



## Certification Page Agencies Exempt from the APA

### **1. General Information**

a. Agency/Board Name See attached list for references

Wyoming Business Council

b. Agency/Board Address  
214 West 15th Street

c. Agency/Board City  
Cheyenne

d. Agency/Board Zip Code  
82002

e. Name of Contact Person  
David Simonsen

f. Contact Telephone Number  
307.777.2813

g. Contact Email Address  
dave.simonsen@wyo.gov

h. Adoption Date  
December 6, 2012

i. Program(s) See attached list for references

Community Facilities Grant and Loan Program

### **2. Rule Type and Information**

a. Choose all that apply:  New Rules\*  Amended Rules  Repealed Rules

\* "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.

If "New," provide the Enrolled Act number and year enacted:

b. Provide the Chapter Number and Short Title of Each Chapter being Created/Amended/Repealed (if more than 3 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)

Chapter Number: <b>1</b>	Short Title: <b>General Provisions</b>
Chapter Number: <b>2</b>	Short Title: <b>Community Facilities Grants</b>
Chapter Number: <b>3</b>	Short Title: <b>Community Facilities Loans</b>

c. The authority to promulgate these rules is provided pursuant to W.S.

**W.S. 9-12-104(a)(iv) and W.S. 9-12-801 through 9-12-804**

d. The attached rule(s) pertain to:

- 1) Increase the required match to 15% for requests up to \$500,000 and to 25% for requests over \$500,000.
- 2) Add an evaluation criterion that an applicant must demonstrate how a project will increase economic development opportunities.
- 3) Amend application criteria to include a deadline for a draft application to be submitted to the WBC Regional Director two weeks prior to the application submission deadline.
- 4) Amend application criteria to include the submission of three (3) copies and one digital copy of the completed application to the Wyoming Business Council staff.
- 5) Add year round to swimming and athletic facilities under Section 7: Eligible Project Uses.
- 6) Allow a market analysis to demonstrate value of an in-kind match
- 7) Correct any grammatical errors

### **3. Agency/Board Certification**

The undersigned certifies that:

1. The foregoing information is correct;
2. The attached rules are a true and correct copy; and
3.  I am the Agency head of Wyoming Business Council \_\_\_\_\_; or  
 I am the chairperson of the \_\_\_\_\_

(enter name of board)

Signature of Authorized Individual	
Printed Name of Signatory	Robert K. Jensen
Signatory Title	Chief Executive Officer
Date of Signature	December 11, 2012

### **Distribution List:**

- Secretary of State: Hard copy of certification page; PDF copy of final rules sent to [rules@state.wy.us](mailto:rules@state.wy.us)

## **STATEMENT OF PRINCIPAL REASONS**

Community Facilities Program Rule Change – October 3, 2012

- 1) Increase the required match to 15% for requests up to \$500,000 and to 25% for requests over \$500,000.
- 2) Add an evaluation criterion that an applicant must demonstrate how a project will increase economic development opportunities.
- 3) Amend application criteria to include a deadline for a draft application to be submitted to the WBC Regional Director two weeks prior to the application submission deadline.
- 4) Amend application criteria to include the submission of three (3) copies and one digital copy of the completed application to the Wyoming Business Council staff.
- 5) Add year round to swimming and athletic facilities under Section 7: Eligible Project Uses.
- 6) Allow a market analysis to demonstrate value of an in-kind match
- 7) Correct any grammatical errors

STATE OF WYOMING  
COMMUNITY FACILITIES GRANT AND LOAN PROGRAM  
RULES

*Most recent amendments adopted October 29, 2010*

Draft Community Facilities Program Rules October 3, 2012

Prepared by:

WYOMING BUSINESS COUNCIL  
214 West 15<sup>th</sup> Street  
Cheyenne, WY 82002

**Rules will affect projects funded after July 1, 2010**

## TABLE OF CONTENTS

### CHAPTER 1 GENERAL PROVISIONS

<u>Section No.</u>	<u>Subject</u>	<u>Page No.</u>
1	Purpose.....	1-1
2	Authority.....	1-1
3	Definitions.....	1-1
4	Eligible Applicants.....	1-2
5	Previous Applicants.....	1-3
6	Project Type.....	1-3
7	Eligible Project Uses.....	1-3
8	Ownership of Facility.....	1-3
9	School District Agreement.....	1-4
10	Required Public Hearing Procedures.....	1-4
11	Funding Cycles.....	1-5
12	Application Procedures.....	1-5
13	Council Consideration.....	1-7
14	Demonstration of Need.....	1-7
15	Grant Match Requirements.....	1-7
16	Fund Disbursement and Project Monitoring.....	1-8

