed instructions on how to create, build, and submit applications are provided on the website.

The central component of the application is a multi-tab spreadsheet provided by DHCD (available within the Online Application System, linked above). Applicants will use this workbook to present details of their proposal, such as their development budget, operating pro-forma, tax credit calculations (if applicable), and floor plan information.

Additionally, applicants will be required to upload an extensive list of documents, some provided by DHCD and filled out by the applicant (such as the Form of Contract Affidavit for every team member), and others obtained directly by the applicant (such as the appraisal and Phase I environmental site assessment).

In order to submit a responsive, fully competitive proposal and maximize the scoring potential of the application, all application filing requirements must be closely followed and all information requested in the application must be responded to completely.

In the past, applicants have submitted project binders and compact discs. However, hard copy applications, binders and/or CDs, will not be accepted in lieu of an online application submission.

IV. Review Process and Timeline

The project review process has four phases and takes approximately 9-months to complete, as summarized in the table below. This timeline assumes no unforeseen delays.

Project Review Timeline

	<i>DATE</i>	<i>MILESTONE</i>	<i>REVIEW PHASE</i>
2016	September 28	RFP Released	
	November 30 (11:59 PM)	Proposals Due to DHCD	
	December 30	Threshold review results announced	I. Threshold Review
2017	February 30	Project selection results announced	II. Scoring
	May-June	Letters of Commitment/ Reservation Letters issued	III. Underwriting
	August-September	Closing	IV. Pre-Closing Due Diligence

A. Threshold Review

Once the application window is closed, DHCD will conduct a threshold review to determine whether or not applications conform to the Threshold Eligibility Requirements outlined in Section V of the RFP. *Applications must meet every single requirement* or they will be deemed ineligible and will not be reviewed further. Applicants whose proposals do not meet threshold will be promptly notified so that they can work to address the deficiencies and reapply through the next RFP. Applications that pass threshold will be advanced to the Scoring phase.

Milestone: Threshold Review results announced

Estimated Date: December 30, 2016

B. Scoring

Applications that meet all Threshold Eligibility Requirements will be scored against the Underwriting Scoring Criteria outlined in Section V of the RFP. Projects meeting the minimum

Underwriting Scoring Standards will also be scored against the Prioritization Scoring Criteria.

Applications and scores will be forwarded to an Inter-agency Review Panel of government partners for review and prioritization. Projects which the Panel finds: (a) meet the eligibility requirements, (b) meet the minimum Underwriting Scoring Standards, and (c) score competitively compared with other proposed projects of similar type, will be recommended to DHCD for funding. The Director of DHCD will conduct the final review of applications and will select projects for further underwriting.

DHCD anticipates issuing selection letters in Mid-February 2017. The selection letter is not a firm commitment and will not outline terms and conditions. Selected projects will be advanced to the Underwriting phase, where terms and conditions will be developed.

Milestone: Projects selected for further underwriting

Estimated Date: February 30, 2017

C. Underwriting

Project underwriting will begin with DHCD convening a kick-off meeting between its Development Finance Division (DFD) project manager and the applicant. The purpose of the kick-off meeting is to review the project status as it advances to underwriting, and to gain a common understanding of the requirements, terms and questions for further review of the application.

DHCD will conduct due diligence, environmental and other regulatory reviews, review other proposed and committed sources of financing and operating subsidy, and otherwise verify representations made in the application. DHCD underwriters will establish tentative underwriting terms including (where applicable) loan amounts, loan terms, interest rates, security and collateral requirements, and other applicable covenants. Site visits will be scheduled with each applicant to visit the proposed project site, and, if available, the site of another project that the developer has already completed or on which construction has commenced.

Projects that pass the initial underwriting phase will be submitted to DHCD's Office of Program Monitoring (OPM) for thorough review against all program compliance criteria. DHCD project managers will finalize loan proposals and present loan packages to an internal Loan Review Committee, which has the authority to approve grants or request additional information or clarification. Projects that are approved by the Loan Committee will be invited to execute a Letter of Commitment that finalizes the loan terms, subject to a set of conditions precedent to closing.

Milestone: Letter of Commitment executed

Estimated Date Range: May – June, 2017

D. Pre-Closing Due Diligence

Once a Letter of Commitment has been executed, a set of final pre-closing steps occur. For example, DHCD attorneys draft grant documents for the project and share it with the awardees for review, and developers must secure final funding commitments from all funding sources and obtain final building permits. Once all of these pieces are in place, the project will proceed to closing.

Milestone: Closing

Estimated Date Range: February-May, 2017

E. Closing

After closing, DHCD will hold a pre-construction meeting and issue a Notice to Proceed. DHCD will continue to monitor the project during construction, at lease-up or sale, and for the entire compliance period and loan terms.

F. Anti-Deficiency

The obligation of the District to fulfill financial obligations of any kind pursuant to any and all provisions of the conditional commitments or other agreements entered into at any point on this timeline are and will remain subject to the provisions of: (i) the Federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351; (ii) D.C. Official Code § 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) §446 of the District of Columbia Home Rule Act.

V. Selection Criteria

All project proposals will be reviewed against a combination of Threshold Eligibility Requirements and Scoring Criteria based upon CDBG requirements and Department of Housing and Community Development (DHCD) goals. Failure to meet any of the Threshold Eligibility Requirements will result in disqualification. Projects that comply with all the threshold requirements will next undergo Underwriting Scoring. All selection criteria are described below.

The Online Application System will prompt applicants to submit documentation in response to all requirements and scoring criteria, and further details and instructions about each element are available once an online application has begun.

A. Threshold Eligibility Requirements

Applicants must submit documentation that fully demonstrates their compliance with each Threshold Eligibility Requirement outlined below. The Online Application System will prompt applicants to submit documentation in response to all requirements and scoring criteria about their proposals and upload the required documentation. Failure to meet the eligibility requirements, or to document eligibility, will result in elimination of the application from funding consideration without further review.

1. Eligible Project Type and Activity

CDBG funds may be used to develop neighborhood-serving community facilities that are open to the general public and comply with § 570.201 (c) of Title 24 of the Code of Federal Regulations (CFR). The U.S. HUD CDBG regulations broadly define community facilities. For this RFP, however, *DHCD will only consider projects where existing or planned municipal public facility activities are not duplicated in the project service area.* Projects that provide direct and targeted services and/or programs for which there is documented need and demand by predominantly low- and moderate-income persons or low- and moderate-income areas, have high priority. Generic “community centers” such as facilities which offer recreation and general meeting space are a low priority. These projects will need to provide strong justification, supported by a market analysis, demonstrating that the facility satisfies an unmet need in the community.

Examples of eligible high priority project types include but are not limited to:

- Direct service-oriented facilities (i.e. job training sites, housing counseling centers);
- Urban agriculture;
- Facilities targeted to special needs populations (i.e. senior centers, daycare centers); and
- Business incubators designed to foster small and local business development.

Examples of eligible activities include but are not limited to:

- Land acquisition,
- New construction, or
- Rehabilitation that leads to a new facility;
- Renovation of an existing facility that demonstrates expansion of service to a broader community base;
- Retrofits that would eliminate health and safety problems (e.g., lead, asbestos, mold abatement, or removal of material and architectural barriers that restrict the mobility and accessibility to public facilities of elderly or persons with mobility disabilities); or
- Retrofits that lead to an expansion of services to additional populations (e.g., installation of barrier-free features to expand services to persons with limited mobility).

DHCD *will not* consider the following project types eligible under the CDBG program for this funding cycle:

- Parking Lots or Garages;
- Prisons/Detention Centers;
- Police or Fire Stations;
- Homeless shelters or group homes for special needs populations;
- Projects that only focus on sewer and water facilities, streets and sidewalk improvements, curbs and gutter improvements, and utility line installation; and
- Public art or other aesthetic amenities.

2. Low-Income Benefit/HUD National Objective

Pursuant to CFR § 570.208, all CDBG-funded activities must meet one or more of the following HUD National Objectives: (1) benefit low- and moderate-income persons, (2) aid in the prevention of slums and/or blight, and (3) meet community needs having a particular urgency (i.e. addressing damage as it relates to a natural disaster). Eligible projects *must* benefit low- and moderate-income persons. Under this objective, public facility projects may satisfy this requirement by:

1. Benefitting all residents of an area where at least 51% of the residents earn less than 80% of the area median income. The area does not need to have coterminous boundaries, but must be the service area for the activities within the proposed facility project. CDBG-eligible census tracts are denoted in Figure 1. DHCD will verify that the project address is located within a CDBG-eligible census tract. OR
2. Benefitting a specific targeted group of persons, of which at least 51% must be low- and moderate-income. Applicant must provide documentation and data concerning

itemized beneficiary household size and income or limit the services they provide to households earning less than 80% of the area median income.

