

City of Milford



AGENDA

Council Meeting

December 29, 2011*

Milford City Hall - Joseph Ronnie Rogers Council Chambers - 201 South Walnut Street, Milford, Delaware

7:00 p.m.

PUBLIC HEARINGS

Community Development Block Grant Program - Sussex & Kent County - Fiscal Year 2012
Adoption of Resolutions

Preliminary Major Subdivision—**POSTPONED****
Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II

COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Recognition

Communications

Unfinished Business

Adoption of Ordinance 2011-30/Chapter 119/Electric Tariff/Rate Reduction

DBF Proposal/Washington Street Water Plant

New Business

Adjourn

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

PUBLIC HEARING

The **City of Milford, Delaware**, in cooperation with the Sussex County Council, the Levy Court of Kent County, Delaware, and the Delaware State Housing Authority (DSHA), will hold a public hearing on **Thursday, December 29, 2011 (RE-SCHEDULED FROM TUESDAY, DECEMBER 27, 2011)** at 7:00 p.m. at the **City Hall, 201 South Walnut St., Milford, Delaware** for the purpose of providing any interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant (CDBG) Program. In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals.

This Federally funded program will provide grants amounting to \$2,000,000 (funding level subject to change), to support Community Development Activities in eligible local governments in Kent and Sussex Counties. The public hearing will also include a status report for Milford's FY-11 projects.

For further information on this hearing, please contact Sussex County Department of Community Development at 855-7777 or the Kent County Department of Planning at 736-2014.
405834 MC 12/21/2011



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October 24, 2011

MEMORANDUM

TO: Eligible Communities within Kent and Sussex Counties
Kent County Levy Court
Sussex County Council

FROM: Anas Ben Addi, Director *AB*

SUBJECT: **Delaware FY2012 Community Development Block Grant
Program Guidelines and Application Package**

Enclosed please find the final FY2012 State of Delaware Community Development Block Grant (CDBG) Program Guidelines and Application Package. A public meeting on the Guidelines was held on October 5, 2011, the last day of the comment period. The Program Guidelines and Application Package have been changed from last year's program as follows:

- Under Section I.E.2.e., all target area information must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on January 27, 2012.
- New Sections I.E.2.g. and V.B.1.d. have been added to give an incentive for applicants to target areas of minority concentration. Section I.E.2.g. states that applications can receive up to five points in the 100 point scoring system (Section V.B.1.d.), if they target the census tracts listed as having disproportionately high minority concentrations.
- No liens will be required for water/sewer hookups, meter installations (Section III.A.1.a.4.), or emergency home repairs (Section III.A.1.g.4.) receiving \$3,500 or less in assistance. The threshold for liens for these activities has been increased from \$2,500 to \$3,500, to avoid burdensome paperwork requirements for small projects that have increased in cost over the years.

Eligible Communities and Kent and Sussex Counties
October 24, 2011
Page Two

- Under Section III.A.1.d.5., the maximum age for manufactured housing units used to replace condemned manufactured housing units on owner-occupied lots with HOME funds has been increased from 10 years old to 20 years old. Replacement units less than 10 years old are difficult to find, and units up to 20 years old should still be in, or easily repairable to, standard condition; and
- Under Section III.D.3., the maximum allocation for all administrative and program delivery costs for any single applicant shall not exceed \$162,000 in any program year.

The deadline for receipt of completed FY2012 CDBG applications at the Delaware State Housing Authority, 18 The Green, Dover, DE 19901 is 4:00 p.m. on March 1, 2012.

Please do not submit more or less than the required one original and two copies of each application.

Incomplete or otherwise deficient applications will be returned to the applicant and will not be permitted to be amended.

If you have any questions regarding the Program Guidelines or Application Package, please feel free to call Andrew Lorenz of the Community Development Section at (302)739-4263 ext. 261 or you may reach him via e-mail at andy@destatehousing.com. Thank you.

ajl:mjh

Enclosures

cc: Kimberly P. Brockenbrough, w/o enclosures
Andrew J. Lorenz

STATE OF DELAWARE
DELAWARE STATE HOUSING AUTHORITY
DELAWARE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
PROGRAM GUIDELINES FOR FY2012

I. GENERAL

A. Scope and Applicability

These Program Guidelines describe the Delaware Community Development Block Grant (CDBG) Program for Kent and Sussex Counties in Delaware. Funds for this program, when appropriated by the U.S. Congress, are provided in a block grant to the state by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 106 of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, and in accordance with HUD rules, regulations and program memoranda.

B. Administration

The Delaware State Housing Authority (DSHA) administers the Delaware CDBG Program. The purpose of DSHA is to provide affordable, decent, safe, and sanitary housing to low- and moderate-income persons.

C. Program Design and National Objectives

The Delaware 2012 CDBG Program has been designed so as:

1. to give maximum feasible priority to activities which will benefit low- and moderate-income families;
2. to aid in the prevention of slums and/or blight; and
3. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.

Each CDBG activity must be an eligible activity, and it must comply with one of the above three national objectives. Subgrantees shall ensure that the following records are maintained and kept up to date: 1.) records demonstrating that each activity undertaken meets one of the national objectives; and 2.) a full description of each activity carried out (or being carried out) in whole or in part with CDBG funds, including the nature and purpose of the activity, its location (if the activity has a geographical location) and the amount of CDBG funds budgeted, obligated and expended for the activity.

EXCEPT THAT the aggregate use of Title I funds received by the state during the period of Federal Fiscal Years 2010, 2011 and 2012 shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit low- and moderate-income persons. In order to comply with the 70 percent principal benefit requirement, it is further agreed that not less than 70 percent of the total FY12 CDBG Grant shall be utilized for activities that benefit low- and moderate-income persons as defined in Section I.D. of these Program Guidelines.

D. Low- and Moderate-Income Definition

1. Low- and moderate-income persons are those persons whose incomes do not exceed the income limits for lower-income families pursuant to Section 8 of the United States Housing Act of 1937 as amended, and provided to the state of Delaware by HUD in a table of income limits as set forth by dollar amount and family size. (These income limits are periodically revised by HUD and are made available by the DSHA to all units of general local government and counties in Delaware eligible for this program. See Attachment "A" to these Program Guidelines for the most recent figures dated 7/13/11).
2. Low- and moderate-income households are all persons occupying the same housing unit, regardless of their relationship to each other, whose combined incomes do not exceed the income limits described in paragraph I.D.1., above.

E. Documentation of National Objectives and Low- and Moderate-Income Benefit

1. Documentation of National Objective.
 - a. Infrastructure (public works) Activities:

For each activity determined to benefit low- and moderate-income persons based on the area served by the activity, subgrantees must maintain records containing: 1.) the boundaries of the service area, and 2.) a summary of the income characteristics of the persons in the

service area showing that at least 51 percent of area residents are low/moderate income.

b. Housing Rehabilitation Activities:

For each direct benefit activity determined to directly benefit low- and moderate-income persons based on the household income of those directly benefiting and where the activity involves the submission of an application or the completion of a personal record, subgrantees must maintain sufficient evidence to ensure such benefits would accrue to low- and moderate-income persons, the income limits applied, and the point in time when the benefit was determined.

Individual household incomes must be thoroughly documented to verify that they are 100 percent low to moderate income before each housing unit is provided housing rehabilitation assistance. No rehabilitation assistance shall be provided to households that are not low to moderate income, except as provided under Section III.C.2.c. of these Program Guidelines (urgent need).

Subgrantees must maintain records including the number of units to be rehabilitated, and the amount to be spent on each unit to be rehabilitated.

c. Housing Code Enforcement/Demolition:

Documentation to be maintained by subgrantees for each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area must include: 1.) the boundaries of the area; and, 2.) a description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the requirements in 24 CFR 570.208(b)(1).

Documentation to be maintained by subgrantees for each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area must include a description of how the threats to public health and safety are to be corrected.

d. Transitional Housing Construction/Rehabilitation:

For each activity determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use predominantly by low- and moderate-income persons, subgrantees

shall maintain sufficient evidence to ensure that the predominant users would be low- and moderate-income persons.

e. Urgent Needs:

For each activity determined to meet a community development need having a particular urgency, subgrantees shall maintain documentation including: 1.) the nature and degree of seriousness of the conditions requiring assistance; 2.) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; 3.) information on the timing of the development of the serious condition; and, 4.) evidence confirming that other financial resources to alleviate the need were not available.

2. Target Areas

- a. Community-wide low- and moderate-income percentages are noted in Attachment B to the Program Guidelines. The list is derived from a census summary tape, revised as of 4/03. These community-wide low- and moderate-income percentages will normally be used only for infrastructure activities such as a town well.
- b. Infrastructure (public works) activities must utilize either the community-wide low- and moderate-income figures noted in Attachment B, a survey following the methodology contained in the 7/26/06 HUD Notice CPD-05-06, "(HUD) Suggested Survey Methodology to Determine the Percentage of Low- and Moderate-Income (LMI) Persons in the Service Area of a Community Development Block Grant-Funded Activity," or the available census data at the tract or block group level, to show that target area residents are 51 percent low/moderate income. Census maps can be found at: <http://factfinder2.census.gov>. Past surveys not utilizing the HUD methodology will not be accepted.
- c. Housing rehabilitation activities no longer have to document that the target area residents are 51 percent low/moderate income. Instead, the target area will be defined on the basis of the number of substandard dwelling units contained within its boundaries. The total number of dwelling units shall also be enumerated. Documentation of these figures shall normally be accomplished through a windshield survey.

Where no discernible target areas exist within a community's corporate limits, the entire community may be identified as a rehab target area. The total number of dwelling units, and the number of substandard dwelling units, shall be documented as for any other target area.

d. Housing Code Enforcement/Demolition:

Unless housing code enforcement/demolition activities meet the national criteria for slum and blight, these activities require target area determinations utilizing the HUD Survey Methodology or census data documenting a 51 percent benefit to low/moderate-income persons.

e. DSHA Pre-Approval:

All target area survey instruments, descriptions of how surveys were conducted, survey results, maps clearly indicating service area boundaries, a rationale/justification for the service area determination, and a rationale for the method used to determine low- and moderate-income benefit (if Census information is not used) must be approved by DSHA prior to the submission of an application. Census data must be used to the maximum extent feasible for determining the income of persons residing in service areas. Target areas must have at least four eligible units per target area. All target area information must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **January 27, 2012**.

f. Service Area Determination guidance can be found at the Section titled "Determining the service area" on pages 3-9 to 3-11 of the "Guide to National Objectives & Eligible Activities for State CDBG Program," available from DSHA.

g. Areas of Minority Concentration

To affirmatively further fair housing, DSHA will provide up to 5 points to applications that target areas having disproportionate housing needs by race and ethnicity. Areas of racial and ethnic minority concentration are defined as geographic areas where the percentage of a specific minority or ethnic group is 10 percentage points higher than in the jurisdiction overall. In Kent County there are 11 census tracts identified as having concentrations of Black residents, including 402.03, 405, 406, 407, 408, 410, 412, 413, 414, 415, and 425. Nine of these tracts are partially contained within the City of Dover. In Sussex County, there are four census tracts having concentrations of Black residents: 502, 504.04, 507.01, and 518.02. Sussex County also has two census tracts having concentrations of Hispanic residents: 505.02 and 514.

