

DRAFT Burlington Amended Section 108 Loan Application New Moran: Redevelopment of a Derelict, Coal-fired Power Plant

Proposal Summary

The City of Burlington receives sufficient CDBG funds annually to qualify for \$4,399,000 in HUD 108 guarantee authority. The city's outstanding Section 108 debt is \$2,308,000 and its remaining Section 108 Guarantee Loan borrowing capacity is \$2,091,000. The City has identified one activity to be undertaken with the available assistance. The City requests Section 108 loan guarantee assistance in the amount of \$2,091,000 to be used for the redevelopment of the Moran Plant. This assistance will benefit the city as a whole. According to HUD standards, per the 2010 census over 58% of city residents are low and moderate income.

For more than 25 years, the Moran Plant – a coal-fired generating plant decommissioned in 1986 – has sat as the last vacant, blighted reminder of the industrial past on Burlington's waterfront. Beginning in the spring of 2013, the city undertook a public process to determine the future of the building. That process included:

- Request for Concepts – 18 concepts related to the redevelopment of Moran were received
- Concepts were posted on line for comments along with two open houses seeking public comment.
- Mayor-appointed Public Investment Team (PIT) reviewed these projects and at public meeting chose 11 concepts to move on to the next round based on criteria established in January 2013 and submit formal proposals.
- Request for Proposals – October 17, the City received four proposals related to the Moran site with only one of these directly proposing to redevelop the building.
- Proposals were posted online and available at the library for public review and comment
- Open Houses were held in November 2013 for people to review and comment on proposals.
- In November, the PIT scored the proposals, held two public meetings for Q&A with the proposers, considered all public comments, and then made recommendations to the Mayor regarding which proposals to advance.
- The Mayor will produce a project slate and allocate funding for projects.
- The project slate will go before City Council in January 2014 for placement on the March 2014 ballot.
- In March 2014, the public will vote on the ballot question.

The concept is a public-private partnership to redevelop the blighted property into space for arts, cultural, educational and recreational opportunities for residents and visitors as well as new public park space. The redeveloped building will have a mix of free and fee-based uses, including year-round public access community space and public rest rooms. Space will be leased to a master tenant and multiple sub lessees.

In addition to providing a new public facility for all of the city's residents, the project is expected to produce 44 new FTE jobs at initial staffing, between 60 to 80 total new jobs (including full-time, part-time, seasonal and ancillary), and around 576 construction jobs. A significant amount

of environmental assessment work has been undertaken, and initial remediation has begun. Design plans are being finalized. The anticipated completion date is April 2015. This activity will not displace any residents or businesses. The debt service ratio for this activity will be 1.2, with a targeted loan to value of .4.

The redevelopment of the Moran Plant is an identified project in the city's 2008 Consolidated Plan for Housing & Community Development (page 3-48), the city's 2008 Annual Action Plan (page 10) and the city's 2009 Action Plan (page 15), as well as in the city's Waterfront Revitalization Plan.

1. Project Description

The "New Moran" is a public-private partnership involving the redevelopment of a defunct coal-fired electric generating plant on Burlington, Vermont's waterfront. Built in 1954, decommissioned in 1986, the J.E. Moran Municipal Generating Station has sat abandoned and blighted ever since. Nonetheless, the site has long been recognized for its redevelopment potential because of the building's structural integrity and strategic location anchoring the north end of the downtown waterfront.

The Moran Plant decommissioned in 1986 and sitting vacant on Burlington's waterfront since that time has gone through a public process and the city has developed plans to redevelop the blighted property into space for arts, cultural, educational and recreational opportunities for residents and visitors. In addition to providing a new public community facility for all of the city's residents, the project is expected to create between 44 new FTE jobs at initial staffing, between 60 to 80 total new jobs (including full-time, part-time, seasonal and ancillary), and around 576 construction jobs. The city will continue to own the land and the facility (except for the period of New Market Tax Credit compliance if applicable), and will lease the building for redevelopment to a master tenant and multiple sub lessees.

The Master Tenant is "New Moran" a 501(C)(3) not-for-profit corporation established in the State of Vermont to develop and manage the Moran building. The draft mission of New Moran is: "To welcome all to a Moran Building which will utilize to its fullest potential its architectural and cultural heritage, and its setting, to inspire enjoyment and innovation in the realms of Energy, Art, Food, and Recreation." This entity will seek a long-term lease arrangement for the Moran building from the City of Burlington.