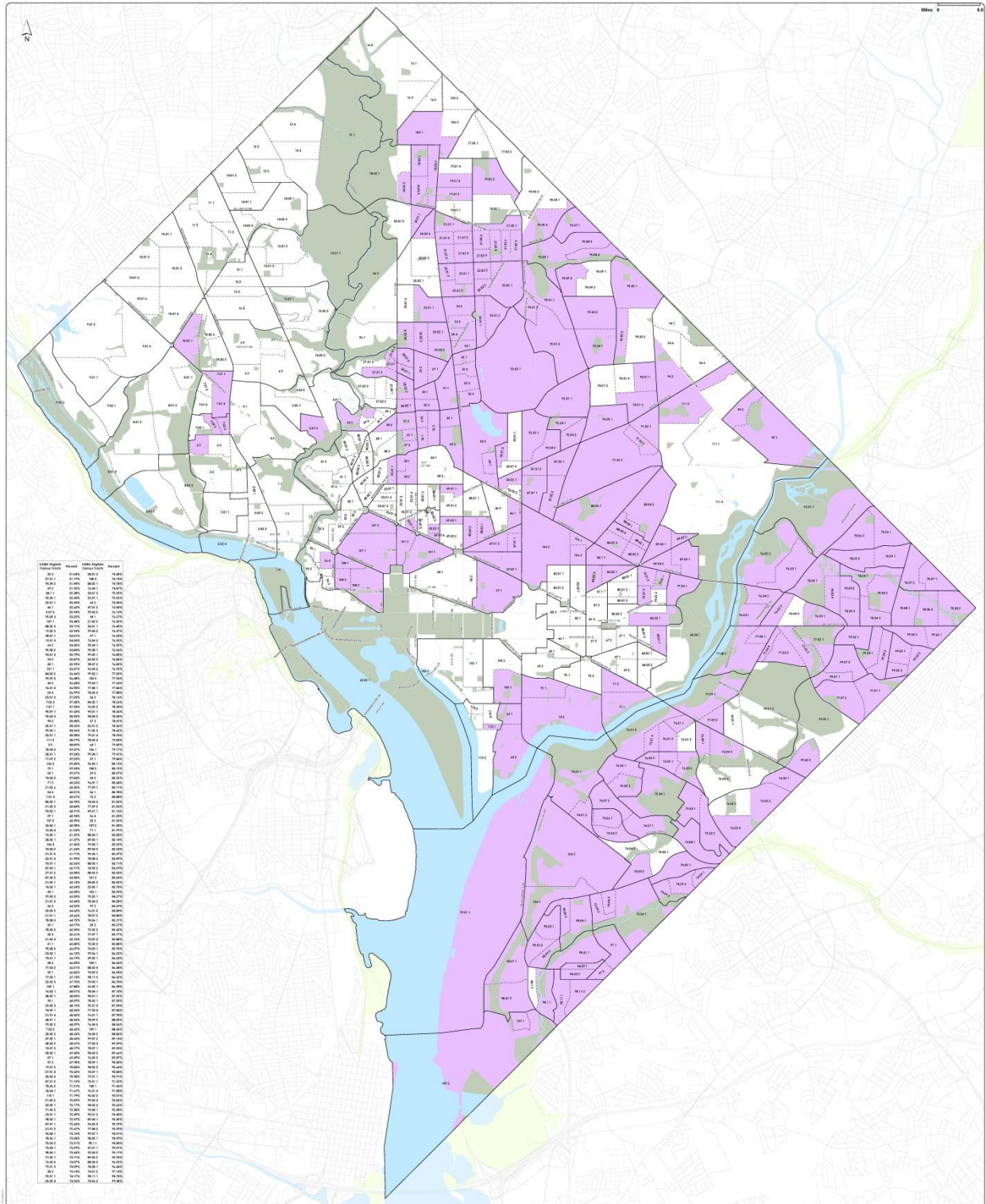


Figure 1. Eligible Census Tracts for the Community Development Block Grant Program

3. Nonprofit Participation

Funds will only be awarded to nonprofit organizations. Applicants must provide official documentation of nonprofit status, such as the organization's IRS determination letter. Joint venture and/or tax credit projects are eligible; however, the nonprofit organization must own the facility and the loan agreement shall be with the nonprofit entity.

4. Site Control

Applicants must have control of the site proposed for development. This may be in the form of a current deed evidencing fee simple ownership, a lease option (lease term must be equal or greater than the proposed financing term), property disposition agreement (LDA or PDA) with the District of Columbia, or a contract of sale. At the time of application, site control *must* extend for at least 180-days beyond the date of the application submission or be demonstrably renewable so site control can extend to the 180-day period.

5. Zoning

The applicant must demonstrate that the proposed project is a matter of right, or that approval from the Board of Zoning Adjustment has been obtained for any Variances and/or Special Exceptions. If the proposed project requires a more substantial zoning decision, such as approval of a Planned Unit Development (PUD), final approval of the PUD (or other applicable case) is required prior to application submission.

If the project is in a Historic District or requires approval from the Historic Preservation Review Board (HPRB) for any other reason, HPRB approval of the conceptual design is required prior to application submission.

6. Development and Operating Budgets

The financial component of this application will be submitted using a multi-tab development and operating spreadsheet that will be provided by DHCD (available within the Online Application System). Applicants will use this workbook to present the details of their proposal such as the development budget and operating pro forma. Construction work that is financed in whole or in part with CDBG funds must adhere to the Davis Bacon Act and incorporate prevailing wage rates into the development budget.

Applicants must demonstrate that they have pursued and secured all other feasible funding sources prior to applying for DHCD funds. This includes private debt and equity, as well as other below-market sources, such as tax-exempt bond financing. The applicant will provide letters of interest with terms and conditions substantiating the information in the Form 202 in order to demonstrate that they have aggressively pursued non-DHCD funding.

7. Project Timeline and Draw Schedule

Applicants must provide a project timeline made up of major milestones from start to finish and corresponding completion dates (i.e., construction start date, construction completion, and certificate of occupancy). Milestones will differ depending upon the project type proposed. Applicant should also include a proposed draw schedule that details a proposed payment schedule.

8. Appraisal

Applicants must submit two valuations, which can be submitted together in a single report or as separate reports. A licensed Appraiser must provide the following values:

- (1) The “as-is” value
- (2) The “as-built” or “as-complete” value

The “as is” appraisal must provide a value of the land and improvements in their current state. The “as built” appraisals must contain post-construction estimates of value (based on the project concept as proposed to DHCD).

Appraisals must be dated no earlier than 6-months prior to the applications deadline. For selected projects, the appraisals must not be more than 1-year old at the time they are submitted to DHCD’s Office of Program Monitoring (OPM) for compliance review, so an update may be required at that point. For all projects, appraisals (or the most recent update) must be no more than 120-days old at the time of closing. Any updated reports or studies requested by DHCD post-selection must be procured and returned promptly, and applicants should budget for these costs now.

9. Market Study

Applicants must submit a neighborhood/service-area assessment either based upon their own extensive data collection or by a third party market research firm. The market study must be dated no earlier than 6-months prior to the application deadline. Assessments should demonstrate demand for the type of service provided as part of the proposed project, and at a minimum, provide the following components:

- Description of geographic boundaries of the neighborhood or community to be served by the project (service area), including if the service area extends city-wide or beyond the District of Columbia;
- The availability of proposed services within the service area;
- Existing and proposed municipal facilities that provide similar services to the applicant’s project. Proposed facilities are outlined in the city’s Capital Improvements Plan (CIP); and

- Description of the unaddressed need within the service area supported by socio-economic data, which may include local data, federal data, or community survey results.

To achieve this threshold criterion, applicants must demonstrate that no similar existing or planned municipal facility is located or will be located within a reasonable radius from the proposed service area. The radius will be evaluated on a case-by-case basis depending on the services offered at the facility. The 6-year CIP (FY2017 – FY2022) can be reviewed at:

http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DCOCFO_FY17_Budget_vol5.pdf.

10. Phase 1 Environmental Site Assessment

Applicants must include a completed Phase I Environmental Site Assessment, dated no earlier than 6-months prior to the application deadline. If the property contains existing improvements, the scope of the Phase I Assessment must include the identification of possible asbestos containing materials and the identification of potential mold hazards (destructive testing not required). If the property includes an existing structure that will not be deemed exempt due to age or usage, applicants must also submit a lead assessment. For selected projects, the Phase I must not be more than 1-year old at the time it is submitted to OPM for compliance review, so an update may be required at that point. Any updated reports or studies requested by DHCD after an applicant's selection must be procured and returned promptly, and applicants should budget for these costs.