F. Program Outcome Performance Measurement

On pages 11470 to 11481 of the March 7, 2006 Federal Register, HUD published a "Notice of Outcome Performance Measurement System for Community Planning and Development Formula Grant Programs". This Notice on Performance Measurement is to be followed in establishing and reporting outcome performance measures for each activity for FY2012. Subgrantees are required to provide proposed outcome/objective statements for each activity in their CDBG applications, and actual outcome/objective statements with indicators in their quarterly and closeout reports.

II. General Information for Applicants

A. Eligible Applicants

Eligible applicants are units of general local government in Kent and Sussex Counties, the Kent County Levy Court and the Sussex County Council.

B. Number and Type of Applications

Each unit of local government and each county government may make only one application for funds in each program year, with the exception of applications for emergency activities and infrastructure for new housing development. An application from the Kent and Sussex County Governments may include unincorporated portions of the county, as well as those incorporated areas whose governing bodies have specifically requested to be included in the county's application. Written evidence of that request must be included with the county's application. If a local government has requested to be included in a county application it may not make a separate application, except applications for emergency activities and infrastructure for new housing development submitted after the normal application deadline.

C. Activities Outside an Applicant's Boundaries

An applicant may apply for CDBG funds for eligible program activities, which are partially outside its boundaries if it can be demonstrated that these activities are appropriate to meet the applicant's needs and objectives. Such activities must be consistent with state and local law, and the county or municipality within which these activities will take place must agree to such activities.

D. Activities within an Application

Within a single application or fiscal year, an applicant may seek funding for activities, which address more than one community development need, as long as the total does not exceed the maximum allocation of \$1,100,000. The CDBG funds requested,

either by themselves or in combination with other funds must be sufficient to complete the proposed activities. An allocation exceeding \$500,000 would have to be extremely competitive.

E. Eligible Activities

The 2012 program will provide funds to units of general local government and to counties not entitled to receive CDBG funds directly from HUD to undertake eligible approved activities, as listed in these Program Guidelines. The program is competitive in nature and it is anticipated that the demand for funds will far exceed the total amount available to the state. Therefore, eligible applicants selected for funding will be those communities and counties whose applications best address locally-determined needs of low- and moderate-income families as contained in the Delaware Consolidated Plan dated May, 2010, and which are also consistent with the 51 percent principal benefit requirement or otherwise meet one of the three National Objectives, and which meet one or more state priorities.

Applicants should be aware that proposed activities, which do not meet a state priority will be deemed unresponsive and not considered by the review panel, unless sufficient fundable activities meeting a state priority are not received by DSHA.

III. State Priorities and Set Asides

The following are the state's priorities and set asides for FY12 CDBG funding:

A. Maintenance of Existing Housing

1. Rehabilitation of substandard residential properties occupied by 100 percent low- and moderate-income households.

a. General

- 1) Applicants must submit a list of all residential properties to be rehabilitated, with each property identified as owner or renter occupied. However, local governments with current waiting lists containing at least twice the number of applicants than are proposed for assistance may simply submit a certification to that effect, without submitting the normal list of properties to be rehabilitated.

For the FY12 program year, if rehab applicants are exhausted in targeted areas before funds are exhausted in those areas, excess funds from those areas can be transferred to other target areas. If all eligible rehab applicants are exhausted in all target areas before funds are exhausted in those areas, then the excess

funds from those areas can be transferred to scattered site rehabilitation.

- 2) All residential properties receiving CDBG assistance must be rehabilitated up to the standards of the Delaware State Housing Code, except that those properties only receiving assistance under a funded Emergency Home Repair activity under Section III.A.1.g. do not need to be brought completely up to code at the time the emergency repair is completed. All CDBG applicants must include a clause in their rehabilitation contracts, which enables them to rescind the contract in the event it is determined during the course of construction that the proposed rehabilitation is not feasible due to unforeseen conditions not known at the time the contract was executed.
- 3) All applicants requesting CDBG rehabilitation assistance must have adopted and be enforcing a housing code equivalent to or more restrictive than the Delaware State Housing Code. (Municipalities may be under contract for the enforcement of the code by county government.) The CDBG subgrantee must certify that the property is up to housing code standards when rehabilitation is completed.
- 4) A ten year lien must be placed against all properties rehabilitated with CDBG funds; a five-year lien is required on properties owned and occupied by a person(s) aged 62 years or older; a five-year lien is required on manufactured housing receiving less than \$10,000 in CDBG rehabilitation assistance; and no lien will be required to be placed on properties receiving only water/sewer hookups or meter installations costing \$3,500 or less for the physical work and associated permits.
- 5) The applicant must have adopted a rehabilitation manual containing all forms and procedures to be used, including: procedures for coordinating with similar rehabilitation programs and an executed Programmatic Agreement (PA) with the National Advisory Council and State Historic Preservation Office.
- 6) Applicants may use up to 50 percent of their CDBG funds for community-wide rehabilitation. Counties proposing to use their community-wide funds in incorporated communities must obtain a resolution from that community authorizing such rehabilitation to be done.

- 7) Applicants must use 51 percent of their CDBG funds in designated DSHA-approved target areas. Subject to DSHA approval, where no identifiable smaller target areas exist, the target area requirement may be waived for a particular community.
 - 8) Except in cases of emergency rehabilitation, applicants must certify that units to be rehabilitated will be insured for at least the amount and period of the rehab loan.
 - 9) Local officials shall determine the suitability of providing rehabilitation assistance to any given residential property.
- b. Lead-Based Paint: This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate- income households constructed prior to January 1, 1978 receiving Federally-funded project-based assistance.
- 1) Grantees shall follow the lead-based paint regulations found at 24 CFR part 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures.
 - 2) In cases where evaluation or hazard reduction or both are undertaken, the subgrantee shall provide a notice to occupants in accordance with Section 35.125.
 - 3) Subgrantees must provide a lead hazard information pamphlet to all families receiving assistance living in pre-1978 housing, and obtain a signed acknowledgment from occupants that they have received the pamphlet.
 - 4) Lead-based paint inspection, risk assessments, testing, hazard reduction and abatement and treatment are eligible expenses.
 - 5) Inspection/risk assessment/testing reports must be kept by the subgrantee for a period of three years.
 - 6) The subgrantee must conduct paint testing or presume the presence of lead-based paint, in accordance with Section 35.930.
 - 7) CDBG administration funds may be used for rehabilitation subgrantee lead-based paint certification training. No matching funds are required for administrative funds used for CDBG

subgrantee lead-based paint certification training.

c. Rental Rehabilitation of housing units occupied by 100 percent low- and moderate-income households.

- 1) A maximum of \$15,000 per unit may be provided for CDBG rental rehabilitation.
- 2) CDBG rental rehabilitation loans will be financed at 3 percent amortized over a period of 10 years and will not be deferred.

Exception: CDBG rental rehabilitation assistance used to provide up to 25 percent of the total cost of the work to be accomplished in conjunction with a Housing Rehabilitation Loan Program (HRLP) loan shall be in the form of a 0 percent deferred loan forgiven after 10 years.

- 3) Only 75 percent of the rehabilitation cost may be financed by CDBG funds. The remaining 25 percent must be financed through private funds.
- 4) The servicing of 3 percent CDBG rental rehabilitation loans shall be handled by DSHA through an agreement with a private servicing agent. The costs to DSHA of providing servicing will be reimbursed from principal and interest payments made by the owner to the subgrantee. All principal and interest for rental rehabilitation loans shall be repaid on a regular monthly schedule after completion of the work.
- 5) All rental units financed with CDBG funds must be occupied by low- and moderate-income persons at affordable rents throughout the duration of the loan agreement. Affordable rents are defined as Fair Market Rents (FMR) published periodically by the Federal HUD Section 8 Existing requirements. See Attachment D to these Program Guidelines for the most recent figures dated 10/01/10.
- 6) All CDBG rental rehabilitation must utilize the forms and procedures contained in Delaware CDBG Rental Rehabilitation Procedures dated 10/21/92.

d. The rehabilitation of manufactured housing occupied by 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing, except that the following additional requirements apply:

- 1) There shall be a limit of \$15,000 per manufactured home rehabilitated on rental lots. There shall be a limit of \$18,000 per manufactured home rehabilitated where the owner owns both the manufactured home and the lot it is situated on;
 - 2) The CDBG subgrantee must certify that the property will have at least 10 years of habitable life after rehabilitation is completed;
 - 3) The CDBG subgrantee must obtain documentation that the manufactured home is in place and installed in accordance with local environmental, zoning and housing/building code requirements, prior to starting work on the property;
 - 4) For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, the unit must have a permanent foundation in order to be eligible for rehabilitation funds. If no permanent foundation exists, then the total rehabilitation contract specifications for a unit must include the installation of the foundation. For manufactured housing situated on rental lots, the permanent foundation requirement does not apply; and
 - 5) For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, and where the manufactured housing unit is beyond economical repair, the CDBG Subgrantee receiving HOME rehabilitation funds may only use HOME rehabilitation funds to replace the unit with a manufactured housing unit not more than **20** years old. All manufactured housing to be replaced must have been condemned by the applicant's code enforcement official, and the replacement unit must meet the standards of the Delaware State Housing Code. A ten-year lien must be placed against all properties where manufactured housing is replaced with HOME funds. For manufactured housing situated on rental lots, the replacement option does not apply.
- e. Water and/or sewer hookup of 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing rehabilitations, including the documentation of low- and moderate-income household according to the definition provided in Section I.D.2, above.
- f. Energy Efficiency: This Section applies to activities renovating or

rehabilitating housing units occupied by 100 percent low- and moderate- income households. To the maximum extent feasible and cost-effective, subgrantees' work write-ups and specifications for rehab work necessary to bring the dwelling unit up to housing code standards shall require ENERGY STAR qualified products and procedures. Subgrantees shall utilize HUD's "Energy Efficient Rehab Advisor" website at: <http://rehabadvisor.pathnet.org/index.asp> and the Energy Star website at: <http://www.energystar.gov/> to determine the recommended energy-efficient specifications for rehabilitation and remodeling. The recommendations on these websites shall be followed for all required work and materials, including, but not limited to: windows, heating and air conditioning systems, ventilation, insulation, air sealing, water heaters, light fixtures, lighting, and doors. The CDBG subgrantee must also coordinate its housing rehabilitation waiting lists with the Delaware Weatherization Assistance Program waiting list.