### CHAPTER 2 COMMUNITY FACILITIES GRANTS

1	Application Submittal Requirements.....	2-1
2	Grant Amount.....	2-4

### CHAPTER 3 COMMUNITY FACILITIES LOANS

1	General Policy.....	3-1
2	Application Submittal Requirements.....	3-1
3	Loan Amount.....	3-5
4	Interest Rate and Term.....	3-5
5	Security Interest.....	3-5
6	Attorney General Opinion.....	3-5
7	Evaluation.....	3-5
8	Council Consideration.....	3-6
9	Disbursement of Loan Proceeds.....	3-6

## **Chapter 1** **GENERAL PROVISIONS**

### **Section 1. Purpose.**

(a) The purpose of the program is to assist communities to preserve former school and government facilities that have existing or future community uses. These rules are adopted in order to implement W.S. 9-12-801 through 9-12-804, which provide for the making of grants and loans to eligible applicants for community economic development or enhancement of quality of life community facility projects. The rules provide for a method of application, review recommendation, the establishment of terms and conditions of awards, and a hearing process.

**Section 2. Authority.** Rule-making for this program is the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12-801 through W.S. 9-12-804.

### **Section 3. Definitions.**

(a) “Board” means the Wyoming State Loan and Investment Board.

(b) “Community Development Organization” means a group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing, or expanding businesses and other economic or community development purposes throughout its community or county and which may take equity positions and shall take security positions in its borrower’s business and appropriate personal guarantees from the owners thereof.

(c) “Council” means the Wyoming Business Council Board of Directors.

(d) “Council staff” means the staff of the Wyoming Business Council assigned to administer the program.

(e) “Eligible project costs” means total project cost, less ineligible project costs. Eligible project costs must be related to either 1) the expansion, renovation or remodeling of a surplus government facility and/or associated infrastructure or 2) expansion, renovation, conversion or purchase of an interest in a local enhancement to a school building or facility and/or associated infrastructure.

(f) “Ineligible project costs” are fixtures, appliances, equipment or other features of the facility which are not physically attached.

(g) “Local Enhancement to a School Building and Facility” means a structure and/or associated infrastructure which are in excess of and go beyond state school building adequacy standards.

(h) “Match” means cash and/or in-kind contributions. Contributions must have value and must be applicable to the period to which the matching requirement applies and must be necessary for the project facility. Examples of in-kind contributions include: labor, materials, professional services, and real estate. In-kind contributions must be verifiable from the records of applicant. These records must show how the value placed on in-kind contributions was derived. Labor services will be reported using rates consistent with those ordinarily paid by the applicant or other employers for similar work in the same labor market. Donated materials will be valued at market value at the time of donation. Loaned equipment will be valued at the fair rental rate of the equipment at the time of donation. The value of donated facilities, buildings or land will be established using a valuation method set by an independent appraiser or a market analysis prepared by a licensed realtor.

(i) “State Development Organization” means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses, and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers’ businesses and appropriate personal guarantees from the owners thereof.

(j) “Revenue generating project” means real property developed with Business Ready Community funds owned either by applicant or created partnership with a private party which generates revenue from user fees, assessments paid by the beneficiaries of the facility, lease payments, or the proceeds from the sale of real property.

(k) “Special Assistance Loan Fund” is a special assistance loan fund that allows applicants to borrow funds in excess to the maximum award and/or borrow all or a portion of the required match.

#### **Section 4. Eligible Applicants.**

(a) A county, an incorporated city or town, and joint powers board or other local governmental entity may apply. A joint powers board may apply with the written approval of all participating agencies to the joint powers agreement.

(b) A county, an incorporated city, town, joint powers board or other local governmental entity may contract with a Community Development

Organization or a State Development Organization to use grant and loan funds from an approved application.

(c) The Council may enter into a contract/cooperative agreement with the Eastern Shoshone or the Northern Arapahoe Tribe in order to promote the purpose of this program.

Section 5. **Previous Applicant.** An applicant must show satisfactory performance has been demonstrated under previous grants or loans awarded through this program.

Section 6. **Project Type.** A grant may be used for the following types of projects.

(a) The expansion, renovation, or remodeling of existing surplus government facilities.

(b) The expansion, renovation, conversion, or purchase of an interest in a local enhancement to a school building or facility.

Section 7. **Eligible Project Uses.** Grant or loan funds may be used for economic development and enhancement of quality of life community facilities projects which provide:

(a) Space for community gatherings and functions;

| (b) Appropriate recreational, year round swimming and athletic facilities for community members, particularly youth.

| (c) Other functions or uses determined by the Council to be consistent with the purposes of the State of Wyoming Community Facilities Program.

| Section 8. **Ownership of InfrastructureFacility.** The project facility funded by this program shall be owned by the applicant or eligible Community Development Organization or State Development Organization as defined in Section 3 of this Chapter for a minimum of four (4) years. The applicant may lease, sell, transfer or otherwise dispose of the facility as provided by statute. No ownership interest to the project or facility under a project shall remain with the school district upon expenditure of any funds under this program for any project.