If the Phase I identifies any potential environmental hazards, applicants must include a narrative plan to address the issues and a budget for remediation. If a Phase II Assessment or a Comprehensive Site Assessment has been completed, that document should also be provided.

11. Architectural Plans and Cost Estimates

Applications must submit final design schematic documents that reflect the general intent of the project and generally delineate the proposed project scope and contain the following:

- Final Schematic architectural plans and materials specifications sufficient to create a detailed cost estimate.
- Clear architectural drawings of all mobility/hearing accessible areas as per DC code and federal accessibility laws and regulations.
- Complete Form 215 detailed estimates of costs based on “take-offs” from those plans, completed and signed by a qualified professional such as an architect, general contractor, engineer or professional construction cost estimator. “Rule of Thumb”

square foot costs or other non-detailed cost estimates are not acceptable, and a Form 215 completed and signed by the developer will not be accepted.

For projects that involve the rehabilitation of existing buildings, applicants must also provide a Building Evaluation Report, which is a preliminary engineering assessment of the buildings. When rehabilitating properties, developers may encounter unforeseen issues that can delay, increase the cost of, or even halt rehabilitation. To get a clearer picture of building needs, DHCD requires that an engineer or other qualified professional complete an assessment of the property. A Capital Needs Assessment or a Physical Conditions Needs Assessment will satisfy the Building Evaluation Report requirement.

12. Green Design and Building

In accordance with The Green Building Act of 2006, publicly financed projects must meet the following standards relative to green design and building. This applies to all projects for which public financing constitutes 15% or more of total project costs. Per DHCD requirements, all projects must implement the following green building requirements for new construction, substantial rehabilitation or moderate rehabilitation.

Residential Projects with a Non-Residential Component: Projects of 10,000 square feet or more must be certified by Enterprise Community Partners using the 2015 Enterprise Green Communities Criteria (GCC). Projects may also pursue a “substantially similar standard.” Currently, certification with the U.S. Green Building Council using LEED for Homes and LEED for Homes Multifamily Midrise rating systems at the silver level or above are pre-approved “substantially similar standards.” If a project team would like to use another standard, it must be pre-approved by the D.C. Department of Consumer and Regulatory Affairs’ (DCRA) Green Building Division prior to submission.

For projects pursuing Green Communities Criteria certification, project teams must hold a Goal Setting and Integrated Design Charrette prior to application to consider the most cost effective ways to integrate required green design elements. The findings of this charrette must be documented and submitted along with confirmation of Enterprise Green Communities Criteria registration on the online certification portal and an intended methods checklist. As a condition precedent to loan closing project teams must submit proof of 2015 Enterprise Green Communities Step 1 Pre-Build certification. Once construction is complete, projects must demonstrate that they have achieved certification.

Non-Residential Projects: Non-residential projects must be certified by the U.S. Green Building Council at the LEED silver level or above using the current version of the LEED rating system. Applicants must consult with DCRA’s Green Building Division prior to submission to determine the correct LEED rating system. At the time of submission, upon consultation with the team’s design professionals, the appropriate completed LEED checklist must be submitted, demonstrating compliance with all

prerequisites and sufficient points to achieve LEED silver and above. Please note that submission of evidence of an integrated design charrette is not mandatory for LEED projects, but is strongly recommended by DHCD. If selected for financing, as a condition precedent to loan closing, project teams must be registered with LEED Online and add the D.C. Government account to the LEED online project team. Once construction is complete, projects must demonstrate that they have achieved the appropriate certification.

13. Development Team Thresholds

The applicant must have the development team in place and provide complete information and documentation on its members. At a minimum, the following team members must be identified:

- Owner (including all parties involved in the partnership)
- Developer
- Development Consultants (if applicable)
- Architect
- General Contractor
- Construction Manager (if applicable)
- Service provider (if applicable)
- Operations Manager

Applicants may indicate that they have not yet selected a General Contractor or an Operations Manager, though doing so will reduce their score in the Development Team Capacity and Experience section of the Scoring Criteria.

There is an extensive series of forms and attachments that must be completed and submitted for each member of the development team, including corporate documents, qualifications, resumes, references, organizational charts, workload descriptions, AIA documents, and financial statements.

Core development team members will be required to submit a Clean Hands Certificate and a Certificate of Good Standing, and as well a Dun & Bradstreet “Business Information Report” to demonstrate creditworthiness.

All development team members must sign and submit a Contract Affidavit certifying that they are not debarred from participation in any federal program nor have any unresolved default or noncompliance issues with the District of Columbia.

No member of the development team acting as sponsor, developer, guarantor, or owner may have been debarred, had chronic past due accounts, substantial liens or judgments, chronic building code violations, or consistently failed to provide information to DHCD about other loan applications or existing developments within the past 5-years.

14. Facility Operations Plan

The maintenance and repair of facilities and general day-to-day operating costs are *ineligible* expenses under the CDBG program. Any public facility funded must remain operational in the same capacity as funded for a minimum of 10-years; however, the District will give preference points to projects that can substantiate longer-term viability. Applicants will need to submit a Facility Operations Plan that details how the project will, without DHCD assistance, initiate and sustain proposed operations at the facility. In addition to the Financing Application, the applicant is required to submit a narrative that describes general operating needs, who will operate and manage the facility, who will own the facility post-development, how will needed staff be recruited and put in place to run the facility, including a list of staffing needs, and how the services will continue as a viable operation in the future. The plan must also identify how many households, businesses, organizations, or individuals the proposed activities within the facility intends on serving as well as other important measures of success. Metrics are dependent upon the nature of the proposed activity.

Existing facility projects seeking funds for expansion or retrofits will need to describe the current operational status of the project, including the current debt structure, any operating subsidies currently available to the project, current service capacity, and project financials. The applicant must provide audited financial statements for the prior 3 fiscal years of project operations; if audited statements are not available, then 3 fiscal years of un-audited year-end financial statements *and* 3 corresponding years of certified federal income tax returns of the project must be submitted.

15. Relocation and Anti-Displacement Strategy

For existing and occupied buildings/properties only, the applicant must submit a Relocation and Anti-Displacement Strategy for projects that result in the temporary or permanent displacement of current occupants. The Relocation and Anti-Displacement Strategy (due with the Application) provides the groundwork for the Relocation and Anti-Displacement Plan (due prior to the issuance of a Letter of Commitment). Instances where a Strategy and Plan are required must include the following:

- Tenants who will be required to move to facilitate rehabilitation of the building, even if they are moved to other units within the same building or complex; or
- Demolition of existing dwelling units or buildings which are occupied at the time of acquisition or site control.

16. Financing Letters

Applicants must submit letters of interest or commitment from all other participating financial sources.

B. Underwriting Scoring Criteria

Applicants that meet all of the Threshold Eligibility Requirements listed above will move on to underwriting and scoring. In general, DHCD's goal is to provide funding to those projects that provide the greatest public benefit while maximizing the impact of public resources.

Final selection decisions will be made by the Director of DHCD. Projects that fail to meet one or more of the Threshold Eligibility Requirements will not be selected. The District reserves the right to disqualify projects for justifiable reasons that were not contemplated when the Selection Criteria were established.

Underwriting Scoring

1. Meets an Unmet Demand in the Community (maximum 30 points):

The determination that the Project Meets an Unmet Demand in the Community score is a composite of several factors, listed below. Applications will be scored on the sub-criteria below, and the scores will be summed.

a. Supports local plans (maximum 10 points):

Eligible projects must align with one or more of HUD's National Objectives to (1) serve low- and moderate-income populations, (2) eliminate slum or blight, and (3) address an urgent need as it relates to the city's safety and health (i.e., damage as it relates to a natural disaster). Eligible projects must also align with one or more priority needs and goals of the FY 2016 - FY 2020 Consolidated Plan. DHCD will evaluate a project's ability to align with other citywide plans and studies or small area plans. These plans include, but are not limited to: the Comprehensive Plan, Sustainable DC, Age Friendly DC, Homeward DC, Ward 5 Works, Creative Economy Report, Play DC Vision Framework, and the Creative Economy Report.

- **10 points** = Information presented closely aligns with priority areas outlined in citywide plans or studies, or Small Area Plans.
- **5 points** = Information presented reasonably aligns with at least one citywide plan, study, or Small Area Plans.
- **0 points** = There are significant questions regarding the project's alignment to at least one citywide plan, study, or Small Area Plan.

b. Market Study (maximum 10 points):

Nonprofit organizations must provide documentation that demonstrates sufficient market demand and need for the project. This *must* be a neighborhood/service-area

assessment either based upon the applicant's own extensive data collection or by a third party market research firm for facilities.

10 points = Information presented makes a compelling case for the market demand and need for the project.