- g. Emergency Home Repair of residential properties owned and occupied by 100 percent low- and moderate-income households. For the FY 2012 program year, CDBG applicants may apply for a separate Emergency Home Repair category of housing rehabilitation funds to address an emergency condition threatening the health or safety of an owner-occupied household's occupants. Emergency Home Repair is separate from emergency rehabilitation under Section III.C.2. of these program guidelines. Repairs that generally qualify as emergency home repair include: heating, plumbing, electrical, roofing, and structural problems.
- 1) An emergency is defined as an unexpected occurrence or combination of events calling for immediate action. Unsafe electrical wiring, a non-working heater in winter, or structural conditions that are a major defect or are life-threatening and considered unsafe are examples of true emergencies.
 - 2) A minimum of \$500 and maximum of \$7,500 may be provided per home in CDBG emergency home repair assistance.
 - 3) Homeowners must meet all eligibility requirements to participate in the program.
 - 4) A five-year lien must be placed against all properties receiving more than **\$3,500** in CDBG emergency home

repair funds.

2. Housing code enforcement in areas of slum and blight (as defined in state regulations) or which benefit an area of at least 51 percent low- and moderate-income persons.
 - a. Applicants proposing housing code enforcement activities must certify that they will maintain during the period of the CDBG contract, in addition to their expenditures for carrying out any program assisted with CDBG funds, a level of expenditures for code enforcement activities at not less than their normal expenditures for such activities in the year prior to the execution of the CDBG Contract.
 - b. Applicants requesting CDBG assistance for code enforcement must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
3. Demolition of substandard structures in areas of slum and blight (as defined in state regulations) or which benefit 51 percent low- and moderate-income persons on an area or spot basis. Applicants for demolition funds may use up to 50 percent of such funds for community-wide demolition.
 - a. All structures to be demolished must have been condemned by the applicant's code enforcement official. Applicants requesting CDBG assistance for demolition must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
 - b. Demolitions to be accomplished with the voluntary consent of the owner and at the discretion of the community, must be in the form of a permanent 0 percent deferred loan, that is not forgivable, unless new housing constructed on the property becomes exclusively: 1) owned and occupied as the principal residence(s) of low/moderate-income household(s); or, 2) rented by low/moderate-income household(s) for a period of at least ten years.
 - c. For non-voluntary demolitions, the governing body of the applicant must provide evidence that it has exhausted other available legal procedures to secure remedial action by the owner of the structure(s) involved, that demolition action is

required, and that it has the legal authority to demolish the structure(s).

- d. The applicant requesting CDBG assistance for non-voluntary demolitions must agree to place a tax lien on the property so that monies expended for razing, demolition, and removal of eligible structures or part(s) thereof, may be collected in the same manner as other real estate taxes. All such monies recovered shall be deemed to be program income.
 - e. Demolition liens, whether in the form of a 0 percent deferred loan, or a real estate tax lien, may be subordinated to a new mortgage on the property if the property is sold or transferred for the purpose of low/moderate-income housing. The lien will then continue in the original form until such time as the property is converted to a use other than for the purpose of low/moderate-income housing, at which time the lien will be required to be repaid; or, until such time as the property is actually used to house low/mod-income household(s) as described in Section III.A.3.b., above, at which time the lien will be forgiven.
4. Construction or rehabilitation of emergency/transitional/permanent supportive housing serving of at least 51 percent low- and moderate-income limited clientele.
- a. Applicant must provide evidence that the construction or rehabilitation will benefit at least 51 percent low- and moderate-income persons. This evidence must demonstrate that at least 51 percent of daily normal users of the facility are principally low- and moderate-income persons.
 - b. Applicant must certify that it will not charge any fees for accessing such assisted facilities so as to have the effect of precluding low- and moderate-income persons from obtaining said access.
 - c. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook.

- d. No such activities will be funded unless additional funding has been secured for the provision of services which are complementary to the programmatic purpose of the activity.
 - e. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested such as building codes, insurance, and the state architectural accessibility standards prescribed by the State of Delaware Architectural Accessibility Board.
 - f. If the facilities to be assisted are publicly owned, the facilities must be nonresidential buildings which are not used for the general conduct of government such as "city halls, county administration buildings, state capitol or office buildings, or other facilities in which the legislative or general administrative affairs of government are conducted." (Section 102 (a)(21) of the Act); and which meet the requirements of 24 CFR 570.200 (5)(b).
 - g. If the facilities to be assisted are privately owned by a nonprofit organization, the organization must meet the requirements of 24 CFR 570.204 (c)(1), and be operated so as to be open for use by the general public during all normal hours of operation and otherwise meet the requirements of 24 CFR 570.200 (5)(b).
 - h. The applicant must comply with all restrictions and limitations regarding the use of CDBG funds by nonprofit organizations which are church-related found at 24 CFR 570.200(j).
- 5. Relocation assistance as required under the Uniform Relocation Act, Delaware Code, and 24 CFR 570.
 - 6. Substantial reconstruction of housing occupied by 100 percent low- and moderate-income households.

A unit of general local government may use CDBG funds to reconstruct residential structures (i.e. rebuild the structure on the same site) having a low- and moderate-income owner occupant and consisting of one dwelling unit if either:

- a. The need for the reconstruction was not determinable until after rehabilitation on the structure had already commenced; or
- b. The housing that is being reconstructed is part of a

neighborhood rehabilitation effort in which the unit of general local government is carrying out or proposes to carry out housing rehabilitation activities, and the housing to be reconstructed would otherwise be a part of the housing rehabilitation in that neighborhood; and the unit of general government determines:

- 1) That the housing to be reconstructed is unsuitable for rehabilitation based upon severe structural deficiencies and an estimated cost of rehabilitation of \$25,000 or more;
- 2) The estimated cost of reconstruction is at least 20 percent less than the estimated cost of purchasing comparable newly constructed housing (including land) located in that neighborhood or in a comparable neighborhood of the unit of general local government; and
- 3) The estimated cost of the reconstruction is less than the fair market value of the reconstructed housing and land based on an appraisal obtained before reconstruction.

c. The unit of general local government shall document the basis for each of the determinations noted above.

7. Provision of housing-related services in conjunction with activities noted above. Such housing-related services could include: training in housekeeping, fair housing and homeownership counseling, and other housing-related services not provided by other social service agencies, but that support the programmatic purpose of the activities noted above.

8. Set aside: 60-90 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Existing Housing set aside will be dependent upon the quality and type of applications received in FY12.

B. Infrastructure benefiting at least 51 percent low- and moderate-income persons

The following activities in support of this state priority for low- and moderate-income persons are eligible:

1. Definition of infrastructure: The installation or improvement of water

systems, sewer systems, streets, storm drainage systems, sidewalks. This includes all related activities such as engineering, land surveys, site acquisition (for housing development), planning studies, relocation assistance, etc.;

2. Architectural/engineering studies for infrastructure directly related to housing development, including feasibility studies, site tests and soil borings;
3. Preparation of grant applications to other grantor agencies;
4. Acquisition of land for new housing development, in accordance with the requirements of the Uniform Relocation Act of Delaware Code;
5. Clearance and site preparation for new housing development for low- and moderate-income persons;
6. Installation or improvement of infrastructure benefiting service areas of at least 51 percent low- and moderate-income persons, including: water, sewer, streets, sidewalks;
7. Planning studies, including comprehensive plans and zoning ordinances, which clearly by their intent and design, encourage the provision of affordable housing for low- and moderate-income persons; and
8. For items 1-7 as applicable above:
 - a. The applicant must provide evidence that it will provide a minimum cash or in-kind match for each activity, as described below. Cash matches may be provided through other sources of funding for the same activity;

Infrastructure Match Requirements

<u>Total Activity Cost</u>	<u>Cash Match</u>	<u>or In-Kind Match</u>
Up to \$100,000	10% of Activity	15% of Activity
\$100,000+ to \$200,000	15% of Activity	20% of Activity
\$200,000+	20% of Activity	25% of Activity

- b. Applicant must provide evidence that at least 51 percent of the persons benefited by the activity are in fact low- and moderate-income persons;
 - c. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds. The term special assessment is defined to mean a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties;
 - d. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
 - e. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested.
9. Set aside: 10-40 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Infrastructure for Housing Development and Maintenance set aside will be dependent upon the quality and type of applications received in FY12.
- C. Emergency activities (water, sewer, housing rehabilitation and demolition), which have a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community and other financial resources are not available to meet such needs.
- 1. For emergency water and sewer activities:
 - a. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds;
 - b. The nature, degree of serious and immediate threat must be

documented by letters from appropriate agencies such as the State Board of Health, DNREC, state/local fire officials, etc.;

- c. The serious and immediate threat must be of recent origin or recently became urgent, that is, the condition developed or became critical within 18 months of a certification that must be made by the applicant in its application;
- d. Applicant must certify and document that it is unable to finance the construction of these facilities without CDBG funds. Such documentation shall include: (a) if appropriate, letters from other grantor agencies such as the Department of Natural Resources, Department of Transportation, Division of Public Health, etc., confirming that funds were not available; (b) appropriate financial statements showing the lack of local funds; and (c) a financial analysis of why the activity is not feasible through use of other methods of local funding such as the proceeds of general obligation bonds, special assessments, etc.;
- e. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
- f. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested.

2. For emergency rehabilitation and demolition:

- a. Required as a direct result of a natural disaster, such as a tornado, flood, hurricane, or similar catastrophe;
- b. State has made a formal request to the Federal Emergency Management Agency for preliminary damage assessment and/or for which federal disaster assistance has been officially sought by the state;
- c. At the discretion of the DSHA Director, rehabilitation assistance may be provided to persons not of low/moderate income when the need for such assistance is clearly documented;

- d. Emergency rehabilitation and demolition activities will only be provided to cover losses not covered by insurance; and
 - e. Both emergency rehabilitation and demolition assistance will utilize the same liens and contracts as used for regular rehabilitation and demolition programs.
3. Set aside: 0-7 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the emergency activities set aside will be dependent upon the quality and type of applications received in FY12.