The "New Moran" will clean-up a significant brownfield on the shores of Lake Champlain, redevelop a blighted industrial property, create new public amenities, provide arts, cultural, educational and recreational opportunities for residents and visitors, and have a significant economic impact. The redeveloped building will have a mix of free and fee-based uses, including community space and public rest rooms. Space will be leased to a master tenant with multiple sub lessees.

The project calls for a mix-used, energy self-sufficient Moran building, which is a hub for waterfront events and conventions. It supports recreation and access to local, art, energy, food and technology. This project will strive to fully embody the creative potential for re-use of the Moran Plant, preserving its industrial history, while bolstering the economic revitalization and

community reclamation of Burlington's post-industrial waterfront. A redeveloped Moran Plant will focus on the following five areas of Community, Energy, Arts, Food and Recreation.

This project addresses brownfield remediation and stormwater management for the building. New Moran will be a direct manifestation of Burlington's commitment to leadership in renewables, energy efficiency and environmentally sustainable urban design.

The redevelopment plan retains, to every extent possible, the Moran building's open space and industrial character while showcasing year-round Vermont's vibrant artistic, cultural and recreational activities. By restoring the character and reinventing the value of a landmark structure, New Moran not only preserves the heritage of our formerly industrial waterfront but represents a catalyst for year-round activity. The redevelopment will utilize universal design as much as possible and comply with all ADA requirements.

The New Moran redevelopment creates a powerful new focal point for community events, conferences, conventions, workshops, education, performance and arts installation at a scale otherwise unimaginable - and sorely needed - in Burlington. Such potential for transformative waterfront investment is described in the following project initiatives.

- The "Great Room," with a capacity of ~ 1,500 people provides a new year-round, non-weather-contingent alternative to outside events. The Burlington based Crothers Management Group (CMG) will work closely alongside the New Moran non-profit management team, collectively forming the New Moran Management Group, to curate and provide management services of the events facility.
- 'Generator' is a non-profit organization providing tools, classes and flexible studio spaces to support the community intersection of art, science and technology. Generator exhibits maker creations in both formal gallery space, and atriums throughout the building along with hosting public lecture series, workshops and large gatherings. Generator will manage a fabrication space accessible for building tenants and house hands-on classes and small open studio spaces for competitive artistic residencies. Perhaps similar to <http://artisansasylum.com/> but appropriate for Burlington.
- AO Glass Works will operate an educational glass blowing studio expanding the building's public access and artistic energy by offering free entrance to watch creativity in the making by hosting daily demonstrations and exhibitions for children and adults, alongside classes, workshops, and school field trips.
- A Community R&D hub creates open pre-incubation space for local organizations and individuals to access otherwise unavailable or unaffordable technology and media resources. This creates a home for the wide-array of existing technology-based citizen user groups in Burlington and gives the community access to Burlington's gigabit-potential fiber optic network while improving Burlington's potential as a regional technology center.
- A non-profit Community Media Studio provides the equipment to process and disseminate media from Moran-building events, run by local leaders in community access media and serves as a Burlington hub for media education and innovation.
- The Farmhouse Group will develop a year-round restaurant which expands seasonally and serves the catering and banquet functions of the building.

- Zero Gravity Craft Brewery will implement an educational nano-brewery, sourcing ingredients from the local agricultural community, teaching classes and hosting competitive residencies for brewers from around the world.
- The Vermont Community Garden Network (VCGN) will install and manage a 1,200-1,500 square foot raised-bed planter box garden on a portion of Moran's south facing "Great Roof". This offers a unique education opportunity for Burlington residents without access to a garden, enables on-site food production for the restaurant below and promotes sustainable agriculture and environmental stewardship through hands-on workshops and internship opportunities.
- The Lake Champlain Community Sailing Center will remain on site and will continue to provide youth sailing camps, adult instruction, non motorized boat rentals, small boat storage and more, regardless of age, physical or financial ability.

This is a redevelopment by the community, for the community. Outside of large programmed events, the majority of building and surrounding site is open and free to the public. Our program and tenants offer educational and recreational benefits that will enrich the community at large and have a positive impact on low-income residents.