- **5 points** = Information presented makes a reasonable case for the market demand and need for the project. **0 points** = There are significant questions regarding the demand and need for the project.

c. *Community Engagement (maximum 5 points):*

- **5 points** = The applicant sought broad-based community input within the service area that establishes/discusses the community need, closely aligns project goals with community input received, and has demonstrated strong relationships with the community evidenced by project partnerships with organizations, businesses, or other key stakeholders serving the needs of the local and target community.
- **2 points** = The applicant has initiated contact with the community in the service area and discussed the project with key stakeholders. The project presents some evidence of a relationship with community organizations or project partnerships, but lacks targeted community outreach/partnership.
- **0 points** = The applicant did not seek community input, ignored community input given, and/or developed no community relationships through partnerships or letters of support.

d. *Overall Ability to Meet an Unmet Demand in the Community (maximum 5 points)*

- **5 points** = Based on DHCD's assessment of the project's overall ability to support local plans and demonstrate an unmet need through a market analysis as well as present documentation of thorough community engagement; the project *highly meets* an unmet demand in the community.
- **2 points** = Based on DHCD's assessment of the project's overall ability to support local plans and demonstrate an unmet need through a market analysis and the applicant provided documentation of community engagement, the project *likely meets* an unmet demand in the community, but there are *some reasonable doubts* about the application's data analysis, justification, or community engagement methods.

- **0 points** = Based on DHCD's assessment of the project's overall ability to support local plans and demonstrate an unmet need through a market analysis and the applicant provided documentation of community engagement, the project *may meet* an unmet demand in the community, but there are *significant doubts* about the application's data analysis, justification, or community engagement methods.

2. Financial and Economic Feasibility (maximum 40 points)

The Financial and Economic Feasibility score is a composite of several factors, listed below. Applications will be scored on the sub-criteria below, and the scores will be summed.

a. *Development and Operating Budget – Application for Financing (maximum 10 points)*

- **10 points** = The development budget and pro-forma contains a realistic set of sources and uses, development budget, and pro forma operating budget and is based on solid assumptions (e.g., vacancy rate, debt service coverage ratios, funding levels for reserves, tax credit rates if the project is pursuing New Markets Tax Credits or Historic Tax Credits, prevailing wages under the Davis Bacon Act, etc.). The uses are appropriate for the project and the requested financing sources. Letters of interest with terms and conditions are submitted from multiple lenders and investors (at least two, but no more than three) for each proposed financing source, to demonstrate competitiveness of private loan and syndication terms. If multiple alternative financing scenarios are presented, letters of interest substantiate each.
- **5 points** = The development budget and pro-forma contains a realistic set of sources and uses, development budget, and pro forma operating budget and there are minimal concerns about the assumptions on which they are based (vacancy rate, debt service coverage ratios, funding levels for reserves, tax credit rates if the project is pursuing New Markets Tax Credits or Historic Tax Credits, prevailing wages under the Davis Bacon Act, etc.). The uses are appropriate for the project and the requested financing sources. At least one letter of interest with terms and conditions is submitted for each proposed financing source, to demonstrate competitiveness of private loan and syndication terms.
- **0 points** = One or more proposed financing source is not supported by a letter of interest, or there are concerns over the development budget and pro-forma and/or the assumptions on which it is based.

b. *Facility Operating Plan (10 points)*

- **10 points** = Applicant provides substantial evidence of long-term operational viability for a minimum of 10 years. Respondent anticipates future capital improvements and staffing needs, and sets aside operating reserves. If applicable, the applicant provides letters of commitment from program/service providers. Operations plan is not dependent upon unknown funding sources.
- **5 points** = Applicant provides some evidence of long-term operational viability, but there are questions concerning future capital improvements, staffing needs, operating reserves, the ability to maintain program/service providers over the life of the project, and long-term financial viability.
- **0 points** = Applicant provides little to no evidence of long-term operational viability.

c. *Timeline (maximum 5 points)*

- **5 points** = There is a *strong likelihood* that the project will proceed into construction or occupancy within *180-days* of being selected for further underwriting by DHCD, based on the timeline, narrative, and supporting documentation.
- **2 points** = There is a *small likelihood* that the project will proceed into construction or occupancy within *180-days* of being selected for further underwriting by DHCD, based on the timeline, narrative, and supporting documentation.
- **0 points** = It is *unlikely* that the project proceed into construction or occupancy within *180-days* of being selected for further underwriting by DHCD, based on the timeline, narrative, and supporting documentation.

d. *Architectural Plans (maximum 5 points)*

- **5 points** = Architectural plans are permit-ready and the construction budget is aligned with the plans. The plans reflect all design characteristics committed to in this application, such as green building and accessibility features. The construction budget has been prepared and signed by the General Contractor and it is highly unlikely that the budget will change prior to loan closing.

- **2 points** = Architectural plans are not permit ready, but have been developed beyond the schematic design phase. The plans reflect all design characteristics committed to in this application, such as green building and accessibility features. The construction budget has been prepared and signed by the General Contractor and it is unlikely that the budget will change prior to loan closing.
- **0 points** = Architectural plans are in the schematic design phase and reflect all design characteristics committed to in this application, such as green building and accessibility features (Threshold Eligibility Requirement).

e. Firm Financing Commitments (maximum 5 points)

- **5 points** = Final Letters of Commitment from all other participating financial sources. Rates and terms have been locked in and lenders are ready to close as soon as DHCD commits to funding the final gap.
- **2 points** = Firm commitments are in place for some, but not all other major participating financial sources. Some rates and terms have been locked in and lenders are ready to close as soon as DHCD commits to funding the final gap.
- **0 points** = Financing commitments are substantiated with Letters of Interest that include basic term sheets, as evaluated in Scoring Criteria (This is the most common situation).

f. Overall Financial and Economic Feasibility (maximum 5 points)

- **5 points** = Based on DHCD's assessment of overall feasibility and project readiness, long term financial sustainability of the project *is highly likely* and an appropriate level of public subsidy is being requested.
- **2 points** = Based on DHCD's assessment of overall feasibility and project readiness, long-term financial sustainability of the project *is likely*, but there are *some doubts* about the application's assumptions or the level of public subsidy that is being requested.
- **0 points** = Based on DHCD's assessment of overall feasibility and project readiness, long term financial sustainability of the project *may be likely*, but *significant doubts exist* regarding the application's assumptions or the level of public subsidy that is being requested.

3. Development Team Capacity and Experience (maximum 35 points)

The Development Team Capacity and Experience score is a composite of several factors, listed below. Applications will be scored on the sub-criteria below, and the scores will be summed.

a. Developer/Owner Capacity and Experience (maximum 10 points)

- **10 points** = The applicant (owner, borrower, sponsor, developer, guarantor) has the financial and workload capacity to make this project a top priority and execute it on a rapid timeline. The lead developer (and co-developer and/or development consultant, if applicable) demonstrate an exemplary track record in projects of similar size, scale, type and complexity to the proposed project.
- **5 points** = There are some concerns over the applicant's (owner, borrower, sponsor, developer, guarantor) financial and workload capacity or their ability to make this project a top priority and execute it on a rapid timeline, or the lead developer (and co-developer and/or development consultant, if applicable) has less experience in projects of similar size, scale, type and complexity to the proposed project.
- **0 points** = There are significant concerns over the applicant's (owner, borrower, sponsor, developer, guarantor) financial and workload capacity or their ability to make this project a top priority and execute it on a rapid timeline, or the lead developer (and co-developer and/or development consultant, if applicable) has minimal experience in projects of similar size, scale, type and complexity to the proposed project.

b. General Contractor Capacity and Experience (maximum 5 points)

- **5 points** = The selected General Contractor demonstrates an exemplary track record in projects of similar size, scale, type and complexity to the proposed project. The GC has the capacity and experience to deliver this project on time, on budget, and to the highest quality standards, while maintaining compliance with applicable regulations such as Davis-Bacon and the Green Building Acts.
- **2 points** = The selected General Contractor demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. There are some concerns based on the GC's capacity and experience about their ability to deliver this project on time, on budget, and to the highest quality standards, while maintaining compliance with applicable regulations such as Davis-Bacon and the Green Building Acts.