Section 9. **School District Agreement.** In the event the project facility involves a school district, i.e. local enhancement to a building or facility, or other

school district involvement, and agreement between the applicant and the school district shall be developed that delineates the responsibilities of each party.

**Section 10. Required Public Hearing Procedures and Resolution of Support.**

(a) An applicant is required to inform and educate the public to the greatest extent possible about the proposed economic development project utilizing a variety of techniques and media. The applicant must make readily available to the public access to the application and associated materials, exclusive of business plans or business financial information ~~which are not subject to public information statutes~~. An applicant shall actively solicit citizen input which can be submitted via writing, electronic communication, or in person a public hearing. A minimum of one public hearing is required before submission of an application. For the purposes of this program, seven (7) days is the minimum period for notification of a hearing date. The public hearing must be held a minimum of fourteen (14) days prior to the deadline for submission of an application under this program. If the project facility is to be located outside the boundaries of the applicant, the applicant shall hold an additional public hearing near the location of the proposed project facility.

(i) To inform the public and gather information to satisfy the requirements of Section 14 (c) and (d), the public notice shall at a minimum:

(A) Contain a concise description of the proposed project facility.

(B) Ensure that comments are actively solicited and time will be set-aside to take testimony from citizens who may feel that the proposed use of the project facility might compete with an existing business or governmental organization pursuant to Section 14 (c) and (d) of this Chapter.

(C) Be published in a newspaper of general circulation within the boundaries of the applicant or as approved by the Council staff.

(b) A description of the applicant's public engagement process, written comments received by the applicant, evidence of the public hearing notification, minutes from public hearing, and a copy of the signed resolution, passed after the public hearing is held and public comments are considered, supporting the submittal of the application from the governing body of the applicant or all participating agencies if the applicant is a joint powers board, along with minutes of public hearing and proof of publication.

**Section 11. Funding Cycles.** A grant and/or loan request for will be accepted once a fiscal year on a date to be determined by the Council staff. A request will be scheduled for review by the Council. An applicant may submit one new loan request per calendar year.

**Section 12. Application Procedures.**

(a) The Wyoming Business Council Regional Director is available to assist applicants with the development of projects and preparation of applications.

(b) An application shall be reviewed by the Council staff to determine eligibility and completeness. An application that is determined by the Council staff to be incomplete shall be provided and explanation of the findings in writing within fifteen (15) working days of its receipt where practical.

(c) The Council staff may, at its expense, hire a qualified third party to verify project cost estimate and structural stability of the project facility. In addition, the Council staff may, at its expenses, hire a qualified third party to determine if any environmental hazards exist and to determine the condition of the facility or building components such as the plumbing, electrical, roof and mechanical systems.

(d) An application that is complete shall be forwarded by the Council staff with a recommendation to the Council for review.

(e) The Council staff shall publish statewide notice of Council and Board meetings at which Business Ready Grant and Loan Program applications will be discussed.

(f) The Council shall prioritize proposed grants and loans it recommends to the Board. The score is not intended to be the only basis for a final recommendation by the Council or award decision by the Board. The final recommendation and award decision on grant and loan proposals shall be at the discretion of the Council and Board respectively. As a method to assist the Board prioritizing grant and loan proposals, Council staff will use the following scoring system:

(i) Financial Preparedness: (Total 20 points)

(A) Clear understanding of equipment costs, operational costs, and maintenance costs (10 points).

(B) Clear identification of sources of ongoing funding for equipment, operations and maintenance (10 points). No project scoring less than five (5) in this category would receive funding.

(ii) Additional Considerations: Council staff will also assess grant and loan loans in the following areas and report results to the Board;

(A) Historic or cultural significance of the project facility and the extent to which the project facility will preserve or enhance that significance.

(B) Extent to which the project facility is intended primarily for youth.

(C) Extent to which the project facility fulfills community quality of life goals as identified in a community or economic development plan, community assessment, or other documentation of community vision goals.

(D) Extent to which the project fulfills economic development goals as identified in economic development plans, or other documentation of economic development strategy.

(E) Extent to which the applicant will utilize a variety of funding sources to finance the project facility. This may include but is not limited to, sources such as historic tax credits, private donations, and federal funding.

(F) Extent to which the applicant demonstrates how the project will increase economic development opportunities.

(iii) Community Facility Business Plan: see Chapter 2, Section 1 (g). The Community Facility Business Plan should reflect a level of detail appropriate for the type and use(s) of proposed facility. Plans will be assessed on:

(A) The extent to which the applicant has partnered with other agencies, non-profit organizations, community development organizations in developing the Community Facility Business Plan and how those partnerships support the long-term viability of the facility.

(B) Experience of the applicant or partners in managing other community facilities or similar programs.

(C) Demonstration in marketing plan for the facility of knowledge of market area, people to be served, and marketing campaigns.