As a new public community facility, the redeveloped Moran plant will serve the entire city. However, wherever feasible, the jobs created will be targeted to residents of the city's Renewal Community, in which the project is located. The Renewal Community (census tracts 3, 4, and 5 and block group 1 of census tract 10) includes the city's Old North End, the most densely populated and impoverished neighborhood in Vermont. Historically the city's working class neighborhood, the Old North End has also become home to an increasingly diverse group of refugees and immigrants. It is identified in the city's Consolidated Plan as a high-poverty area, and is part of the city's HUD-approved Neighborhood Revitalization Strategy Area.

According to the 2005-07 American Community Survey 3-Year Estimates (Table C17001), the poverty rate in Burlington was 20.96% (7,023 persons), and the national rate was 13.26%. Information on poverty at the census tract and block group level is not available through recent ACS data, but according to the 2000 Census, the poverty rate for the Renewal Community Target Area was 31.4% (3,442 persons), more than 2.4 times the 2000 national rate.

According to the 2000 Census (again, the most recent unemployment data available at the census tract level), the Renewal Community unemployment rate was 6.1% (403 persons), the Burlington rate was 5.4% (1,222), and the national rate was 5.7%. The Target Area unemployment rate was at least equal to, but less than twice, the national average.

The Moran Plant is an opportunity for economic development. The following information provided by the New Moran proposers detail growth in jobs, construction multiplier effects, direct economic impact via gross receipts and indirect multiplier effects of program events, food, beverage and arts activity.

The project will generate 44 new FTE jobs at initial staffing, between 60 to 80 total new jobs (including full-time, part-time, seasonal and ancillary). Six businesses and four community organizations would be created or retained through this project. The project anticipates creation of ~576 construction jobs based on a project cost of \$16,044,375 with an additional \$36,581,175

economic impact from the construction of Moran. There will be \$15,396,202 annually in both direct and indirect economic impact from the New Moran.

The community development objectives are to: 1) redevelop a blighted, contaminated site on the city's waterfront into new public and commercial space; 2) stimulate gross receipts taxes and parking fees to the city; and 3) create approximately 44 new FTE jobs at initial staffing, between 60 to 80 total new jobs (including full-time, part-time, seasonal and ancillary), and around 576 construction jobs.

The Moran Center is located in a HUD-designated Renewal Community, where 77% of the residents are low/moderate income (over 31% of RC residents live below the poverty line). Additionally, as of 2010 over 58% of the City's residents qualify as low or moderate income.

The project tenants will offer considerable arts, cultural, educational and recreational benefits that will enrich the community at large and have a positive impact on low-income residents. For example, each year the Community Sailing Center provides sailing opportunities to hundreds of at-risk and economically disadvantaged youth, as well as the physically challenged. AO Glass Works will operate an educational glass blowing studio hosting daily demonstrations and exhibitions for children and adults, alongside classes, workshops, and school field trips.

The new public park space, transportation improvements, bike path improvements currently being developed under the adjacent Waterfront Access North Project and public rest rooms will be public amenities available to all Burlington residents, free of charge.

The Moran project will remediate a brownfields site and renovate a blighted and frequently vandalized abandoned industrial property, located across the street from a 40-unit affordable housing development (which has a significant investment of HUD funds, including HOME, EDI, Section 108, and project-based Section 8). There are various environmental concerns at the site as a result of its previous use as a coal-fired electric plant, and before that, as a rail yard and lumber storage and processing area. These include lead paint and asbestos inside the building, elevated levels of arsenic and PAHs in the shallow soils, and volatile organic compounds in the groundwater. The redevelopment will address all these concerns.

The Moran redevelopment project is one of the city's economic development priorities.

2. Sources and Uses

These Sources are based on the "New Moran", which was the result of the recent public process that examined this site. The Uses are based on professionally prepared cost estimates, and will continue to be refined as the project moves from concept to a fully designed and permitted project and finally to construction. However, the Section 108 loan amount and repayment sources will not change.