- **0 points** = Either no General Contractor has been selected, or the selected General Contractor has minimal experience in projects of similar size, scale, type and complexity to the proposed project. There are more major concerns based on the GC's capacity and experience about their ability to deliver this project on time, on budget, and to the highest quality standards, while maintaining compliance with applicable regulations such as Davis-Bacon and the Green Building Acts.
- c. Operations Manager Capacity and Experience (maximum 10 points)
- **10 points** = The selected Operations Manager demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project, including a demonstrated ability to maintain ongoing compliance over the life of a project.
 - **5 points** = The selected Operations Manager demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. There are some concerns based on the Operation Manager's capacity and experience about their ability to maintain ongoing compliance over the life of a project.
 - **0 points** = No Operations Manager has been selected or the selected Operations Manager has minimal experience in projects of similar size, scale, type and complexity to the proposed project. There are more major concerns based on the Operation Manager's capacity and experience about their ability to maintain ongoing compliance over the life of a project.
- d. Architect/Construction Manager Capacity and Experience (maximum 5 points)
- **5 points** = The selected Architect demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project, and has the capacity and experience to assure that the proposed design is compliant with all applicable regulations, such as the Green Building Act, local and federal accessibility standards, zoning, and historic preservation. The Architect and/or Construction Manager have/has the capacity and experience to provide project oversight to guarantee that it is delivered on time, on budget, and to the highest quality standards.
 - **2 points** = The selected Architect demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project, and there are some concerns based on the Architect's capacity and

experience about their ability to assure that the proposed design is compliant with all applicable regulations, such as the Green Building Act, local and federal accessibility standards, zoning, and historic preservation. There also may be some concerns about the Architect and/or Construction Manager's ability to provide project oversight to guarantee that it is delivered on time, on budget, and to the highest quality standards.

- **0 points** = The selected Architect has minimal experience in projects of similar size, scale, type and complexity to the proposed project, and there are more major concerns based on the Architect's capacity and experience about their ability to assure that the proposed design is compliant with all applicable regulations, such as the Green Building Act, local and federal accessibility standards, zoning, and historic preservation. There also may be more major concerns about the Architect and/or Construction Manager's ability to provide project oversight to guarantee that it is delivered on time, on budget, and to the highest quality standards.

e. Overall Team Capacity and Experience (maximum 5 points)

- **5 points** = Based on DHCD's assessment of overall team capacity and experience, it is *highly likely* that this project will be delivered on time and on budget and will remain in compliance for the life of the project.
- **2 points** = Based on DHCD's assessment of overall team capacity and experience, there are *some concerns* about whether this project will be delivered on time and on budget, or about the likelihood that the project will remain in compliance for its entire lifespan.
- **0 points** = Based on DHCD's assessment of overall team capacity and experience, there are *more major concerns* about whether this project will be delivered on time and on budget, or about the likelihood that the project will remain in compliance for its entire lifespan.

4. Site Selection and Design Characteristics (maximum 5 points)

Proposed project design must blend with the neighborhood and meet the needs of the occupants with appropriate building design and amenities.

- **5 points** = Site selection is appropriate for use. The design is consistent with neighborhood design characteristics. Amenities and unit design are well thought out and appropriate for the end users.

- **3 points** = While generally the design is appropriate, some questions remain on either site selection or tailoring of unit design and amenities to the population.
- **0 points** = There are significant unaddressed concerns re site selection or unit design and amenities.

5. Cost Reasonableness (maximum 15 points)

Proposed property acquisition and construction costs must be reasonable. Any construction costs funded by CDBG funds must incorporate prevailing wage rates pursuant to the Davis Bacon Act. DHCD will determine reasonableness through an analysis of the appraisal and by comparison of recent DHCD-funded projects in similar locations and for uses similar to those proposed in the application. DHCD reserves the right to request a second appraisal. An appraisal update will be required prior to closing so that a current appraised value is available within 120-days of closing. For projects where the property has been acquired within the past 2-years, acquisition cost reasonableness will be considered as part of the project evaluation. If the property has already been acquired, submit the most recent appraisal.

- **15 points** = Acquisition appraised value and construction estimates are consistent with all sources of market data.
- **10 points** = Acquisition appraised value and construction estimates are consistent with most sources of market data, but some questions linger regarding acquisition or construction price or with the nature of the transaction.
- **0 points** = Acquisition price and construction estimates are out of line with market data.

C. Prioritization Scoring Criteria

1. Leverage (maximum 10 points)

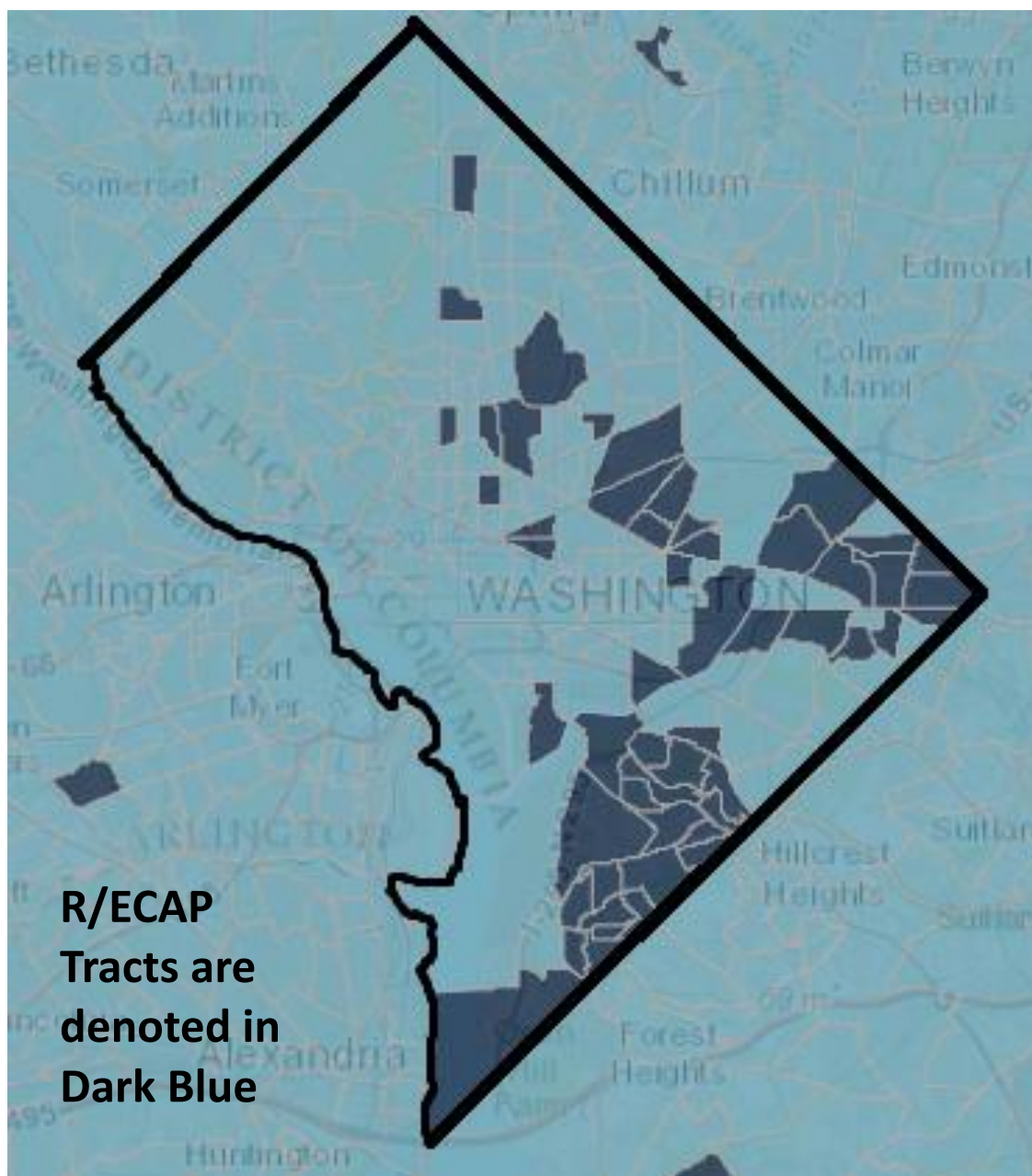
This criterion will measure the extent to which DHCD loan funds are balanced with other public and private resources by calculating the percentage of the total development cost that is funded by DHCD (“DHCD Participation”). This calculation will only consider the portion of the building that is eligible for DHCD funding, and the denominator will be the total development costs attributable to that portion. To maximize leverage points, applicants should pursue alternative financing sources that reduce DHCD’s investment in the project, such as tax exempt bonds, other municipal funding resources, private grants, Department of Energy and Environment Property Assessed Clean Energy (PACE), and conventional soft debt.

- **10 points** = Less than 25% DHCD participation
- **5 points** = Between 25% - 39.9% DHCD participation
- **0 points** = 40% - 50% DHCD participation (Maximum allowable DHCD participation is 50% of Total Development Costs)

2. Preference for community amenities located in underserved neighborhoods (Maximum 5 points)

This criterion awards preference points for projects based on location. DHCD seeks non-housing investments that increase economic opportunities, safety, and public amenities in areas of concentrated poverty. The map provided in *Figure 2* identifies D.C. Census Tracts that the US Department of Housing and Urban Development (HUD) has designated as target areas.