**Section 13. Council Consideration.** The Council shall consider each application, allow for comments from the public, the applicant, the Council staff, and refer the application to the Board with a recommendation. Under extraordinary circumstances, the Council may recommend a waiver of rule requirements if the Council determines the waiver is consistent with the purpose of the Community Facilities Program.

**Section 14. Demonstration of Need.** To qualify for a grant or loan, an applicant shall demonstrate:

(a) A commitment by the applicant to adequately maintain and insure the project facility for which the grant or loan is requested for at least four (4) years.

(b) A partnership or other working arrangement or agreement with other local governmental entities to ensure the viability of the project facility for at least four (4) years.

(c) The project facility is not otherwise provided in the community or that such a facility exists except that the financing of that facility has not been paid in full; see Chapter 1, Section 10.

(d) The project facility will not compete with existing governmental organizations or businesses; see Chapter 1, Section 10.

(e) The relationship of the project facility to a community economic development plan or to the enhancement of quality of life in the community.

(f) That all project costs will be funded at the time of receipt of a grant or loan under this article with funding sources specified within the project application.

(g) The availability of funds sufficient to maintain the project facility. The grant and or loan application shall clearly identify maintenance funding sources sufficient to cover maintenance costs for a period of at least four (4) years.

**Section 15. Grant Match Requirements.**

(a) A grant and/or loan in an amount up to \$~~250,000~~500,000 shall require a minimum match of ~~ten-fifteen~~ percent (~~1015%~~) of eligible project activity costs.

(b) A grant and/or loan in an amount of over \$~~250,000~~500,000 shall require a minimum match of ~~fifteen-twenty-five~~ percent (~~1525%~~) of eligible project activity costs.

(c) Applicants can use the Special Assistance Loan Fund to complete minimum match requirements. Terms and specifications related to Special Assistance Loan Funds are addressed in Chapter 3 of the Community Facilities Grant and Loan Program Rules.

## **Section 16. Fund Disbursement and Project Monitoring.**

(a) Fund Disbursement. Funds shall be disbursed to the grantee only as needed to discharge obligations incurred in accordance with the Board approved eligible project costs. Request for disbursement shall be made on a form supplied by the Council staff and supported by adequate proof that such an obligation has been incurred for the project purpose and is due and owing.

(b) Fund reversion.

(i) If the Council staff determines that the project has not been completed within the timeline established in the grant agreement between the grantee and Wyoming Business Council, Council staff shall notify the grantee in writing at least thirty (30) days prior to presenting the matter for Council review.

(ii) If the Council staff determines that the project is complete, but the full amount of the grant or loan has not been expended, the Council staff shall notify grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant or loan shall revert to uncommitted status.

(iii) Projects that have not been started within one year: Council staff will notify grantee of a pending expiration prior to the one year anniversary unless contingency for delay start was noted during the award. The grantee can submit a written request to continue the project. Council staff may request new and/or updated information and documentation. Council staff may recommend and the Council may grant an extension of time in which to start the project.

(iv) Projects with contingencies: Grantee is required to provide timely updates on the status of the contingencies. If the contingency

timeline lapses without conditions met, then the award will expire. The grantee has the option to submit a new application or can request an extension or modification of the contingency terms through the Council staff. Council staff may recommend and the Council may grant an extension of time or modification to the contingencies.

(v) Procurement Standards. All grantees must follow the state procurement regulations that exist in statute for cities and towns. If a non-municipal grantee has produced a procurement policy, then Council staff or qualified consultants reserves the right to review that policy prior to fund disbursement.

(c) Project Monitoring.

(i) Reporting. Within fifteen (15) calendar days at the conclusion of each calendar quarter during the term of the grant or loan contract construction services period of the grant agreement or cooperative agreement, the grantee shall supply Council staff with a progress report. Each progress report shall set forth in narrative form the work accomplished under the grant or loan during the quarter and shall include a financial status report. At the end of the project, the grantee shall furnish Council staff with a final infrastructure report of the project. The grantee shall likewise furnish the Council staff with a cumulative financial statement, reflecting the total expenditure pursuant to this grant agreement. Council staff may at any point during the grant period request the grantee to provide updated financial information from the Community Facility Business Plan.

(ii) Audits and inspections. The Council staff may, at its expense, conduct an audit of the records of the grantee and inspect the construction and operation of the project.

(iii) Record retention. Grantee agrees to retain all records related to the project for four (4) years following the Council staff's date of notice to grantee of closeout of the grant.

(d) Project Evaluation.

(i) Evaluation Reports. After the conclusion of the construction services period and through the remaining period of the grant, grantee shall submit periodic narratives evaluating program outcomes against established measures. Council staff shall stipulate the frequency and content of the report, tailored to the specific nature to each grant or loan, in agreements between the Council and grantee.