Moran - Provisional Development Budget - October 2013

1.0 New Moran - Development Budget		
10/17/2013		
Sources Of Funds		
	Equity	
	Federal Historic Tax Credit (RITC)	3,366,287
	State Historic Tax Credit	100,000
	New Markets Tax Credit (NMTC)	7,347,902
	Tenant Fit-Up Capital	1,201,120
	Grants	
	BEDI	1,040,000
	City	
	General Fund Expenditures	-
	Debt	
	Senior Debt	1,250,000
	Charitable - Program Related Loan	4,200,000
	HUD Section 108 Loan	2,091,000
	TIF Debt	4,550,000
	Performance Contract/PPA	300,000
Total Sources:		25,446,309
Uses of Funds		
	Acquisition	2,583,775
	Hard Costs	15,547,642
	Design	2,031,875
	Other Soft Costs	1,790,000
	Financing, Reserves & Carrying Charges	2,243,017
	Project Contingency	1,250,000
Total Uses of Funds:		25,446,309
Total Over/(Under)		-

3. Project Structure and Participants

The City of Burlington will continue to own the property. The City under its Community and Economic Development Office (CEDO) will use the Section 108 Guarantee Loan funds in conjunction with Brownfield Economic Development Initiative (BEDI) funds to undertake various remediation activities, building stabilization and site improvements and then will transfer the building to the New Moran group for the final and full redevelopment.

The Community and Economic Development Office (CEDO) has a thirty year history of implementing complex projects and programs with considerable success focusing on economic and housing development projects. CEDO is the city agency tasked with revitalizing the formerly industrial waterfront area, including construction of the Waterfront Park, community boathouse, bike path, fishing pier, public parking, and reconstruction of Lake Street. These public improvements have spurred over 100 million of dollars of private investment in commercial development, perpetually affordable housing, a nonprofit science museum, and market-rate housing.

CEDO's Brownfields Program has seventeen years of experience and has twice been an EPA "Showcase Community" finalist. In partnership with nonprofit and private developers and other units of local, state, and federal government, over \$10 million has been leveraged in assessment, clean-up, and redevelopment of numerous derelict or underutilized properties returning them into productive uses.

The New Moran project is also being structured to benefit from Rehabilitation Investment Tax Credits (RITC) and New Markets Tax Credits (NMTC). The New Moran non-profit organization will raise the necessary capital dollars from a wide range of sources.

The New Moran project is being led by a development team coordinated by Renaissance Development Company, Room 9 Redevelopment, LLC and the Charlie Tipper Company.

Renaissance Development Company, a real estate development and project management firm based in Vergennes, Vermont has more than 25 years of experience in construction and development, including commercial, residential and hospitality projects. Their focus includes downtown redevelopment, historic preservation, mixed use, hospitality development, and tax credit syndication. The company provides complete project management services from initial project conception, to construction period administration, through to sale and lease-up.

Room 9 Redevelopment LLC is a new firm founded by award winning Vermont natives Erick Crockenberg and Tad Cooke who have experience with independent research and project management in sustainable agriculture and renewable energy.

Charlie Tipper Company, specializes in real-estate investment and re-development. Principal partner, Charlie Tipper, has redeveloped multiple properties in Vermont. Mr. Tipper is a local philanthropic leader and the founding president of South Hero Land Trust and continues to serve on its board and fundraising committee. He has served as the chair of many successful capital campaigns.

Primary development partners include:

- Development & Management Entity: "New Moran" 501(c)(3) - working title - Created by Charles Tipper.
- Lead Project Management: Room 9 Redevelopment LLC & Renaissance Development Company
- Non-Profit Creation: Charlie Tipper, Erick Crockenberg & Tad Cooke
- Architecture: Smith-Buckley Architects
- Finance & Project Management: Jeffrey Glassberg, Renaissance Development Company
- Structural Engineering: Engineering Ventures-
- Construction Cost Estimating: PC Construction
- Energy Strategy & Finance: BETTER P3
- Environmental Management: Waite-Heindel Environmental Management
- Engineered Wastewater: John Todd Ecological Design, EcoSolutions
- RFP-Stage Fiscal Agent: Preservation Trust of Vermont (PTV)
- Philanthropic Support to date: Vermont Community Foundation (lead gift to the project)

The Moran building will be developed and managed by a to-be-formed 501(C)(3) not-for-profit corporation established in the State of Vermont. The preliminary working name for this organization is 'New Moran.' This entity will seek a long-term lease arrangement for the Moran building. The Burlington based Grothers Management Group (CMG) will work closely alongside the New Moran non-profit management team, collectively forming the New Moran Management Group, to curate and provide management services of the events facility with over 15 years of facility management and three venues already under its care, CMG is uniquely suited to bring its expertise to this project.