D. Administration

- 1. At least 50 percent of the administrative cost of the activity(ies) must be provided by the local funds of the applicant.
- 2. Matching Requirements

These local funds may be drawn from local operating appropriations, nonprofit organization funds, proceeds of general obligation revenue bonds or other funds expended for the same purpose as the CDBG funds are expended. Any costs incurred by the applicant for activities that directly benefit the CDBG activity and meet the requirements of OMB Circular A-87 may be used to meet this match requirement.

However, these funds must be spent in the same consecutive twelve-month period as the CDBG funds. For the purpose of this match requirement an applicant is considered to be: (a) a county's application for its unincorporated areas; (b) incorporated areas applying on their own; or (c) incorporated areas under a county's application.

- 3. Administrative Costs Limits

Administrative costs allowable to participating units of general local government under the CDBG Program shall be governed by the matching requirement in Paragraph 2. above, the contract budget and by the federal requirement that the state and its CDBG subgrantees are limited to an aggregate amount of administrative costs that represent twenty percent of the state's total grant from HUD in any given federal fiscal year. It should be noted that the total amount of CDBG funds available for administration in FY12 may be less than the amount currently allocated, depending upon the number and quality of applications received, and the amount of funding allocated by HUD. The maximum allocation for all administrative and program delivery

costs for any single applicant shall not exceed **\$162,000** in any program year. Applications shall provide the salaries of all program administration personnel to be funded through CDBG funds. DSHA may separate rehabilitation specialists' salaries from general administration costs and allocate funding for those salaries as rehabilitation program delivery costs.

IV. Application Submission

A. Submission Date

Applications for the state's FY12 CDBG Program must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **March 1, 2012**. Applications for emergency activities and infrastructure for housing development will be considered at any time during the program year, subject to the following conditions: sufficient unallocated CDBG funds must be available to fund the activity(ies); assuming the availability of CDBG funds, a review panel will be convened to evaluate such proposals as well as those activities which were not originally recommended for full funding; and the need for CDBG funds must have arisen after the application deadline and be required for immediate use. **ONE SIGNED ORIGINAL AND TWO COPIES** of the application must be submitted.

B. Application Content and Format

Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA, and include all forms and questionnaires as may be applicable to the specific proposed activity.

C. Documentation and Certifications

Application for CDBG funds must include all such documentation and certifications as may be prescribed in these Program Guidelines and in the application instructions prescribed by DSHA.

D. Program Performance Period

All applications for 2012 funds shall be to finance CDBG-eligible activities that shall be initiated after July 1, 2012, and completed no later than June 30, 2013.

V. Application Review

A. DSHA Staff

1. The DSHA staff will review all applications for completeness and to determine whether the applications meet the minimum threshold requirements for all applications.
2. If the assessment by the DSHA staff indicates that an application fails to meet any of the applicable threshold requirements, and the applicant has not provided the requested information to make the application complete, DSHA staff will prepare a report on each such application and submit it to the Director of DSHA. If the Director of DSHA agrees with the assessment by DSHA staff, the application will be considered unresponsive. Such applications will not be forwarded to the review panel(s) referred to below, but will be returned to the applicant with a reason for the rejection. Any application that has been assessed as unresponsive shall be precluded from any further consideration in the FY12 CDBG Program, unless it is modified after July 1, 2012 to meet the threshold requirements for activities having a particular urgency or infrastructure for new housing development, and provided it falls within the requirements for a request for "recaptured/remaining funds" after July 1, 2012 as specified in Section VI.D. of these Program Guidelines.

3. Modifications to Application Budgets

It is essential that the amount of CDBG funds requested in each application be reflected in a budget which is both reasonable and realistic, and which conforms with all the requirements for such budgets contained in these Program Guidelines and the instructions for CDBG applications. Because of this, DSHA staff may, after determining that an application has met all the applicable threshold requirements, enter into direct negotiations with an applicant to reach agreement on any budgetary modifications that should be made before the application is presented to the review panel(s) that will evaluate the proposal(s).

4. Staff Reports

The DSHA staff shall provide the review panel(s) with a separate staff report on each application that will at a minimum include the following:

- a. Certification that the application/applicant has met all applicable threshold requirements, including evaluation of low- and moderate-income benefit;
- b. Certification that the proposed budget represents a realistic/reasonable budget which conforms to all applicable instructions and policies;

- c. The conformance of the proposed activities to the goals and objectives of the Delaware Consolidated Plan; and
- d. An evaluation of the applicant's capacity, and past performance under the CDBG Program.

B. Review Panel(s)

1. The review panel(s), composed of persons with the appropriate background and experience, shall evaluate each proposed activity, based upon the following criteria. A maximum total of 100 points may be received by an application.

a. Low- and Moderate-Income Benefit (Provided by DSHA staff): Applications showing a greater benefit to low- and moderate-income persons for similar activities will be rated higher than those showing a lesser benefit to low- and moderate-income persons. Up to 25 points as follows:

- (1) 90-100% L/M = 25
- (2) 80-89% L/M = 20
- (3) 70-79% L/M = 15
- (4) 60-69% L/M = 10
- (5) 51-59% L/M = 5
- (6) 0 -50% L/M = 0

b. Management Capacity (provided by DSHA staff): Each applicant's management capacity for each of the activities proposed will be evaluated on the basis of the most recent monitoring report(s), current or proposed staff qualifications, progress achieved in completing its current CDBG Program (if applicable), and most recent audit report(s) (if applicable). Up to 5 points as follows:

- (1) outstanding = 5
- (2) above standard = 3
- (3) standard = 1
- (4) below standard = 0 (no allocation)

c. Cost/benefit of Activity: - Each proposed activity will be evaluated on the basis of the following factors. Up to 70 points as follows:

- (1) severity of need, including the number, percent and geographic concentration of low/moderate-income families; number, percent and geographic concentration of substandard housing; number,

percent and geographic concentration of housing needing public facilities; emergency status:

<u>Points</u>	<u>Need</u>
1	not documented
8	moderate
15	severe

- (2) holistic impact of activity, meaning, the degree (percentage, from Section IV. B. and C. of application) to which the identified need(s) for the activity(ies) is/are proposed to be addressed:

<u>Points</u>	<u>Impact</u>
1	low
8	moderate
15	high

- (3) cost reasonableness, meaning, the reasonableness of the proposed program activity costs taking into account construction estimates and the availability of other resources:

<u>Points</u>	<u>Cost/Reasonableness</u>
1	low
8	moderate
15	high

- (4) leveraging of other resources, meaning extent to which other firm, committed funding sources are identified):

<u>Points</u>	<u>Other Resources</u>
1	minimal or no match
8	moderate match
15	significant match

- (5) suitability/feasibility of work plan, meaning the extent to which the applicants proposed scope of work will realistically be accomplished within the next fiscal year:

<u>Points</u>	<u>Plan Feasibility</u>
1	poor
3	fair
5	good

- d. **Targeting Areas of Minority Concentration:** Applications showing a greater benefit to areas of minority concentration (see Section I.E.2.g.) for similar activities will be rated higher than those showing a lesser benefit to areas of minority concentration. Up to 5 points as follows:

<u>Points</u>	<u>Minority Targeting</u>
1	poor
3	fair
5	good

- e. An oral presentation by the applicant to the review panel will supplement the application scores and serve as a factor in the panel's final decision.

2. Review Panel Recommendations

DSHA staff will prepare a summary evaluation of all applications received, which will include the scores for each proposed activity as described in V.B. above, and a descriptive summary of the review panel's comments and recommended priorities for funding.

C. Director of DSHA

The Director of DSHA will make the final decisions on allocating CDBG funds, based upon the review panel(s) recommendations and any additional relevant information obtained subsequent to those recommendations. Such additional information will only be considered if it reflects a substantive change in the application review criteria noted in Section V.B.1. above.

D. Allocations

Allocations to specific activities will be based on approved contract budgets. The maximum allocation for any single applicant shall not exceed \$1,100,000 in any program year. Applicants should be aware that a total of approximately \$2,000,000 is expected to be available for program activities. An allocation exceeding \$500,000 would be extremely competitive.

VI. Additional Funding

A. Program Income Returned to Unit of Local Government

1. Program income means amounts earned by a unit of general local government or its subrecipient that were generated from the use of CDBG funds allocated by the state in a contract with a unit of general local government.
2. The use of program income is subject to all the applicable requirements of

federal law, HUD regulations and program memoranda, and the general requirement of these Program Guidelines, which are consistent with said law, regulations and program memoranda. Additionally, the specific requirements for Program Income as are contained in the state's Financial Handbook shall also apply.

3. Program income retained by the unit of local government will:
 - a. be added to funds committed to the activity and used to further the same program activity as the income was derived;
 - b. not be used to pay administrative costs; and
 - c. be expended before additional funds are drawn down from DSHA for the same activity.
4. Program income not authorized for retention and expenditure by the unit of local government will be returned to the state.

B. Program Income Returned to the State of Delaware

Section 104(i) of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, authorizes states to distribute program income when such income has been returned to the state. Program income returned to the state shall be disbursed to communities under open CDBG Contracts prior to making additional draws from the U.S. Treasury. The funds thus freed up shall be allocated in accordance with Section VI.D. below.

NOTE: Program income generated by CDBG rental rehabilitation loan repayments is considered program income of the unit of local government, even though such repayments are made directly back to DSHA through its loan servicing agreement. All such program income will be distributed to the appropriate unit of local government in accordance with the provisions of Section VI.A. above.

C. Reallocated/Supplementary Funds

Reallocated funds are those HUD has recaptured from a Small Cities subgrantee and "reallocated" to Delaware. If Delaware should receive any "reallocated funds" from HUD for distribution as part of the FY12 CDBG Program, these funds shall be allocated in the same manner and under the same conditions as described in Section VI.D. below. Supplementary funds are those funds that HUD may award to the state after July 1, 2012, and shall also be allocated in the same manner and under the same conditions as described in Section VI.D. below.

D. Recaptured/Remaining Funds

1. Recaptured funds are those CDBG funds which remain unobligated after a CDBG contract has either been closed out or terminated; or after it has been

determined that the total amount of CDBG funds originally allocated in a given contract are not required to complete the proposed activity for which they are allocated.

Remaining funds are funds for which a method of distribution was contained in a prior year's Program Guidelines, but which have not been, and are no longer intended to be so distributed. Remaining funds may also be an amount left over after the state has awarded all of its contracts, but the left over amount is too small to fund an application.