(ii) Evaluation results. The Council shall use the evaluation report information to measure program outcomes, to promote learning

from experience and to improve program performance. Council staff may make evaluation results available to grantees and other practitioners as appropriate.

(iii) Written comprehensive report. At the expiration of the grant agreement, the grantee shall furnish Council staff with a comprehensive report of the project. The grantee shall furnish Council staff with any updates to the cumulative financial statement, reflecting any additional expenditures if any, pursuant to this grant agreement.

## Chapter 2

### COMMUNITY FACILITIES GRANTS

**Section 1. Application Submittal Requirements.** An applicant shall submit one (1) copy of the completed—draft—application—and—draft—application—materials to the Wyoming Business Council Regional Director at least two weeks in advance of the application deadline. —andAnapplicantshallsubmitthree—two—(23)copies—andone—digital—copy of its completed application to the Council staff. The application shall include:

- (a) An application cover page in a form provided by the Council staff.
- (b) A copy of the certificate of incorporation for the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.
- (c) A full description of the proposed project.
- (d) A clear budget statement of the source of all funds needed to complete the project. An explanation of the level of commitment of other funds to complete the project. The budget must be supported by an engineer's or architect's estimate of project costs. Grants will be made only to applicants who demonstrate that upon receipt of the grant all project costs will be funded.
- (e) An inspection report prepared by an engineer or architect documenting the structural condition of the facility or building to be renovated. The report shall also include information indicating the condition and age of the facility or building components to include but not be limited to:
  - (i) Plumbing.
  - (ii) Mechanical.
  - (iii) Roof.
  - (iv) Environmental hazards, i.e. asbestos, lead based paint.
- (f) A detailed map of the site showing the location of the facility or building to be funded.

(g) The applicant shall provide the following information that will be used to determine the long term viability of the community facility. The grant may not be approved if the project facility is determined to not be viable.

(i) A Community Facility Business Plan for the operation of the project facility to include at a minimum the following:

(A) Executive Summary, a one page summary of the entire business plan.

(B) Financial projects for four (4) years that clearly identify funding sufficient to cover the projected operation and maintenance costs.

(C) Performance measures of desired outcomes, in the form of baselines or other evaluation criteria, which will address how well the project meets local community economic development or enhancement of quality of life goals.

(D) Ownership, identify all owners of the project facility.

(ii) A Community Facility Business Plan should contain, as appropriate, the following:

(A) Description of the equipment necessary to operate and maintain the project facility.

(B) Description of the personnel necessary to operate and maintain the project facility. Include the management experience of the personnel and partners.

(C) A project facility marketing plan.

(h) A copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(i) A copy of a signed resolution supporting the submittal of the application from the governing body of the applicant or all participating agencies if the applicant is a joint powers board.

(j) Information outlining the capacity of the applicant to properly manage the grant and the project. This should include previous grant management experience and the name and qualifications of the individual who will manage the grant.

(k) Information required to document need. To satisfy the requirements of Chapter 1, Section 14, the following documentation shall be submitted with the application:

(i) Written certification by the applicant committing to adequately maintain the project facility for which the grant is requested for at least four (4) years. The certification shall clearly identify funding sources to cover all maintenance and operational costs.

(ii) Copy of the partnership or working agreement or agreement with other local governmental entities to ensure the viability of the project facility for at least four (4) years.

(iii) Copy of the agreement between the applicant and the school district as required in Chapter 1, Section 9.

(iv) Written certification by the applicant that the project facility is not otherwise provided in the community or that such facility exists except that the financing of that facility has not been paid in full. Written certification that the project facility will not compete with existing governmental organizations or businesses. See Chapter 1, Section 10 for related public notice and hearing requirements.

(v) An applicant must demonstrate the project facility relates to and is mentioned in a community economic development plan or a need exists to enhance the quality of life in the community. This is demonstrated by having some or all of the following in place:

(A) A current Comprehensive Economic Development Strategy (CEDS), Community Assessment, Certified Tourism Community planning, Main Street planning, or other economic development plan covering the area.

(B) A capital facilities plan with a priority listing of proposed community facility projects and sites related to economic development and quality of life goals.

(C) Other appropriate plans or studies which support the project facility and indicate its chances of achieving success in fulfilling economic development and quality of life goals.

(vi) A written certification that all project facility costs identified in the application budget will be funded at the time of receipt of the grant.

(l) A contingency contract for purchase or transfer of the project facility upon notification of a grant award or evidence the project facility is already owned by the applicant.

Section 2. **Grant Amount.** A maximum of \$1,000,000 per project. Applicants can request an additional \$1,000,000 from the Special Assistance Loan Fund.

## **Chapter 3**

### **COMMUNITY FACILITIES LOANS**

**Section 1. General Policy.** A loan may be made to fund a portion of any project facility which is an eligible activity. ~~For example, a project facility which generates revenue from lease payments or user fees.~~ In no event shall a loan be made to pay off or refinance an existing loan.