4. Repayment Schedule

The cost to construct the project will come from the sources listed above in #2. Repayment of the Section 108 Loan Guarantee Program will come from Tax Increment Financing (TIF) revenues estimated annually to be \$385,000, of which \$190,000 would be set aside for repayment. If New Market Tax Credits (NMTC) are used for this project in conjunction with the Section 108 and BEDI funds, then the City may seek to pay principal only during the NMTC compliance period. The term of the Section 108 loan will be 11 years. (See Attachment ____ for a detailed Repayment Schedule.)

5. Collateral

The City of Burlington pledges future tax increments from the Tax Increment Financing (TIF) District in which the Moran Plant is located as collateral for this loan. The TIF revenues from the district are projected annually at \$385,000.

6. Project Implementation

The estimated project schedule will begin with the execution of Memorandum of Understandings with developer in March 2014. It is anticipated that for the activities to be undertaken by the Section 108/BEDI funds design, engineering and permitting which along with bidding, is anticipated to be complete by May 2014. The construction for the stabilization of the shell, site improvements and Brownfield remediation is anticipated to take place between May 2014 and September 30 2014. The Section 108 financing will need to be in place by May 1, 2014 before the project is bid.

Not unlike the structure of the City of Burlington's initial application, the City will need to structure the loan agreement to allow for two distinct possibilities. First, it will need to allow for the possibility of including BEDI and Section 108 funds in a New Market's Tax Credit financing structure. Alternatively, we will want the loan agreement to permit the City to utilize the funds for authorized City work on this Public-Private Project without inclusion in a New Market's Tax Credit financing structure. In either event, the Project remains the same. The developer is aware that the Project's timeline is sensitive with regard to the use of BEDI and Section 108 funds. If the funds are to be included in the New Markets financing, the developer's timeline will accommodate the HUD timelines for these BEDI and Section 108 funds. Alternatively, if the developer cannot establish a timeline to close on its New Market's financing before September 30, 2014, then the developer will utilize a financing plan in which the BEDI and Section 108 funds are not utilized in the New Market's financing structure but instead will be utilized for such City authorized work on the project as will meet the HUD timelines necessary for the use of these funds. The Section 108 funds would be available for use through September 30, 2015.

7. Eligible Activity

The proposed activity is the redevelopment of a publicly-owned property into new public community facility that includes commercial space. The activity is eligible under 24 CFR 570.703(l), "Acquisition, construction, reconstruction, rehabilitation or historic preservation, or installation of public facilities ... including public streets, sidewalks, other site improvements ... and remediation of known or suspected environmental contamination..." The activity is also eligible as a "special economic development activity" under §570.703(i)(1) and by extension, §570.203.

The activity is also eligible under Section 570.703(i)(1), which makes eligible, "Activities eligible under 570.203," which in turn makes eligible under subparagraph (a), "The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment or improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private subrecipients."

If this project were not structured for NMTCs, the Section 108 eligible activity would be 24 CFR 570.703(l) as a public facility. But if the 108 was to be loaned to a NMTC investment fund (the "Investment Obligor") which is a for-profit. Thus, Guaranteed Loan Funds and the BEDI funds will be used to make a loan to the Investment Obligor to assist with an economic development

project, which financial assistance is an economic development activity in accordance to 24 CFR 570.703(i)(1) pursuant to §570.203(b).

8. National Objective

The activity will meet the area benefit standard of 24 CFR 570.208(a)(1). The new public facility will provide a citywide benefit to all Burlington residents. Under the 2010 Census (the most recent information available), 58% of Burlington residents are low/moderate income. Since the project is in a HUD-approved NRSA, the activity will meet the national objective of job creation/retention as a low and moderate income area benefit as defined under 24 CFR 570.208(d)(5)(i).

The activity will also meet the low/moderate income job creation/retention objective of 24 CFR 570.208(a)(4). There will be 44 FTE new permanent jobs created by the tenants in the new facility. All will qualify as low/moderate income under Section 570.208(d)(5)(i) because the facility is located in the city's Neighborhood Revitalization Strategy Area.