2. Recaptured/remaining funds that shall be received from its recipients by June 15, 2012, shall be included as part of the FY2012 allocations in accordance with all applicable requirements of these Program Guidelines.
3. Recaptured/remaining funds that shall be received from its recipients after June 15, 2012 shall be set aside for the following purposes:
 - a. To provide additional funding for any activity already under contract so long as the total amount of funds allocated does not exceed the \$1,100,000 maximum allocation for any single applicant; in those cases where an unforeseen situation may have arisen after the original contract budget had been approved (the burden of proof will rest with the applicant); or when the activity has not been funded in the total amount originally requested;
 - b. To fund emergency activities and infrastructure for housing development that were not previously submitted as part of the 2012 CDBG Program and the need for which may have arisen after the deadline for 2012 applications has passed. The \$1,100,000 maximum allocation of CDBG funds for any single applicant in any program year shall apply;
 - c. At the discretion of the Director of DSHA, eligible applications not originally recommended for funding because of limited resources may be reconsidered for funding after approved activities noted in (a) and (b) above have been funded; and
 - d. The priorities for distributing funds under this part shall be in accordance with the state's method of distribution found in Section V.

E. Combining Other Funding to Comprehensively Address Rehabilitation Needs

- A. Again in FY12, greater emphasis will be given to applications, which take a holistic approach to community development through comprehensively combining all funding sources, one community at a time. DSHA expects applications responsive to this change in emphasis to combine smaller CDBG funding requests with HRLP, HPG, AND NRF funding in target areas. Where these other sources of funding are used to comprehensively address

rehabilitation needs and to lessen the demand on CDBG rehabilitation funding, greater consideration will be given to CDBG infrastructure requests. As a result, rehabilitation needs will be comprehensively addressed, more CDBG funds will be available for infrastructure activities, and community development needs in general will be holistically addressed. In the scoring of applications, strong emphasis is given to leveraging, and, leveraging funds must be shown and identified in activity budgets. Letters of commitment signed by a majority of the board/council committing the match, and including the source of the match, must accompany any applications claiming to have matching funds.

VII. Waivers of Policy

The Director of DSHA may waive any requirement of these Policies not required by federal/state law or federal regulation, whenever it is determined that undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Delaware CDBG Program. Waivers shall be made in writing, citing the policy provision to be waived, the authority for the waiver, and be supported by documentation of the pertinent facts. Where only a portion of the policy provision is to be waived, the waiver must expressly limit itself to that portion.

Attachment A to the Delaware CDBG Program Guidelines

REVISED INCOME LIMITS
(EFFECTIVE 7/13/11)

	<u>Kent County</u>			<u>Sussex County</u>		
	30% OF <u>MEDIAN</u>	<u>LOW</u>	<u>MODERATE</u>	30% OF <u>MEDIAN</u>	<u>LOW</u>	<u>MODERATE</u>
1 PERSON	\$13,050	\$21,700	\$34,750	\$12,900	\$21,500	\$34,300
2 PERSON	\$14,900	\$24,800	\$39,700	\$14,750	\$24,550	\$39,200
3 PERSON	\$16,750	\$27,900	\$44,650	\$16,600	\$27,600	\$44,100
4 PERSON	\$18,600	\$31,000	\$49,600	\$18,400	\$30,650	\$49,000
5 PERSON	\$20,100	\$33,500	\$53,600	\$19,900	\$33,150	\$52,950
6 PERSON	\$21,600	\$36,000	\$57,550	\$21,350	\$35,600	\$56,850
7 PERSON	\$23,100	\$38,450	\$61,550	\$22,850	\$38,050	\$60,800
8 PERSON	\$24,600	\$40,950	\$65,500	\$24,300	\$40,500	\$64,700

Higher income limits apply to families with more than eight persons, although they are not included in the printed state lists because of space limitations. The lower income limits for families larger than eight persons are determined by adding 6.25 percent of the four-person income limit base to the eight-person limit for each person in excess of eight. For very low-income limits, 8 percent of the four-person base is added to the eight-person limit for each person in excess of eight (e.g., the nine-person very low limit equals 1.4 (1.32 + .08) times the four-person limit.) The limits developed by the use of these factors are to be rounded to the nearest \$50.

Attachment B to the Delaware
CDBG Program Guidelines

LIST OF LOW/MODERATE-INCOME BENEFIT FIGURES
IN KENT AND SUSSEX MUNICIPALITIES (2000 (Census)

<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>
07250	Bowers	42.1%
10760	Camden	30.1%
14660	Cheswold	58.7%
15440	Clayton	33.5%
21387	DAFB Housing	54.7%
25840	Farmington	36.6%
26620	Felton	35%
28440	Frederica	49.4%
33120	Harrington	53.5%
33250	Hartly	51.9%
36760	Houston	40%
39100	Kenton	51.7%
41700	Leipsic	45.5%
42870	Little Creek	44.6%
44430	Magnolia	32.1%
47420	Milford	47.5%
67310	Smyrna	44.1%
74330	Viola	26.3%
80830	Woodside	31.4%
81350	Wyoming	25.8%

SUSSEX COUNTY
2000 (Census)

<u>Place Number</u>	<u>City/ Town</u>	<u>% Persons Low/Mod</u>
05690	Bethany Beach	18.5%
05820	Bethel	35.3%
06730	Blades	55.7%
08680	Bridgeville	55.6%
18950	Dagsboro	38.9%
20380	Delmar	55.3%
20900	Dewey Beach	19.6%
24020	Ellendale	44.7%
26880	Fenwick Island	21.3%
28310	Frankford	49.6%
29090	Georgetown	54.9%
31560	Greenwood	47.8%
33900	Henlopen Acres	9.2%
41310	Laurel	55.8%
41830	Lewes	24.7%
47420	Milford	47.5%
47940	Millsboro	53.8%
48200	Millville	35.5%
48330	Milton	46.6%
53920	Ocean View	24.8%

60290	Rehoboth Beach	26%
64320	Seaford	50.5%
64840	Selbyville	43.6%
67050	Slaughter Beach	40.9%
67700	South Bethany	12.3%

Attachment C to The Delaware
CDBG Program Guidelines

CERTIFICATIONS BY APPLICANTS
FOR
THE DELAWARE CDBG PROGRAM

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program;
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required; and
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
 - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.);

- 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated May 15, 2010 and Section 508 of the Housing and Community Development Act of 1987; and
 - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

"...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals..."
- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the applicant certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
 - (e) Its chief executive officer or other officer of the applicant approved by DSHA:
 - (1) Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1 (a)(3) and carry out this responsibility in accordance with the "Overview of Environmental Review Procedures" issued for the Delaware CDBG Program and dated July 1989; and meet the requirements of 24 CFR Part 58 and 24 CFR 570.604; and
 - (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official.
 - (f) The program will be conducted and administered in compliance with:
 - (1) Title VI of the Civil Rights Act of 1964 (Pub. L 88-352) and implementing regulations issued in 24 CFR Part 1;
 - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
 - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);

- (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
- (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the state review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
- (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
- (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
- (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;
- (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
- (10) The labor standards requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
- (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
- (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
- (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
- (14) Section 106 of the National Historic Preservation Act of 1966, as amended via the Advisory Council on Historic Preservation's Regulations, Protection of Historic and Cultural Properties (36 CFR 80);

- (15) The provisions of the Hatch Act, which limits the political activity of employees; and
 - (16) The lead-based paint requirements of 24 CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).
- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with the HUD Standards of Conduct issued on November 1, 1985.
 - (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
 - (i) It will give HUD, DSHA, the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.
 - (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended.
 - (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts:

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY12 Program Guidelines shall govern the use of the assistance provided by the state to local government units in FY12-FY13.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

- 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
 - 2) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income, who are not persons of very low income.
- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).

Signature of Authorized Official

Date

Title of Official

Attachment D to the Delaware
CDBG Program Guidelines

DSHA-35

SECTION 8 EXISTING FAIR MARKET RENTS
AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

I. FAIR MARKET RENTS - (Revised 10/1/11)

<u>KENT COUNTY</u>					
<u>0-BR</u>	<u>1-BR</u>	<u>2-BR</u>	<u>3-BR</u>	<u>4-BR</u>	<u>MANUFACTURED (MOBILE) HOME SPACE</u>
666	725	803	1,050	1,410	321

<u>SUSSEX COUNTY</u>					
<u>0-BR</u>	<u>1-BR</u>	<u>2-BR</u>	<u>3-BR</u>	<u>4-BR</u>	<u>MANUFACTURED (MOBILE) HOME SPACE</u>
615	670	744	1,018	1,048	297

II. CONTRACT RENT ANNUAL ADJUSTMENT FACTORS FOR UNITS WITH NO
TURNOVER - (Effective 3/16/11 - Revised 3/16/11)

HIGHEST COST UTILITY

	<u>Included</u>	<u>Excluded</u>
Southern Region	1.013	1.023

NOTE: The Annual Rent Adjustment Factors shown above may be used by investor-owners after the first year of the rehabilitation loan. However, the rents charged by investor-owners may not exceed the current Fair Market Rents for the duration of the loan.

DELAWARE STATE HOUSING AUTHORITY (DSHA)
FY12 DELAWARE CDBG APPLICATION FORM

I. General Application Information

A. Name, address, phone number, **DUNS number**, and **EIN number** of Applicant:

_____	_____

B. Name, position and signature of Person Submitting Application:

_____ / _____
Date

C. Application on behalf of:

Name and position of authorizing official:

Signature

D. For "On Behalf of" applications, written documentation authorizing each "on behalf of" application request must be attached as Exhibit 1. If information contained in a county's application for its unincorporated areas is to be repeated in the body of the "on behalf of" applications, e.g. administrative budget, management capacity, etc., then these sections contained in the "on behalf of" applications may simply reference the appropriate section in the county's application.

E. Name, address and phone number of Contact Person:
(if different from B above)

F. Summary of Request:

(Attach cost breakdown for each activity requested on page two. Activities must be in order of priority).

Total Units/Low-Moderate Income Units Served:	_____ / _____
Total CDBG Program Funds Requested:	\$ _____
Total Cash Matching Funds:	\$ _____
Total In-Kind Match Value:	\$ _____
Total Program Cost (if different from amount requested)	\$ _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: ____ / ____ Cash Matching Funds: \$ _____
CDBG Cost/Unit \$ _____ In-Kind Value \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: ____ / ____ Cash Matching Funds: \$ _____
CDBG Cost/Unit \$ _____ In-Kind Value \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: ____ / ____ Cash Matching Funds: \$ _____
CDBG Cost/Unit \$ _____ In-Kind Value \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: ____ / ____ Cash Matching Funds: \$ _____
CDBG Cost/Unit \$ _____ In-Kind Value \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: ____ / ____ Cash Matching Funds: \$ _____
CDBG Cost/Unit \$ _____ In-Kind Value \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: ____ / ____ Cash Matching Funds: \$ _____
CDBG Cost/Unit \$ _____ In-Kind Value \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

(Attach additional pages as necessary.)