(a) A general Community Facilities Loan may be made to fund all of the funding request or fund in conjunction with a Community Facilities grant request.

(b) A Special Assistance Loan may be used to loan additional funding in excess to the maximum award amount and/or the full or partial funding of the required match.

#### **Section 2. Application Submittal Requirements.**

An applicant shall submit one (1) copy of the draft application and draft application materials to the Wyoming Business Council Regional Director at least two weeks in advance of the application deadline. An applicant shall submit three (3) copies and one digital copy of its completed application to the Council staff. The application shall include:

An applicant shall submit three (3) copies of its completed application to the Council staff. It will include:

(a) An application provided by the Council staff.

(b) A copy of the certificate of organization filed with the Secretary of State and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(c) A full description of the proposed project.

(d) A clear budget statement of the source and use of all funds needed to complete the project facility. An explanation of the level of commitment of other funds to complete the project facility. The budget must be supported by an engineer's or architect's estimate of project costs. Loans will be made only to applicants that demonstrate that upon receipt of the loan all project costs will be funded.

(e) An inspection report prepared by an engineer or architect documenting the structural condition of the facility or building to be renovated. The

report shall also include information indicating the condition and age of the facility or building components to include but not be limited to:

- (i) Plumbing.
- (ii) Mechanical.
- (iii) Roof.
- (iv) Environmental hazards, i.e. asbestos, lead based paint.

(f) A detailed map of the site showing the location of the infrastructure to be funded.

(g) A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.

(i) A Community Facility Business Plan for the operation of the project facility to include at a minimum the following:

(A) Executive Summary, a one page summary of the entire business plan.

(B) Financial projects that clearly identify funding sufficient to cover the projected operation and maintenance costs.

(C) Performance measures of desired outcomes, in the form of baselines or other evaluation criteria, which will address how well the project meets local community economic development or enhancement of quality of life goals.

(D) Ownership, identify all owners of the project facility.

(ii) A Community Facility Business Plan should contain, as appropriate, the following:

(A) Description of the equipment necessary to operate and maintain the project facility.

(B) Description of the personnel necessary to operate and maintain the project facility. Include the management experience of the personnel and partners.

(C) A project facility marketing plan.

(h) The source of repayment of the loan.

(i) Proposed security for the loan.

(j) In order for the Council to determine the ability of the applicant to repay a loan and to aid the Attorney General in evaluating the legality of the proposed indebtedness, an applicant shall provide an annual budget for the preceding and current fiscal years and a completed financial statement provided on a "General Financial Information" form provided by the Council staff, that includes, but is not limited to the following information:

(i) Assessed valuation for the current and two (2) preceding fiscal years;

(ii) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate, and remaining term;

(iii) Total mills levied within the jurisdiction of the applicant for the current and two (2) preceding years: and, a breakdown of the mill levy for the current fiscal year;

(iv) Sales and use tax imposed within the jurisdiction of the applicant;

(v) A summary of the applicant's total investments and cash balances for the two (2) preceding fiscal years.

(k) A copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(l) A copy of a signed resolution supporting the submittal of the application from the governing body of the applicant or all participating agencies if the applicant is a joint powers board.

(m) Information outlining the capacity of the applicant to properly manage the loan and the project. This should include previous loan and grant management experience and the name and qualifications of the individual who will manage the loan.

(n) Information required to document need. To satisfy the requirements of Chapter 1, Section 14, the following documentation shall be submitted with the application:

(i) Written certification by the applicant committing to adequately maintain the project facility for which the loan is requested for at least four (4) years. The certification shall clearly identify funding sources to cover all maintenance and operational costs.

(ii) Copy of the partnership or working agreement or agreement with other local governmental entities to ensure the viability of the project facility for at least four (4) years.

(iii) Copy of the agreement between the applicant and the school district as required in Chapter 1, Section 9.

(iv) Written certification by the applicant that the project facility is not otherwise provided in the community or that such facility exists except that the financing of that facility has not been paid in full. Written certification that the project facility will not compete with existing governmental organizations or businesses. See Chapter 1, Section 10 for related public notice and hearing requirements.

(v) An applicant must demonstrate the project facility relates to and is mentioned in a community economic development plan or a need exists to enhance the quality of life in the community. This is demonstrated by having some or all of the following in place:

(A) A current Comprehensive Economic Development Strategy (CEDS), or other economic development plan covering the area.

(B) A capital facilities plan with a priority listing of proposed community facility projects and sites related to economic development and quality of life goals.

(C) Other appropriate plans or studies which support the project facility and indicate its chances of achieving success in fulfilling economic development and quality of life goals.

(vi) A written certification that all project facility costs identified in the application budget will be funded at the time of receipt of the grant.