9. Public Benefit Standards

This project qualifies as a public facility with an area benefit; therefore, the public benefits standard does not apply. However, if the public benefits standard were applied to the jobs created by the private sector tenant, the project would also qualify under that criterion. Because the Moran project is located in the city's HUD-approved Neighborhood Revitalization Strategy area, the applicable standard is not more than \$50,000 of assistance per job [§570.209(3)]. We estimate that \$3.231 million in Section 108, BEDI and CDBG will be used in the project, including CDBG project delivery costs. Since the project is in a HUD-approved NRSA, the activity will meet the national objective of job creation/retention as a low and moderate income area benefit as defined under 24 CFR 570.208(d)(5)(i) and all jobs created or retained will apply.

10. Financial Underwriting

Under Assessment

11. Citizen Participation Plan

The City of Burlington's 2008 Consolidated Plan includes both the Statement of Needs and the Strategy for the project proposed in the City's Section 108 proposal. In describing the waterfront the 2008 Consolidated Plan states, "Burlington's waterfront has changed from an industrial wasteland to a center for cultural, recreational, social and economic activities. Over the last two decades, the city has improved park and open space, removed vacant structures, cleaned up contaminated land, and made infrastructure improvements to ensure pedestrian, bicycle and vehicle access.

Major milestones in the waterfront development process include rezoning, approval of two bond issues, land acquisition, establishing a tax increment-financing district, and public improvements. Section 108 funds have helped significant waterfront infrastructure improvements, including the reconstruction of Lake Street, upgrading of shower facilities at the Boathouse and stabilizing the Moran Plant, and the water/wastewater system and other infrastructure improvements for Lake Street Extension. Today, the waterfront remains a focus for continued improvement – especially as the city is not meeting its local demand for recreation despite triple-digit job growth in that area over the last sixteen years.

City staff has completed a thorough outreach and citizen participation plan, consistent with the City's Consolidated Plan. Legal notice of the public hearing and review period were published in a local paper on November 13, 2013.

On December 9, 2013 at 7 PM, the City of Burlington will hold a Public Hearing before the City Council in Contois Auditorium to consider the submission of an amended application for Section 108 Guarantee Loan funds. A draft application is available for review at www.cedoburlington.org The public is encouraged to review the draft application, to attend the Public Hearing and to comment. Written or oral comments will be accepted on the amended application through the close of business on December 13, 2013 at the Community & Economic Development Office, 149 Church Street, Room 32- City Hall Burlington, 865-7144. For more information or information on alternative access contact Kirsten Merriman Shapiro 865-7284 or kmerriman@burlingtonvt.gov

12. *Whom May We Contact*

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Community & Economic Development Office
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Burlington, VT 05401

**SUMMARY OF AVAILABLE
“ADDITIONAL SECURITY”**

The City of Burlington pledges future tax increments from the Tax Increment Financing (TIF) District in which the Moran Plant is located as collateral for this loan. The TIF revenues generated from within the district is projected annually at \$385,000.

SECTION 108 LOAN GUARANTEE
Entitlement Public Entity Certifications

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (the "Act"), and with 24 CFR Part 570.704(b), the public entity certifies that:

- (3) It possesses the legal authority to make the pledge of grants required under §570.705(b)(2).
- (4) It has made efforts to obtain financing for activities described in the application without the use of the loan guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (the "Act"), and with 24 CFR Part 570.704(b)(8), the public entity further certifies that:

- (i) It possesses the legal authority to submit the application for assistance under this subpart and to use the guaranteed loan funds in accordance with the requirements of this subpart.
- (ii) Its governing body has duly adopted or passed as an official act a resolution, motion or similar official action:
 - (A) Authorizing the person identified as the official representative of the public entity to submit the application and amendments thereto and all understandings and assurances containing therein, and directing and authorizing the person identified as the official representative of the public entity to act in connection with the application to provide such additional information as may be required; and
 - (B) Authorizing such official representative to execute such documents as may be required in order to implement the application and issue debt obligations pursuant thereto (provided that the authorization required by this paragraph (B) may be given by the local governing body after submission of the application but prior to execution of the contract required by §570.705(b).
- (iii) Before submission of its application to HUD, the public entity has:
 - (A) Furnished citizens with information required by §570.704(a)(2)(i);
 - (B) Held at least one public hearing to obtain the views of citizens on community development and housing needs; and
 - (C) Prepared its application in accordance with by §570.704(a)(1)(v) and made the application available to the public.
- (iv) It is following a detailed citizen participation plan which meets the requirements described in by §570.704(a)(2).
- (v) The public entity will affirmatively further fair housing, and the guaranteed loan funds will be administered in compliance with:
 - (A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*); and
 - (B) The Fair Housing Act (42 U.S.C. 3601-3619).
- (vi) In the aggregate, at least 70 percent of all CDBG funds, as defined at §570.3, to be expended during the one, two, or three consecutive years specified by the public entity for its CDBG program will be for activities which benefit low and moderate income persons, as described in criteria at §570.208(a).
- (vii) It will comply with the requirements governing displacement, relocation, real property acquisition, and the replacement of low and moderate income housing described in §570.606.
- (viii) It will comply with the requirements of §570.200(c)(2) with regard to the use of special assessments to recover the capital costs of activities assisted with guaranteed loan funds.
- (ix) (Where applicable.) It lacks sufficient resources from funds provided under this subpart or program income to allow it to comply with the provisions of §570.200(c)(2), and it must therefore assess properties owned and occupied by moderate income persons, to recover the guaranteed loan funded portion of the capital cost without paying such assessments in their behalf from guaranteed loan funds.
- (x) It will comply with the other provisions of the Act and with other applicable laws.