- **5 points** = To receive preference points the applicants shall explicitly describe 1) how it is their project is located in and serves one or more of the HUD Racially and Ethnically Concentrated Areas of Poverty (RECAP) areas on this map and 2) how the project increases economic opportunity, enhances safety or otherwise provides a neighborhood amenity that improves the lives of those currently living in that neighborhood.
- **0 points** = Failure to document the minimum steps outlined for 5 points, above.



**R/ECAP
Tracts are
denoted in
Dark Blue**

Figure 2. Racially/Ethnically Concentrated Areas of Poverty

Source: Department of Housing and Urban Development, egis open data tool as of March 2016

Note: R/ECAP areas are defined as census tracts with a non-white population of 50% or more and the lesser of 40% or greater of the individuals living below the poverty line or 3 or more times the citywide poverty rate

3. Preference for Projects with District Land (Maximum 5 points)

Projects that are part of the redevelopment of a site formerly owned by the District of Columbia and that was awarded to the applicant through a competitive disposition process will receive a 5 point preference. This includes dispositions managed by DHCD's Property Acquisition and Disposition Division (PADD), the Deputy Mayor for Planning and Economic Development (DMPED), and the DC Housing Authority (DCHA), among others.

- **5 points** = The project is part of the redevelopment of a site formerly owned by the District of Columbia and that was awarded to the applicant through a competitive disposition process.
- **0 points** = The criteria required to obtain 5 points is not met.

4. Net Zero Energy and Living Building Challenge Preference (Maximum 5 points)

Preference points will be awarded to projects that go beyond the minimum threshold Green Building Act requirements and commit to achieving specific certifications defined below. Any project claiming this preference must demonstrate the capacity and experience to achieve certification, and the architectural plans and project budgets (development and operating) submitted in the application must reflect the commitment to certification.

- **5 points = Living Building Challenge Certification (Full or Petal Certification).** Five prioritization scoring points will be awarded to applicants that design and construct their project to achieve either full or petal certification under Living Building Challenge program. The Living Building Challenge is the world's most rigorous building performance standard. Projects achieving full certification demonstrate a connection to nature and place, net-positive energy generation, net-zero water use, healthy and active design, integration of ecologically responsible material, and equitable development strategies.
- **3 points = Nearing Net Zero.** Three prioritization scoring points will be awarded to project teams pursuing 2015 Enterprise Green Communities Criteria (GCC) by demonstrating that they will complete one of the following certifications: Passive House Institute US (PHIUS), Living Building Challenge Net Zero Energy Building Certification, or Department of Energy's Zero Energy Ready Home program. To obtain these points, project teams must demonstrate that they are pursuing 2015 Enterprise Green Communities Criteria (GCC) certification or LEED certification at the Silver level or above and plan to certify with Passive

House Institute US (PHIUS), Living Building Challenge Net Zero Energy Building Certification, or Department of Energy's Zero Energy Ready Home program. All project teams pursuing these points must also incorporate solar photovoltaics in their projects and maximize their rooftop generation potential to the maximum extent as allowable by District codes and regulations.

- **0 points** = The project will meet the minimum green building requirements

5. Preference for Longer-term Projects (maximum 10 points)

Applicants will be awarded up to ten points for demonstrating longer-term projects. Any project claiming this preference must substantiate the operational viability from evidence documented in the financial application and operating plan. Information presented should, at a minimum, anticipate future capital improvements and staffing needs and set aside operating reserves. If applicable, the applicant provides letters of commitment from program/service providers. Operations plan is not dependent upon unknown funding sources.

- **10 points** = Project demonstrates operating viability for at least 20-years
- **5 points** = Project demonstrates operating viability for at least 15-years
- **0 points** = Project demonstrates operating viability under 15-years (minimum for funding is 10-years).

THRESHOLD ELIGIBILITY REQUIREMENTS			
1	Eligible Project Type	✓	
2	Low/Moderate-Income Benefit/HUD National Objective	✓	
3	Nonprofit Participation	✓	
4	Site control	✓	
5	Zoning	✓	
6	Development and Operating Budgets	✓	
7	Project Timeline and Draw Schedule	✓	
8	Appraisal	✓	
9	Market Study	✓	
10	Phase I	✓	
11	Architectural Plans and Cost Estimates	✓	
12	Green Design and Building	✓	
13	Development Team Thresholds	✓	
14	Facility Operations Plan	✓	
15	Relocation and Anti-Displacement Strategy	✓	
16	Financing Letters	✓	
SCORING CRITERIA		Score	
Underwriting Scoring		125	
1	Market Demand and Need Analysis	30	
2	Financial and Economic Feasibility	40	
3	Development Team Capacity and Experience	35	
4	Site Selection and Design Characteristics	5	
5	Cost Reasonableness	15	
Prioritization Scoring		35	
1	Leverage	10	
2	Preference for community amenities located in underserved neighborhoods	5	
3	Preference for Projects on District Land	5	
4	Green Building Prioritization	5	
5	Preference for Longer-Term Projects	10	
TOTAL		160	

VI. Compliance and Monitoring Review

After DFD completes the threshold eligibility review, evaluates projects against the scoring criteria, and issues selection letters, selected projects are reviewed by OPM for a compliance review.

OPM's review will be based on documents submitted by the development team at the time of application, as well as additional documentation that will be requested of project teams after they pass the Threshold Review. This review covers the following subject areas:

- A. Funding Source Eligibility**
- B. Environmental Review**
- C. Section 3**
- D. Affirmative Action**
- E. Labor Standards**
- F. Relocation (if applicable)**
- G. Fair Housing Equal Opportunity**
- H. Project/Program Accessibility**
- I. Affirmative Marketing**

Each of these subject areas is described in further detail in the sections below.

A. Funding Source Eligibility

OPM will review selected proposals and make a determination on whether the project is eligible for the funding source that has been tentatively reserved for the project by DFD. Rules specific to the CDBG program are codified as 24 CFR Part 570.

B. Environmental Review

OPM conducts an environmental review of every project selected, regardless of funding source. OPM analyzes relevant and contemporaneous documents submitted with the application, such as the Phase I and any related documentation, any applicable Mold or Asbestos or Lead documents, the appraisal, and the project budget.

National Environmental Policy Act (NEPA)

OPM will create the Environmental Review Record (ERR) by making a clearance level determination based on the disclosed project activity, initial review of the project

summary and other supporting documentation submitted. This determination is required when federal funding is used for project activities based on HUD Environmental Review guidelines and instructions for compliance with the National Environmental Policy Act (NEPA) of 1969 provided for in 24 CFR Part 58. If NEPA applies, OPM will determine whether the project qualifies as a Categorical Exclusion or must complete an Environmental Assessment (EA) or, in rare instances, an Environmental Impact Statement (EIS).

While most of this review is conducted within DHCD, the Department also obtains a concurrence from the State Historic Preservation Office (SHPO) as part of the environmental review.

Choice Limiting Actions

Pursuant to NEPA (40 CFR 1500-1508) and Part 58, environmental information must be available before development commences, which includes both public and private funds. DHCD will make an environmental review based upon an understanding from these materials of the environmental consequences and actions that can protect, restore, and enhance the environment.

Part 58 prohibits the commitment or expenditures of CDBG, other public funds, and private funds until the environmental review process has been completed and, if required, selected applicants receives a release of funds. It is acceptable for grantees to execute a non-legally binding agreement prior to completion of the environmental review process. A non-legally binding agreement contains stipulations that ensure the project participant does not have a legal claim to any amount of CDBG funds to be used for the specific project or site until the environmental process is satisfactorily completed.

Some activities are EXEMPT from this rule. Funds may be expended on the following items prior to the completion of environmental review:

- Environmental and other studies
- Resource identification
- Development of plans and strategies
- Administrative and management activities
- Inspections and testing for hazards or defects
- Purchase of insurance
- Purchase of tools
- Engineering or design costs
- Technical assistance and training

Applicants must avoid any and all actions that would disqualify their selection before a final decision is made.

C. Section 3

Applicants will be required to sign a certification of compliance with Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires recipients of HUD funds (and their contractors and subcontractors), to the greatest extent feasible, provide economic opportunities such as jobs and training to low and very-low income persons (Section 3 residents) and award contract to Section 3 Businesses in conjunction with projects and activities in their neighborhoods. Section 3 standards are applied to all projects and contracts associated with those projects greater than \$100,000 (total budget, not just DHCD contribution) that are funded by DHCD, regardless of funding source. Projects are required to create an opportunities plan and submit quarterly reports to demonstrate Section 3 compliance.