(o) A contingency contract for purchase or transfer of the project facility upon notification of a loan award, or evidence the project facility is already owned by the applicant.

(p) Other applicable information as requested by the Council staff.

**Section 3.     Loan Amount.**

(a) The maximum for a general Community Facilities Loan shall be \$1,000,000 per application.

(b) The maximum for a Special Assistance Loan shall be \$1,500,000 per application.

**Section 4.     Interest Rate and Term.**

(a) A general Community Facilities Loan and a Special Assistance Loan shall be made at a no or low interest rate as recommended by the Council and established by the Board.

**Section 5.     Security Interest.**

(a) A loan shall be adequately collateralized as recommended by the Council and determined by the Board. The Council may recommend and the Board may require a first position security interest in the revenue generating facility and the related user fees or assessments. Other security may be required as determined by the Council and approved by the Board.

(b) If a lien is required on the facilities, the applicant shall:

(i) Maintain adequate insurance on the facility;

(ii) Pay all applicable taxes and assessments when due;

(iii) Maintain the facility in good condition.

**Section 6.     Attorney General Opinion.** No loan shall be made without the written opinion of the Attorney General certifying the legality of the transaction and all loan documents. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the Attorney General determines such an election is otherwise required by law.

**Section 7.     Evaluation.**

(a) Criteria. The Council staff shall evaluate an application and will formulate a recommendation to the Council utilizing the following criteria:

(i) Whether the user fees or assessments generated by the project facility will be sufficient so that the loan may be considered a reasonable and prudent investment of state funds.

(ii) Whether the applicant is current on all its repayment obligations to the Community Facilities Program account or other state loan accounts.

(b) Interagency Consultation. The Council staff shall request that pertinent state agencies assist in the review of the applications and provide comments to the Council staff for Council and Board consideration.

Section 8. **Council Recommendation.** The Council shall consider each application and refer to the Board with a recommendation including the amount of the loan, the term of the loan, and the type of security required to secure the loan.

Section 9. **Disbursement of Loan Proceeds.** At closing, the loan proceeds shall be deposited in an interest bearing escrow account to be disbursed solely for the approved loan purposes. Interest earned shall be credited to the borrower. Borrower shall submit all requests for payment along with supporting documentation on a form provided by the Council staff. The Council staff shall approve or disapprove pay requests in whole or part within five (5) working days and notify the escrow bank of the amount to be disbursed to the borrower.

**STATE OF WYOMING**  
**COMMUNITY FACILITIES GRANT AND LOAN PROGRAM**  
**RULES**

Draft Community Facilities Program Rules October 3, 2012

Prepared by:

**WYOMING BUSINESS COUNCIL**  
214 West 15<sup>th</sup> Street  
Cheyenne, WY 82002

## TABLE OF CONTENTS

### CHAPTER 1 GENERAL PROVISIONS

<u>Section No.</u>	<u>Subject</u>	<u>Page No.</u>
1	Purpose.....	1-1
2	Authority.....	1-1
3	Definitions.....	1-1
4	Eligible Applicants.....	1-2
5	Previous Applicants.....	1-3
6	Project Type.....	1-3
7	Eligible Project Uses.....	1-3
8	Ownership of Facility.....	1-3
9	School District Agreement.....	1-4
10	Required Public Hearing Procedures.....	1-4
11	Funding Cycles.....	1-5
12	Application Procedures.....	1-5
13	Council Consideration.....	1-7
14	Demonstration of Need.....	1-7
15	Grant Match Requirements.....	1-7
16	Fund Disbursement and Project Monitoring.....	1-8

### CHAPTER 2 COMMUNITY FACILITIES GRANTS

1	Application Submittal Requirements.....	2-1
2	Grant Amount.....	2-4

### CHAPTER 3 COMMUNITY FACILITIES LOANS

1	General Policy.....	3-1
2	Application Submittal Requirements.....	3-1
3	Loan Amount.....	3-5
4	Interest Rate and Term.....	3-5
5	Security Interest.....	3-5
6	Attorney General Opinion.....	3-5
7	Evaluation.....	3-5
8	Council Consideration.....	3-6
9	Disbursement of Loan Proceeds.....	3-6

## **Chapter 1** **GENERAL PROVISIONS**

### **Section 1. Purpose.**

(a) The purpose of the program is to assist communities to preserve former school and government facilities that have existing or future community uses. These rules are adopted in order to implement W.S. 9-12-801 through 9-12-804, which provide for the making of grants and loans to eligible applicants for community economic development or enhancement of quality of life community facility projects. The rules provide for a method of application, review recommendation, the establishment of terms and conditions of awards, and a hearing process.

**Section 2. Authority.** Rule-making for this program is the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12-801 through W.S. 9-12-804.

### **Section 3. Definitions.**

(a) “Board” means the Wyoming State Loan and Investment Board.