Public Entity Legal Name _____

Signature _____ Date _____

Printed Name and Title
of Authorized Official _____

**SECTION 108 LOAN GUARANTEE
Non-entitlement Public Entity Certifications**

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (the "Act"), and with 24 CFR Part 570.704(b), the public entity certifies that:

- (3) It possesses the legal authority to make the pledge of grants required under §570.705(b)(2).
- (4) It has made efforts to obtain financing for activities described in the application without the use of the loan guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (the "Act"), and with 24 CFR Part 570.704(b)(8), the public entity further certifies that:

- (i) It possesses the legal authority to submit the application for assistance under this subpart and to use the guaranteed loan funds in accordance with the requirements of this subpart.
- (ii) Its governing body has duly adopted or passed as an official act a resolution, motion or similar official action:
 - (A) Authorizing the person identified as the official representative of the public entity to submit the application and amendments thereto and all understandings and assurances containing therein, and directing and authorizing the person identified as the official representative of the public entity to act in connection with the application to provide such additional information as may be required; and
 - (B) Authorizing such official representative to execute such documents as may be required in order to implement the application and issue debt obligations pursuant thereto (provided that the authorization required by this paragraph (B) may be given by the local governing body after submission of the application but prior to execution of the contract required by §570.705(b).
- (iii) Before submission of its application to HUD, the public entity has:
 - (A) Furnished citizens with information required by §570.704(a)(2)(i);
 - (B) Held at least one public hearing to obtain the views of citizens on community development and housing needs; and
 - (C) Prepared its application in accordance with by §570.704(a)(1)(v) and made the application available to the public.
- (iv) It is following a detailed citizen participation plan which meets the requirements described in by §570.704(a)(2).
- (v) The public entity will affirmatively further fair housing, and the guaranteed loan funds will be administered in compliance with:
 - (A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*); and
 - (B) The Fair Housing Act (42 U.S.C. 3601-3619).
- (vi) It will comply with primary and national objectives requirements, as applicable under subpart F (Small Cities Program) of this part.
- (vii) It will comply with the requirements governing displacement, relocation, real property acquisition, and the replacement of low and moderate income housing described in §570.606.
- (viii) It will comply with the requirements of §570.200(c)(2) with regard to the use of special assessments to recover the capital costs of activities assisted with guaranteed loan funds.
- (ix) (Where applicable.) It lacks sufficient resources from funds provided under this subpart or program income to allow it to comply with the provisions of §570.200(c)(2), and it must therefore assess properties owned and occupied by moderate income persons, to recover the guaranteed loan funded portion of the capital cost without paying such assessments in their behalf from guaranteed loan funds.
- (x) It will comply with the other provisions of the Act and with other applicable laws.

Public Entity Legal Name _____

Signature _____ Date _____

Printed Name and Title of Authorized Official _____

**Appendix A to Part 87—Certification Regarding Lobbying
Statement for Loan Guarantees and Loan Insurance**

The undersigned states, to the best of his or her knowledge and belief, that:

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Name of Authorized Official

Title

APPENDICES

- A. AREA MAP
- B. LEGAL NOTICE
- C. MEMO FOR CITY COUNCIL AUTHORIZATION REQUEST
- D. CITY COUNCIL AUTHORIZATING RESOLUTION

APPENDIX A --- AREA MAP