II. Low/Moderate-Income Benefit:

LOW/MODERATE-INCOME BENEFIT TABLE – INSTRUCTIONS

The amount of benefit to low- and moderate-income persons must be calculated for each activity, as described below:

1. In column 1, list the activity.
2. In column 2, show the total number of persons that the activity will serve.
3. In column 3, show the number of low- and moderate-income persons that the activity will serve.
4. In column 4, divide column 3 by column 2 to show the percent of low- and moderate-income persons that the activity will serve.
5. In column 5, show the amount of funds requested for the activity.
6. In column 6, multiply column 4 by column 5 to show the amount of those funds that will be used to benefit low- and moderate-income persons.
7. List the source of data used to calculate benefit in the space provided at the bottom of this page. If a local survey was conducted, briefly summarize the survey method used and attach a copy of the survey instrument. (DSHA should be contacted before the survey is conducted to assure that the acceptable survey methodology is being used, or that prior surveys are still valid.)

LOW/MODERATE-INCOME BENEFIT TABLE

1. Activity	2. Total Persons Activity Will Serve	3. L/M Persons Activity Will Serve	4. % L/M Persons Activity Will Serve	5. Amount Requested For Activity	6. Amount L/M Benefit

Source of Data:

III. Management Capacity

A. List the person(s) to be responsible for administering the CDBG Program, and title(s):

<u>CDBG Personnel</u>	<u>Title(s)</u>
_____	_____
_____	_____
_____	_____
_____	_____

- B. Attach resumes or other supporting documentation for the personnel of new applications and new CDBG Program managers, which establishes the capacity of the personnel above to effectively manage a CDBG Program. **Attach the salaries of all program administration personnel to be funded through CDBG funds.**
- C. If the applicant proposes to contract out any portion of its administration, a copy of the proposed subcontract is attached.
- D. Past performances under the Delaware CDBG Program will be evaluated by DSHA based upon past monitoring reports, audit findings, and timely completion of contracts. No additional documentation is required of the applicant under this section.

IV. Application Work Plan

Each proposed program activity must address each of the following areas. Failure to specifically address any of these elements will make the application incomplete, forcing DSHA to consider the application unresponsive.

- A. Each program activity must be addressed separately. Program activities must be listed in order of priority with the program activity of highest priority first. This order of priority for program activities must be followed on all forms contained in this application.
- B. Each program activity must be fully described. For rehabilitation programs, this description must include THE NEED FOR THE PROPOSED ACTIVITY, the numbers of units to be rehabilitated, any special population groups the rehabilitation program will address, the target area, the NUMBER OF UNITS NEEDING REHABILITATION ASSISTANCE, THE PERCENTAGE OF UNITS NEEDING ASSISTANCE THAT ARE TO RECEIVE ASSISTANCE, AND THE PROPOSED OUTCOME.
- C. For public infrastructure projects, a detailed description of the work to be accomplished, the need for the proposed activity, the target area, the linear footage of what type and size of infrastructure to be provided, the NUMBER OF UNITS NEEDING INFRASTRUCTURE ASSISTANCE, THE PERCENTAGE OF THE UNITS NEEDING ASSISTANCE THAT ARE TO RECEIVE ASSISTANCE, THE PROPOSED OUTCOME, the location of what type and size of land acquisition, the matching funds to be provided, and the population groups to be addressed must be provided.
- D. Provide a timetable showing monthly milestones for completion of each activity. All FY12 Contracts will commence on July 1, 2012 and terminate on June 30, 2013.
- E. Attach maps indicating target areas.

- F. Attach drawings, plans, or other documentation necessary to describe program activities.
 - G. Describe each activity's conformance with the goals and objectives of the Delaware Consolidated Plan.
 - H. Describe the extent to which the proposed project(s) will result in a measurable concrete reduction of one or more significant problems identified in the Delaware Consolidated Plan.
 - I. Describe the extent to which the project builds upon previous work or supplements other work that will be funded from other sources.
 - J. Analyze the reasonableness of total cost in view of the cost benefit(s) to be achieved.
 - K. Describe source and amount of any funds used to leverage the CDBG portion of the project. Indicate when these funds will be available. Attach documentation of any match.
 - L. Describe any in-kind resources to be applied to the project. Attach documentation of any match.
 - M. Attach documentation of any match. Matching resolutions must be signed by a majority of Board/Council members and must include the source of funds.
 - N. For infrastructure projects, a description of why the jurisdiction is unable to pay for the activity without CDBG assistance.
- V. Each application should also describe the following:
- A. Describe any plans for the provision of housing for existing residents and anticipated growth for the area;
 - B. Describe any plans for the provision of adequate sites with supporting infrastructure for future housing, including housing for low/moderate-income residents of the area;
 - C. Describe any efforts to coordinate with businesses regarding the development of the community as it affects low/moderate-income residents of the area.
- VI. Application Submission
1. Submission Date for the FY12 CDBG Program
Applications for the state's FY12 CDBG Program must be received in DSHA's office at 18 The Green, Dover, Delaware 19901 no later than **4:00 p.m on March 1, 2012 ONE SIGNED ORIGINAL AND TWO COPIES** of the application must be submitted.
 2. Application Content and Format
Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA, and include all forms as may be applicable to the specific proposed activity.
- VII. Additional Requirements
- A. Re-Use Plan.
 - B. Rehabilitation Manual.
 - C. Target Area Approval.

STATE OF DELAWARE
 DELAWARE STATE HOUSING AUTHORITY
 DELAWARE CDBG PROGRAM – PROJECT COST SUMMARY

CONTACT PERIOD – FROM: _____ TO: _____

Summary of Program Activities
 Amount of Source

I. PROGRAM ACTIVITIES	CDBG/HOME PROGRAM FUNDS	LOCAL FUNDS	OTHER FUNDS	TOTAL
A.				
B.				
C.				
D.				
E.				
F.				
G.				
H.				
I.				
J.				
TOTAL PROG. ACTIVITY COST				
II. ADMINISTRATION				
A. SALARIES				
B. OTHER EMPLOYMENT COSTS				
C. TRAVEL				
D. CONTRACTUAL SERVICES				
E. SUPPLIES & MATERIALS				
TOTAL ADMINISTRATION COSTS				
III. <u>TOTAL PROGRAM COSTS</u>				

NOTES:

1. * Denotes Cash Match
2. ** Denotes In-kind Match
3. List Sources of Each Match Amount on Additional Page

CERTIFICATION BY APPLICATIONS
FOR
THE DELAWARE CDBG PROGRAM

The application hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of Federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required.
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
 - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.); and
 - 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated May 15, 2010 and Section 508 of the Housing and Community Development Act of 1987; and
 - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

“...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals...”
- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low-and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the application certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
- (e) Its chief executive officer or other officer of the applicant approved by DSHA:
 - (1) Consents to assume the state of a responsible Federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1(a)(3) and carry out this responsibility in accordance with the “overview of Environmental Review Procedures” issued for the Delaware CDBG Program and dated July 1989; and meet the requirement of 24 CFR Part 58 and 24 CFR 570.604; and
 - (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

- (f) The program will be conducted and administered in compliance with:
- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations issued in 24CFR Part 1;
 - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
 - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);
 - (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
 - (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the state review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
 - (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
 - (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
 - (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;
 - (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
 - (10) The labor standard requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
 - (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
 - (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
 - (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of Federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
 - (14) Section 106 of the National Historic Preservation Act 1966, As amended via the Advisory Council on Historic Preservation's regulations, Protection of Historic and Cultural Properties (36 CFR 80);
 - (15) The provisions of the Hatch Act, which limits the political activity of employees;
 - (16) The lead-based paint requirements of 24CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).
- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with HUD Standards of Conduct issued on November 1, 1985.

- (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
- (i) It will give HUD, DSHA and the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.
- (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended.
- (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts:

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY12 Program Guidelines shall govern the use of the assistance provided by the state to local government units in FY12-FY13.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low-and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
 - 2) for purposes of assessing any amount against properties owned and occupied by persons of low- and moderate-income who are not persons of very low income.
- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).

Date

Signature of Authorized Official

Title of Official

IX. Exhibits

A. The following exhibits should be attached to the application, as applicable, in order noted below:

1. Authorization for “on behalf of” applications.
2. A copy of the notice of public hearing and summary of comments received.
3. Activities Under the Existing Housing Set Aside:
 - a. Rehabilitation:
 - 1) Copy of rehabilitation manual;
 - 2) Re-use plan for program income generated by rental rehab;
 - 3) DSHA target area approval attached;
 - 4) Identification of amount of funds and number of units to be accomplished in approved target areas and community-wide;
 - 5) Identification of mobile home units to be rehabilitated including number owner-and/or renter-occupied.
 - b. Demolition:
 - 1) Amount of funds and units to be accomplished in approved target areas and community-wide identified;
 - 2) Re-use Plan for program income from demolition liens attached.
4. Activities Under Infrastructure Project Set Aside:
 - a. Water and Sewer:
 - 1) Letters from appropriate agencies documenting serious and immediate threat attached;
 - 2) Documentation attached demonstrating community’s inability to finance project without CDBG funds, including
 - a) letters from other grantor agencies
 - b) financial statements
 - c) financial analysis
 - 3) Letters from community or appropriate agencies documenting commitment and source of matching funds.
5. Activities Under Emergency Project Set Aside:
 - a. Water and Sewer:
 - 1) Letters from appropriate agencies documenting serious and immediate threat attached;
 - 2) Documentation attached demonstrating that condition developed or became critical within 18 months of application;
 - 3) Documentation attached demonstrating community’s inability to finance project without CDBG funds, including
 - a) letters from other grantor agencies
 - b) financial statements
 - c) financial analysis.

City of Milford



RESOLUTION 2011-15 Sussex County

Council Member _____ submitted to the Council the following Proposed Resolution:

ENDORISING PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AUTHORIZING DAVID B. BAKER, SUSSEX COUNTY ADMINISTRATOR TO SUBMIT APPLICATION.

WHEREAS, the City of Milford resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants State of Delaware Program for Block Grants as contained in Sections 570.488-499 24 CFR U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Milford has met the application requirements of (Attachment E Delaware Community Block Grant Program Policies and Procedures) Citizen Participation requirements; and

WHEREAS, Sussex County plans on accomplishing the requested projects with CDBG funds; and

WHEREAS, the City of Milford hereby agrees to allow Sussex County to accomplish the projects in the targeted areas of Milford; and

WHEREAS, the City of Milford and Sussex County are in agreement with this activity.