D. Affirmative Action

Prior to receiving a Letter of Commitment from DHCD, project teams must complete an affirmative action package, which will be reviewed by DHCD and approved by other District agencies. The four components to this affirmative action package are listed below.

Affirmative Action Plan

An Affirmative Action Plan ("AAP") must be submitted by the Borrower/Grantee for review and approval by the District prior to approval of the Loan/Grant Documents and the disbursement of any proceeds of the Loan/Grant. The AAP will be in a form to be determined by the District and must detail the Borrower's/Grantee's efforts to comply with the District's goals for achieving equal employment in District government contracts and set forth specific standards for the utilization of minorities in all job categories, as required in Mayor's Order 85-85 and District law. The DC Office of Human Rights (OHR) requires applicants receiving financial assistance greater than \$25,000 to complete an AAP. Approval of this plan by OHR is a condition of DHCD's program monitoring review.

SBE Agreements

The government of the District of Columbia requires a "Beneficiary" of government assisted contracts/projects to submit certain documents, (i.e., acknowledgement forms and SBE Subcontracting Plans) prior to issuance of funding or award of contracts. Following receipt of funding or after contract award, Beneficiaries are required to submit quarterly reports. The Department of Small and Local Business Development

(DSLBD) is charged with monitoring both public and private projects and contracts per D.C. Official Code § 2-218.46: Performance and subcontracting requirements for construction and non-construction contracts; subcontracting plans.

First Source Employment Agreements

Applicants receiving financial assistance (totaling at least \$300,000) must enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services (DOES). This agreement, in accordance with Mayor's Order 83-265, states that the applicant will use DOES as its first source for recruitment, referral and placement of new hires or employees whose jobs were created by the project receiving financial assistance.

Registration with the DC Apprenticeship Council

Any company that is awarded a single contract or multiple contracts within a 12-month period that totals \$500,000 or more is required to register with the D.C. Apprenticeship Council and report the registration number to DHCD.

E. Labor Standards

Davis-Bacon Act and Davis-Bacon related Acts

The Davis-Bacon Act (DBA) requires the payment of prevailing wage rates (as determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, or public buildings or public works.

Most HUD construction work is not covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if DBA wage rates apply to a HUD project it is because of a labor provision contained in one of HUD's "Related Acts" such as the U.S. Housing Act of 1974, the National Affordable Housing Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are often referred to as the Davis-Bacon and Related Acts or DBRA.

DBA wage regulations specify minimum wage rates that must be paid to certain categories of workers on a construction project. The actual DBA requirements will be determined upon the selection of the project, and if the requirement applies,

DHCD will request that the U.S. Department of Labor Wage and Hour Division issue a Wage Determination prior to closing. Applicants must certify they will comply with any applicable DBA requirements.

OPM actively enforces the Wage Determination by reviewing payroll documents submitted by the developer and by conducting site visits.

F. Relocation (if applicable)

If the proposed project includes the displacement of businesses or residents from their current place of business or residence, the applicant must, according to the Uniform Relocation and Displacement Assistance and Real Property Acquisition Policies Act of 1970 (URA), submit a Relocation Plan, a Budget for the relocation and the initial General Information Notice (GIN). The GIN must be provided to tenants stating the applicant's intent to acquire funding from DHCD for the proposed acquisition, demolition, or rehabilitation activity.

The URA aims to improve the condition of individuals and families in substandard housing by engaging residents and businesses in the relocation process and coming to an expedited agreement without the use of coercion. The URA ensures that residents are provided uniform, fair and equitable treatment while they are being displaced in connection with a project funded in part through DHCD. The Act also ensures residents do not suffer additional emotional or financial hardship as a result of the displacement and that individual and families are provided decent, safe and sanitary housing as replacement while the project is being completed.

G. Project/Program Accessibility

The applicant must complete the accessibility certification applicable to the project or program being submitted. The certifications ensure projects and programs financed through DHCD comply with all applicable accessibility regulations in order to provide greater accessibility to persons with disabilities (PWDs).

Programs

The applicant shall ensure its funded program is accessible to and marketed to qualified PWDs and provided in the most integrated setting possible. DHCD funding recipients are required to (1) have effective communication with all applicants, beneficiaries, and other members of the public; (2) provide the necessary accessibility resources so that PWD are able to benefit from their program. Resources are determined by the *need* of

the applicant within the program area being provided. Offering auxiliary aides to PWDs must be done in a collective manner and not on a personal level where devices are individually prescribed; (3) Use proper telecommunication devices (or a device that is just effective) for deaf and hard of hearing (TDD) applicants and beneficiaries of the program; (4) inform all interested persons, including those with vision and hearing impairments, about the existence and location of accessible services, activities, and facilities; and (5) provide benefits and services to PWD from program or activities receiving HUD funding.

To achieve program accessibility it is *not* required to alter or construct new buildings, **the program itself** must be made accessible; it is only when programmatic changes to the program are insufficient that alterations or construction to buildings must occur.

Projects

Applicants will provide varying levels of accessibility depending on the project being funded. Non-housing facilities under new construction must be designed with the intent of making them “accessible to and usable by” persons with disabilities.

- **Non-housing facilities receiving alterations** must be made “accessible to and usable by” PWDs “to the maximum extent feasible.” The extent of accessibility is mitigated by the financial and administrative burden imposed on applicant by making the facility accessible and usable to the maximum extent feasible. Nonetheless, the recipient(s) must exhaust all means to make the project accessible.
- **Existing Non-housing facilities being altered** must ensure that their programs are “readily accessible and usable by” the PWDs; but do not have to make each of their non-housing facilities accessible and usable. In historic preservation areas, the recipient is not required to make the facility accessible if it disrupts important historic features of the property, further, the recipients do not have to take any action that significantly changes the program being undertaken or if it results in unnecessary financial and administrative burdens. However, applicant must find other means to make their program accessible and usable by PWD.

H. Affirmative Marketing Plan

All applicants must complete and submit an Affirmative Marketing Plan (AMP) depending on the project submitted. These certifications are tools used by the agency to ensure its projects and programs are marketed in a manner that provides equal opportunity to all residents to apply for and enjoy the product and services of the agency.

In particular those communities least likely to apply for or know of the projects or programs due to geography, language, transportation or any other impediment faced by the resident.

Each applicant shall implement an Affirmative Marketing Plan in soliciting program participants, buyers or tenants, and in advertising the availability of housing properties and program services.

VII. ADDITIONAL CONDITIONS TO CLOSING

Letters of Commitment (LOC) issued by DHCD contain a series of conditions that must be met prior to closing. Some of these requirements may be updates of documents already submitted, such as an updated appraisal, Phase I, or Certificate of Good Standing. Any outstanding items from the Office of Program Monitoring compliance review will also be listed as conditions in the LOC.

In addition to all of the requirements listed in the previous sections of this document and in the Threshold Eligibility Requirements and Scoring Criteria section of the Request for Proposals, DHCD will require the following:

A. Non-Procurement Debarment (Vendor Eligibility List Verification)

The District uses a list of “debarred” organizations that are ineligible to do business with the city. Organizations identified on this list cannot receive funding from DHCD. The Borrower/Grantee must submit at the time of application an affidavit certifying that neither Borrower/Grantee, nor its affiliates, nor any of its contractors or subcontractors at any tier are debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 or District assistance programs.

DHCD must verify that an organization is not on this list prior to approval of any project. DHCD will reference this list at the time of application and again prior to closing, in order to ensure that no members of the project team are debarred.

B. Tax Verification

The Tax Verification validates that a developer is in compliance with the District of Columbia license and tax requirements. Verifications are required from 2 city organizations: the D.C. Department of Employment Services (DOES) and the D.C. Office of Tax and Revenue (OTR). The results of this verification will determine whether the requesting organization is eligible to receive funding from DHCD. The Borrower must also demonstrate that it is current on all federal tax payments.

C. Current on District Obligations

Borrower/Grantee and any other entity that comprises its management or ownership structure must be current on all obligations outstanding to any agency or entity of the District of Columbia, whether or not related to the proposed Loan/Grant.

Borrower/Grantee must provide to Lender/Grantor satisfactory evidence indicating that it is in good standing on its obligations to the District of Columbia.

D. District Approvals

Loans in the amount of at least \$1 million are contingent upon the approval of the Council of the District of Columbia and all financial commitments are contingent upon the approval of the District of Columbia Chief Financial Officer.

E. Advisory Neighborhood Commission Notice Requirement

Financing commitments are conditioned upon compliance with Advisory Neighborhood Commissions' (ANC) notice requirements. In accordance with the Home Rule Act and the Advisory Neighborhood Commissions Act of 1975, DC Law 1-58, March 26, 1976, codified at D.C. Official Code § 1-309.10, DHCD is required to provide notice to affected ANCs before the award of any grant funds to a citizen organization or group if the award is of significance to neighborhood planning and development in the affected commission area. ANCs are entitled to a 30-day comment period to submit written or oral comments and recommendations to DHCD in response to any proposed funding award. If comments are received, DHCD is required to respond to all legally relevant recommendations prior to making a final decision on any funding award.

F. Other Financing and Project Sources

The Borrower must submit letters of commitment and loan documents from all other funding sources necessary to fully perform all development and construction obligations required to complete the project.

G. Contractor/Subcontractor Selection

The Borrower/Grantee must demonstrate to the Department that a competitive bid process is utilized for the selection of contractors/subcontractors that will work on the Project. Borrower/Grantee must provide DHCD with a copy of the executed construction contract with its general contractor for the Project, as well as a copy of the executed contracts with its architect and management agent.

H. Permits

The Borrower/Grantee must obtain and deliver copies of any and all building,

occupancy, and similar permits required by District and federal law, to include, Section 105A of Title 12A of the District of Columbia Municipal Regulations in connection with the development and occupancy of the Project/Property described in the Commitment.

I. Completion Guaranty/Payment and Performance Bond

The Project Guarantors must provide full, unconditional joint and several guarantees for Project completion.

J. Project Budget Allocation

Borrower must submit a budget schedule that details the allocation of all funding sources for the Project budget.

K. Draw Schedule

Borrower must submit a detailed draw schedule for the Loan proceeds disbursement.

L. Current Land Survey and Legal Description

The Borrower/Grantee must submit to Lender/Grantor a current land survey and legal description of the Property from a land surveyor registered in the District of Columbia. Such survey must clearly designate all improvements, encroachments, easements, rights-of-way, roads, alleys, ways, rivers, creeks, streams, paths, setbacks, and other matters revealed by inspection survey, as well as any portion of the property that may be covered by water.

M. Termite Inspection

If applicable, the Borrower/Grantee must submit satisfactory evidence of a property termite inspection and written certification that there is no evidence of infestation of termites or wood-boring insects now or upon completion of the project.

N. Public Utilities

The Borrower/Grantee must provide such written evidence, as Lender/Grantor may require, to the effect that sanitary sewer, water, and other public utilities are available and adequate to serve the Property for purposes consistent with the uses contemplated in the Commitment.

O. Insurance

Borrower/Grantee must obtain and maintain at no expense to the Lender, while any obligation of the Borrower/Grantee under any Loan/Grant Documents remains outstanding, liability, casualty, all-risk, workers' compensation, builder's risk, contractor's liability and architect's professional liability insurance policies in accordance with the following requirements:

- i. A commitment for title insurance to be issued at Loan/Grant Closing for the benefit of the Lender/Grantor in the aggregate principal amount of the Loan and Grant, showing title to the Property to be free and clear of all liens and encumbrances, except those encumbrances accepted in writing by the Lender/Grantor, and insuring the Lender's Deed of Trust on the Property.
- ii. Insurance binders for liability and casualty insurance prepaid for at least 1-year from the date of Loan/Grant Closing and listing the Lender/Grantor as an additional insured and providing to Lender at least 30-days prior written notice before cancellation. Casualty insurance must be for replacement costs of the Property. Liability insurance may not be less than \$1,000,000 per incident and \$3,000,000 in the aggregate.
- iii. Builder's risk insurance must be for the amount of the Construction Contract. After the builders risk coverage is no longer in place, casualty insurance must be at least for the replacement costs of the Property. The liability insurance must be in at least the amount of \$1,000,000 per occurrence and an aggregate amount of \$3,000,000. The casualty and builders risk policies must name the Lender/Grantor under a Lender's Loss Payable endorsement.
- iv. Borrower/Grantee must obtain a performance bond guaranteeing completion of work performed by Borrower's/Grantee's general contractor.

P. Organizational Documents/Authorizing Resolution

Borrower/Grantee must provide:

- i. A certified copy of the Articles of Incorporation, By-laws, Certificate of Limited Partnership, Articles of Organization, and Operating Agreement for the borrowing entity and any other entity that comprises its management or ownership structure, as required by the Lender/Grantor;

- ii. Evidence satisfactory to Lender/Grantor that the corporation, partnership or limited liability company and any other entity that comprises its management/ownership structure is in good standing in the jurisdiction where it is incorporated and qualified to do business in every jurisdiction in which it conducts business;
- iii. Certificate of Incumbency, together with an authorizing resolution showing that the Borrower/Grantor has the authority to enter into the Loan/Grant and that the person(s) executing the Loan/Grant on behalf of the Borrower/Grantee has the requisite authority to sign and deliver the Loan/Grant Documents to the Lender/Grantor. The Certificate of Incumbency and authorizing resolution must be duly certified by the Secretary of Borrower/Grantee or the official so designated.

Q. Opinion of Counsel

A written opinion of the Borrower's/Grantee's counsel stating that the Borrower/Grantee:

- i. Is validly organized, existing and authorized to do business in every jurisdiction in which the nature of its business or its properties make such qualification necessary;
- ii. That Borrower/Grantee has the full authority and legal right to carry out the terms of the Commitment letter and all documentation required in this guide to be executed by Borrower/Grantee;
- iii. Has taken all actions to authorize the execution, delivery, and performance of the Commitment and any documents required to be executed in connection with the Loan/Grant according to their respective terms;
- iv. That none of the above actions, undertakings or agreements violates any restriction, term, condition or provision of the Borrower's/Grantee's organizational or management documents or any contract or agreement to which Borrower/Grantee is a party or by which it is bound; and
- v. The Opinion must identify the Loan/Grant by name and Loan/Grant number, if available, and counsel must specifically identify the documents upon which the Opinion is based.

R. Drug Free Workplace Certification

Borrower/Grantee signs a certification at closing, committing to comply with The Drug

Free Workplace Act of 1988, 41 U.S.C. 701 et seq.; 24 CFR part 21.

S. Conflict of Interest Statements

Federal and District laws strictly prohibit any person who exercises or has exercised any functions or responsibilities with respect to DHCD assisted activities or who is in a position to participate in a decision making process or gain inside information with regard to such activities from obtaining a financial interest or benefit from a DHCD-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a DHCD-assisted activity. The Borrower must submit a copy of its conflict of interest policies and procedures to the Lender within 15-days of the Loan Closing.

VIII. ONGOING COMPLIANCE

A. Financial Statements

Throughout the duration of the Loan, Borrower must submit to DHCD the following on an annual basis:

1. Final Audited Financial Statements for current year
2. Final Tax Return for current year
3. Evidence of Commercial Property Insurance with the District of Columbia DHCD added as an Additional Interest, Loss Payee:

District of Columbia Department of Housing and
Community Development
Portfolio Asset Management Division
1800 Martin Luther King, Jr. Avenue, SE
Washington, DC 20020-6900

4. Evidence of Liability Insurance with the District of Columbia DHCD added as a Certificate Holder:

District of Columbia Department of Housing and
Community Development Portfolio Asset
Management Division
1800 Martin Luther King, Jr. Avenue, SE
Washington, DC 20020-6900

5. Copy of Operating Reserve Account Statements (if applicable);
6. Evidence of payment of Real Estate Property Taxes;
7. Current Business License
8. Reconciliation of Lender/Grantor-funded expenditures
9. Project Operating Statements
10. On an annual basis, by the 120th day after the close of Borrower's/Grantee's fiscal year, an Office of Management and Budget ("OMB") Circular A-133 audit or other applicable audit requirements set forth in 2 CFR Chapter 1, Chapter II, Part 200 et al.

Financial statements required by the Loan/Grant are subject to Generally Accepted Accounting Principles ("GAAP") standards.

B. Accounting/Audit Requirements

Borrower must establish a separate account independent of other account records of Borrower, for the deposit of any Loan funds. Borrower must maintain complete and accurate records and documentation of all costs incurred under the Loan in accordance with the instructions of the Lender and organized in a manner that identifies cost categories set forth in the itemized budget.

C. Reporting Requirements

The Borrower agrees to provide Lender with all information, which may be required to meet District and/or federal reporting requirements. Such information may include, but is not limited to, information on household size, age, income, sex, and racial ethnic group on all occupants who reside in housing units funded by the Loan proceeds.

D. General Monitoring Requirements

Throughout the duration of the Loan, the Borrower must be prepared for and facilitate Project monitoring by DHCD in compliance with federal and District requirements. Borrower agrees to facilitate Project monitoring by creating, storing and maintaining all Project records in accordance with the Lender's requirements. Borrower agrees to permit desk monitoring, site visits and audits. Borrower must permit all inspections of the Project records as Lender deems necessary to ensure the upkeep and operation of the Project in compliance with District and federal laws.