NOW, THEREFORE, BE IT RESOLVED by the City of Milford and Sussex County that they endorse and grant permission for the following activity:

APPLICATION: Rehabilitation/Infrastructure/Demolition

Total Infrastructure project cost is \$_____, total CDBG grant request is \$_____. Matching funds in the amount of \$_____ will be provided by the City of Milford general funds.

NOTE: To be used for Infrastructure projects only.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED BY THE CITY OF MILFORD, SUSSEX COUNTY, ON THE 29th DAY OF DECEMBER 2011.

WE GIVE MAYOR AUTHORIZATION TO SIGN RESOLUTION:

Council Members

Steven Johnson	Owen Brooks, Jr.
Garrett Grier, III	Douglas Morrow
S. Allen Pikus	James Starling, Sr.
Dirk Gleysteen	Katrina Wilson

Joseph Ronnie Rogers
Mayor

I DO HEREBY CERTIFY THAT THE FOREGOING TITLE OF RESOLUTION ADOPTED BY THE CITY OF MILFORD IS THE SAME TITLE OF RESOLUTION NO. _____ ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE _____ DAY OF _____

Robin A. Griffith
Clerk of the County Council

City of Milford



CITIZEN PARTICIPATION CERTIFICATE OF ASSURANCE Sussex County

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware, has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- 1) made available information concerning the amount of funds that may be applied for;
- 2) made known the range of activities that may be undertaken with these funds;
- 3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;
- 4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies and others in a timely manner; and
- 5) provided a summary of other important program requirements.

The City of Milford has held a Public Hearing on December 29, 2011 with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals.

The City of Milford has by resolution and after one Public Hearing, endorsed this application.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



RESOLUTION 2011-16 Requirement for Fair Housing Sussex County

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the City of Milford, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on December 29, 2011.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



RESOLUTION 2011-17

Authorizes Levy Court of Kent County to Submit Application

The City Council of Milford, Delaware, hereby authorizes its Mayor, Joseph Ronnie Rogers, to submit the Fiscal Year 2012 Community Development Block Grant (CDBG) application and all understandings and assurances therein contained, and furthermore authorizes the Levy Court of Kent County to Act as the official representative of the City of Milford in connection with the submission of the Fiscal Year 2012 CDBG applicant and to provide such additional information as may be required. In the event the City of Milford's application is funded, the Levy Court of Kent County is hereby authorized to administer the funded application on behalf of the City of Milford.

This resolution was passed by a majority of the Council of the City of Milford on December 29, 2011.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



RESOLUTION 2011-18 Requirement for Fair Housing Kent County

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the Kent County Levy Court, when acting as administrators of a Community Block Grant for the City of Milford, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on December 29, 2011.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



MILFORD CITY COUNCIL HEARING—POSTPONED***

Hearing Date Changed

NOTICE IS HEREBY GIVEN that the Public Hearing before Milford City Council has been changed to Thursday, December 29, 2011* at 7:00 p.m. in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware, to take final action upon the matter of:

Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II for the Preliminary Major Subdivision of 79.47 +/- acres with 512 residential units (384 apartments and 128 townhomes) in an R-8 District at 1335 Milford-Harrington Highway, Milford, Delaware. Tax Map MD-16-173.00-01-21.00; Tax Map MD-16-173.00-01-22.00

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. If unable to attend, written comments will be accepted up to one week prior to the hearing date.

Anyone with questions or comments should call Christine Crouch at 302-424-3712 Extension 308.

By: Terri Hudson, CMC

100611 *121511 HEARING DATE CHANGED TO 12/29/11 AT REQUEST OF CITY MANAGER

*****APPLICANT REQUESTED HEARING BE POSTPONED INDEFINITELY 12-27-11**



Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

Town of Bethany Beach

Town of Bethel

Town of Blades

Town of Bridgeville

Town of Dagsboro

Town of Delmar

Town of Dewey Beach

Town of Ellendale

Town of Fenwick Island

Town of Frankford

Town of Georgetown

Town of Greenwood

Town of Henlopen Acres

Town of Laurel

City of Lewes

City of Milford

Town of Millsboro

Town of Millville

Town of Milton

Town of Ocean View

City of Rehoboth Beach

City of Seaford

Town of Selbyville

Town of Slaughter Beach

Town of South Bethany

Sussex County Council

MEETING NOTICE

Legislative Night

LOCATION: Sussex Pines Country Club
Sussex Pines Road, Georgetown

DATE: Wednesday, January 4, 2012

TIME: 6:00 p.m. – Social
6:30 p.m. – Dinner

HOST: Town of Georgetown

SPEAKER: United States Senator Thomas R. Carper

COST: \$33.00

MENU: Salad
Herb Roasted Chicken
Sliced Roast Beef Au Jus
Chef's Vegetables
Chef's Potato

Dessert: Apple Crisp, Carrot Cake, Cheesecake

For reservations, please call Angie Townsend at Georgetown Town Hall at 856-7391 no later than THURSDAY, DECEMBER 29TH.

Please make checks payable to the Town of Georgetown.

Please thank our sponsors!

Bar sponsored by Comcast and appetizers sponsored by Senator Joe Booth, Representative Ruth Briggs-King and Davis, Bowen & Friedel.

Gift baskets sponsored by URS Corporation.

(See note on 2nd page.)



St. Paul United Methodist Church
300 North St.
Milford, DE. 19963-1137
Phone: (302) 422-0709 ~ Fax: (302) 422-9237
Church Email: stpaulumc2@verizon.net
Church Web Address: www.stpaulumc2.com
Rev. Dr. Jeanel D. Starling, Pastor

December 22, 2011

Dear Mayor Rogers and Council Members,

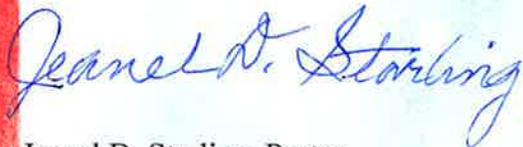
Grace and peace to you. What a gift you are to St. Paul Church. We appreciate the monetary gift in memory of Mr. Kenneth Fountain. Your check for \$100.00 is greatly appreciated.

Continue to be a blessing to others and know that the God who created you, will continue to bless others through you.

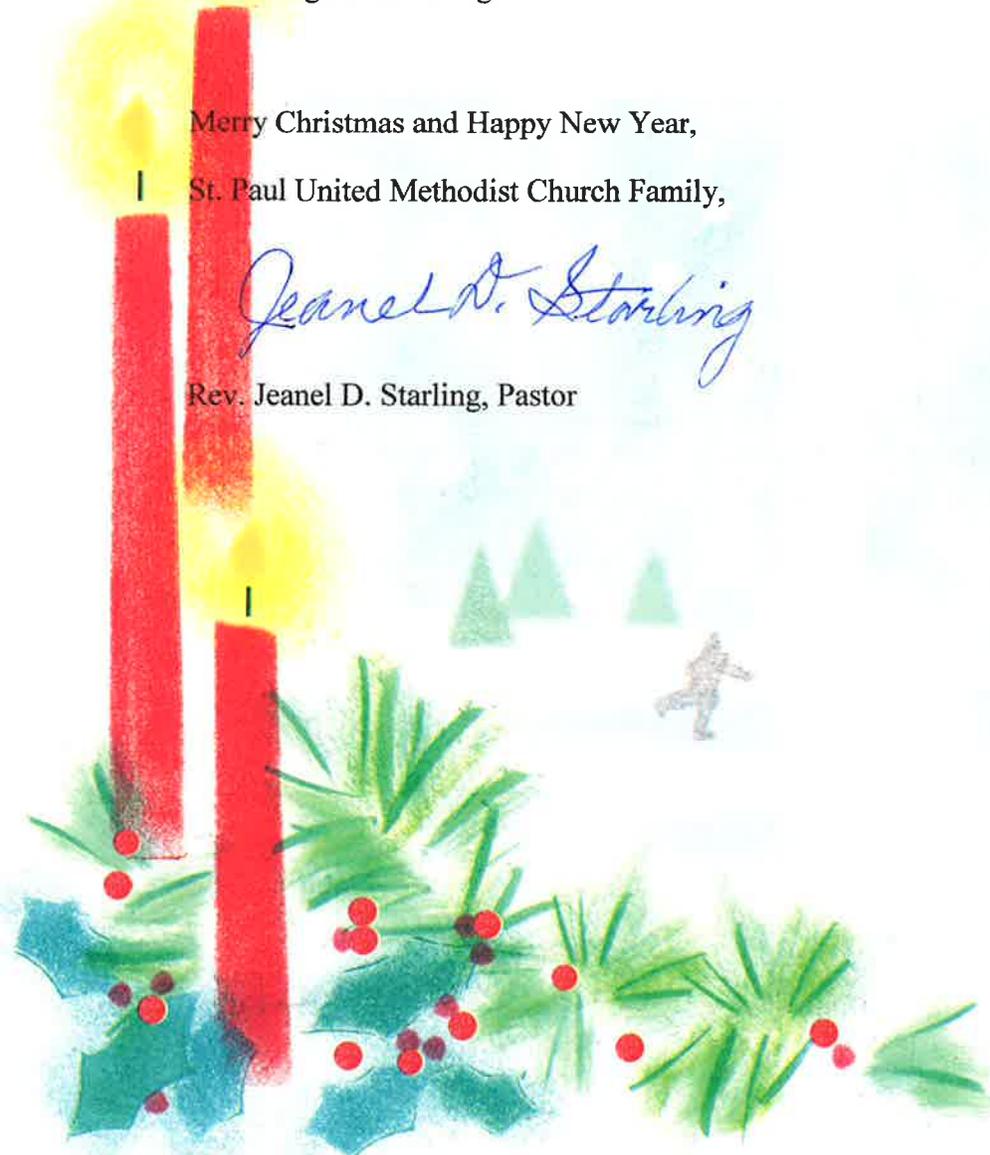
Thanks again for caring.

Merry Christmas and Happy New Year,

St. Paul United Methodist Church Family,



Rev. Jeanel D. Starling, Pastor



Ordinance 2011-30
Chapter 119/Electric Tariff

Ordinance 2011-30

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, ELECTRIC TARIFF, CHAPTER 119, that establishes electric standards and rates for the City of Milford.

Section 1. The City of Milford Hereby Ordains that Electric Rates and Associated Matters are hereby amended to read as follows.

Section 2. The Service Classification Section is hereby amended by repealing the current rate schedules and replacing each class as noted:

Residential Service Schedule RES

C. Monthly Rates

CURRENT:

<u>Energy Charge</u>	Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
First 5 kWh or less	\$4.00 flat charge	\$4.00 flat charge
Next 495 kWh	14.18 cents/kWh	13.00 cents/kWh
Excess kWh over 500	14.18 cents/kWh	13.00 cents/kWh

PROPOSED:

<u>Energy Charge</u>	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>First 5 kWh or less</i>	<i>\$4.00 flat charge</i>	<i>\$4.00 flat charge</i>
<i>Next 495 kWh</i>	<i>13.80 cents/kWh</i>	<i>12.80 cents/kWh</i>
<i>Excess kWh over 500</i>	<i>13.80 cents/kWh</i>	<i>12.80 cents/kWh</i>

Small General Service Schedule SGS

C. Monthly Rates

CURRENT:

	Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
Customer Charge	\$6.00/month	\$6.00/month
Energy Charge	15.30 cents/kWh	14.27 cents/kWh

PROPOSED:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$6.00/month</i>	<i>\$6.00/month</i>
<i>Energy Charge</i>	<i>15.00 cents/kWh</i>	<i>14.00 cents/kWh</i>

Medium General Service Schedule MGS

C. Monthly Rates

CURRENT:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$7.00/month</i>	<i>\$7.00/month</i>
<i>Demand Charge</i>	<i>\$18.00/kW</i>	<i>\$10.50/kW</i>
<i>Energy Charge</i>	<i>9.00 cents/kWh</i>	<i>8.00 cents/kWh</i>

PROPOSED:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$7.00/month</i>	<i>\$7.00/month</i>
<i>Demand Charge</i>	<i>\$13.95/kW</i>	<i>\$10.50/kW</i>
<i>Energy Charge</i>	<i>8.00 cents/kWh</i>	<i>7.00 cents/kWh</i>

Large General Service Schedule LGS

C. Monthly Rates

CURRENT:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$18.00/month</i>	<i>\$18.00/month</i>
<i>Demand Charge</i>	<i>\$14.40/kW</i>	<i>\$10.70/kW</i>
<i>Energy:</i>		
<i>On-Peak</i>	<i>10.00 cents/kWh</i>	<i>9.00 cents/kWh</i>
<i>Off-Peak</i>	<i>9.00 cents/kWh</i>	<i>8.10 cents/kWh</i>

PROPOSED:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$18.00/month</i>	<i>\$18.00/month</i>

*Gerald G. Friedel, P.E.
Michael R. Wigley, AIA, LEED AP
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA
Jason P. Loar, P.E.*

December 22, 2011

City of Milford
201 S. Walnut Street
Milford, Delaware 19963

Attn: Mr. Richard Carmean
City Manager

RE: **PROPOSAL**
Construction Phase Services
Washington Street Water Treatment Plant
Rehabilitation and Improvements Project
DBF #P0052A11.004

Dear Richard:

In response to our recent meeting, Davis, Bowen & Friedel, Inc. (DBF) is pleased to present this proposal for providing construction phase services for the above-referenced project. This proposal is supplementary to the previously authorized proposal dated December 15, 2011 for preliminary engineering, investigation, and design through construction procurement services for the Washington Street Water Treatment Plant Improvements project.

A description of our proposed scope of services and associated lump sum or estimated fees for each portion of the work is as follows:

A. CONSTRUCTION ADMINISTRATION SERVICES

Davis, Bowen & Friedel, Inc. will assist the City of Milford with contract administration services on the three (3) separate projects during the anticipated twelve (12) month project contract period. Our services shall include:

- Attendance at the pre-construction meeting between the Contractor, Sub-contractors, the funding agency and the City.
- Conducting monthly progress meetings and issuing meeting minutes.
- Review of submittals, partial payment estimates and contractor change orders.
- Prepare punch list inspection report.

- Arrange and perform final project inspection.
- Assist the City with the preparation and processing of contract closeout documents.

Lump Sum Fee: \$84,500.00

B. RESIDENT PROJECT REPRESENTATIVE (RPR) SERVICES

Davis, Bowen & Friedel, Inc. will provide a full-time Resident Project Representative (RPR) during the anticipated twelve (12) month contract period. The RPR would represent both the Engineer and the City on-site, monitor construction activities and ensure conformance with the contract documents for each of the three (3) contracts. The RPR shall prepare and submit daily field reports on the progress of the construction activities for the days on which construction inspection is provided. A final project inspection shall be performed and arranged by our office.

Estimated Fee: \$166,000.00

Please note that the above fee is only an estimate and is based on a 5 day work week and an average of 8 hours per day during the anticipated 12 month (365 consecutive calendar days) construction period.

C. EXCLUSIONS/ADDITIONAL SERVICES

Excluded from this scope of work are services associated with the following activities. These services, if requested, can be performed by our office on an hourly basis in accordance with our attached Schedule of Rates No. 44.

- Construction Administration and RPR Services beyond the anticipated 12 month contract period.
- Construction stakeout services.
- As-built surveys and/or preparation.
- Application and permit fees.

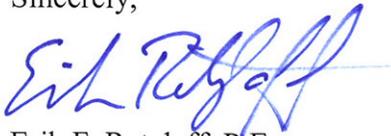
We propose to perform the above-described work under Item A for the lump sum listed above. Billing will be submitted monthly based on the percentage of work completed the previous month. Billing for Item B, and any other additional services as authorized by the City, will be submitted monthly and performed on an hourly basis in accordance with the enclosed Schedule of Rates No. 44. Payment terms shall be in accordance with our attached rate schedule.

Mr. Richard Carmean
December 22, 2011
Page 3

Should you find this proposal acceptable, please execute below and return one (1) copy to us for our files. Receipt of a signed copy will be considered as our authorization to proceed.

On behalf of Davis, Bowen & Friedel, Inc., we appreciate the opportunity to offer our services and look forward to continuing our work with you on this project. If you should have any questions or need additional information, please call.

Sincerely,



Erik F. Retzlaff, P.E.
Associate

Enc.

ACCEPTED BY:

Signature

Date

Printed Name

DAVIS, BOWEN & FRIEDEL, INC. ("DBF")
SCHEDULE OF RATES AND GENERAL CONDITIONS
 SCHEDULE NO. 44
 Effective June 1, 2006

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Senior Architect	\$135.00
Architect	\$105.00
Senior Landscape Architect	\$135.00
Landscape Architect	\$105.00
Senior Engineer	\$135.00
Engineer	\$105.00
Senior Planner	\$135.00
Planner	\$85.00
Construction Administrator	\$105.00
Traffic Engineer	\$105.00
Geologist	\$105.00
GIS Specialist	\$95.00
Senior Surveyor	\$135.00
Associate Surveyor	\$105.00
Surveyor	\$100.00
Senior Designer	\$100.00
Computer Graphics Designer	\$85.00
Designer	\$95.00
CADD I	\$80.00
CADD II	\$70.00
Computer Administrator	\$85.00
2 Man Field Crew	\$130.00
3 Man Field Crew	\$165.00
GPS Unit (1 man)	\$100.00
GPS Unit (2 man Crew)	\$140.00
GPS Unit (3 man Crew)	\$180.00
Resident Project Representative	\$80.00
Clerical	\$50.00
Travel	\$0.50
Direct Expense	Cost + 10%
Prints (In-house Reproduction)	\$2.50/sheet

GENERAL CONDITIONS

INVOICES & PAYMENT

Invoices are sent monthly or sooner if project is complete. Payment Terms: Net 30 days of invoice date. Any invoice not paid within 30 days shall bear interest at 1.0% per month (12% annually). If required to engage legal counsel to collect an overdue invoice, DBF shall be entitled to recover also its costs of collection, including counsel fees and expenses. DBF reserves the right to adjust its schedule of rates annually. Any such adjustments will be effective within 30 days after written notification to the client.

TERMINATION OF CONTRACT

Client may terminate this agreement upon seven days' prior written notice to DBF for convenience or cause. DBF may terminate this Agreement for cause upon seven days' prior written notice to client. Failure of client to pay invoices when due shall be cause for immediate suspension and ultimate termination of services, at DBF's sole discretion. This agreement may be terminated by either party for any reason with 30 days advance notice.

LIMITATION OF LIABILITY

Client agrees to limit DBF's liability related to any errors or omissions to a sum that shall not exceed the total professional fee for the project.

INDEMNIFICATION

Client and DBF each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorney's fees caused by the other's negligence. To the extent such claims, losses, damages or expenses are caused by the joint or concurrent negligence of client and DBF, the same shall be borne by each party in proportion to its negligence. This shall in no way affect the limitation of DBF's liability expressed in the preceding paragraph.

FORCE MAJEURE

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

CONSTRUCTION PHASE SERVICES

If this Agreement provides for any construction phase services by DBF, it is understood that the contractor, not DBF, is solely responsible for the construction of the project, and that DBF shall not be responsible for the acts or omissions of any contractor, subcontractor or material supplier; for safety precautions, programs or enforcement; or for construction means, methods, techniques, sequences and procedures employed by the contractor, its subcontractors or suppliers.

OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by DBF pursuant to this Agreement, including electronic media, are instruments of DBF's professional service, and DBF shall retain an ownership and property interest therein. DBF grants client, during the period of DBF's service, a license to use such documents for the purpose of constructing, occupying and maintaining the project. Reuse or modification of any such documents by client or client's agents, without DBF's written permission, shall be at client's sole risk; and client agrees to indemnify and hold DBF harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by client or by others acting through or with the consent of client.

USE OF ELECTRONIC MEDIA

Copies of documents that may be relied upon by client are limited to the printed copies (also known as hard copies) that are signed or sealed by DBF. Files in electronic media format or text, data, graphic or other types that are furnished by DBF to client are only for convenience of client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, DBF makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, computer hardware or of a protocol differing from those in use by DBF during the period of this agreement.

SUCCESSORS & ASSIGNS

The client and DBF bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

MISCELLANEOUS PROVISIONS

Unless otherwise specified, this Agreement shall be governed by laws of the State in which the work is performed, and the courts of such State shall have exclusive jurisdiction over any disputes hereunder. Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. If this schedule is incorporated or referenced in an agreement with client, the terms of this schedule shall prevail in the event of any conflict with the terms of such agreement.

REIMBURSABLE EXPENSES

Other expenses known as direct expenses incurred in the interest of the project (including travel, toll communications, postage, delivery, photographs, subcontract engineering, testing or other consultants, renderings, models, etc.) will be billed monthly at DBF's actual cost plus ten percent.