(b) “Community Development Organization” means a group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing, or expanding businesses and other economic or community development purposes throughout its community or county and which may take equity positions and shall take security positions in its borrower’s business and appropriate personal guarantees from the owners thereof.

(c) “Council” means the Wyoming Business Council Board of Directors.

(d) “Council staff” means the staff of the Wyoming Business Council assigned to administer the program.

(e) “Eligible project costs” means total project cost, less ineligible project costs. Eligible project costs must be related to either 1) the expansion, renovation or remodeling of a surplus government facility and/or associated infrastructure or 2) expansion, renovation, conversion or purchase of an interest in a local enhancement to a school building or facility and/or associated infrastructure.

(f) “Ineligible project costs” are fixtures, appliances, equipment or other features of the facility which are not physically attached.

(g) “Local Enhancement to a School Building and Facility” means a structure and/or associated infrastructure which are in excess of and go beyond state school building adequacy standards.

(h) “Match” means cash and/or in-kind contributions. Contributions must have value and must be applicable to the period to which the matching requirement applies and must be necessary for the project facility. Examples of in-kind contributions include: labor, materials, professional services, and real estate. In-kind contributions must be verifiable from the records of applicant. These records must show how the value placed on in-kind contributions was derived. Labor services will be reported using rates consistent with those ordinarily paid by the applicant or other employers for similar work in the same labor market. Donated materials will be valued at market value at the time of donation. Loaned equipment will be valued at the fair rental rate of the equipment at the time of donation. The value of donated facilities, buildings or land will be established using a valuation method set by an independent appraiser or a market analysis prepared by a licensed realtor.

(i) “State Development Organization” means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses, and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers’ businesses and appropriate personal guarantees from the owners thereof.

(j) “Revenue generating project” means real property developed with Business Ready Community funds owned either by applicant or created partnership with a private party which generates revenue from user fees, assessments paid by the beneficiaries of the facility, lease payments, or the proceeds from the sale of real property.

(k) “Special Assistance Loan Fund” is a special assistance loan fund that allows applicants to borrow funds in excess to the maximum award and/or borrow all or a portion of the required match.

#### **Section 4. Eligible Applicants.**

(a) A county, an incorporated city or town, and joint powers board or other local governmental entity may apply. A joint powers board may apply with the written approval of all participating agencies to the joint powers agreement.

(b) A county, an incorporated city, town, joint powers board or other local governmental entity may contract with a Community Development

Organization or a State Development Organization to use grant and loan funds from an approved application.

(c) The Council may enter into a contract/cooperative agreement with the Eastern Shoshone or the Northern Arapahoe Tribe in order to promote the purpose of this program.

Section 5. **Previous Applicant.** An applicant must show satisfactory performance has been demonstrated under previous grants or loans awarded through this program.

Section 6. **Project Type.** A grant may be used for the following types of projects.

(a) The expansion, renovation, or remodeling of existing surplus government facilities.

(b) The expansion, renovation, conversion, or purchase of an interest in a local enhancement to a school building or facility.

Section 7. **Eligible Project Uses.** Grant or loan funds may be used for economic development and enhancement of quality of life community facilities projects which provide:

(a) Space for community gatherings and functions;

(b) Appropriate recreational, year round swimming and athletic facilities for community members, particularly youth.

(c) Other functions or uses determined by the Council to be consistent with the purposes of the State of Wyoming Community Facilities Program.

Section 8. **Ownership of Facility.** The project facility funded by this program shall be owned by the applicant or eligible Community Development Organization or State Development Organization as defined in Section 3 of this Chapter for a minimum of four (4) years. The applicant may lease, sell, transfer or otherwise dispose of the facility as provided by statute. No ownership interest to the project or facility under a project shall remain with the school district upon expenditure of any funds under this program for any project.

Section 9. **School District Agreement.** In the event the project facility involves a school district, i.e. local enhancement to a building or facility, or other

school district involvement, and agreement between the applicant and the school district shall be developed that delineates the responsibilities of each party.

**Section 10. Required Public Hearing Procedures and Resolution of Support.**

(a) An applicant is required to inform and educate the public to the greatest extent possible about the proposed economic development project utilizing a variety of techniques and media. The applicant must make readily available to the public access to the application and associated materials, exclusive of business plans or business financial information. An applicant shall actively solicit citizen input which can be submitted via writing, electronic communication, or in person a public hearing. A minimum of one public hearing is required before submission of an application. For the purposes of this program, seven (7) days is the minimum period for notification of a hearing date. The public hearing must be held a minimum of fourteen (14) days prior to the deadline for submission of an application under this program. If the project facility is to be located outside the boundaries of the applicant, the applicant shall hold an additional public hearing near the location of the proposed project facility.

(i) To inform the public and gather information to satisfy the requirements of Section 14 (c) and (d), the public notice shall at a minimum:

(A) Contain a concise description of the proposed project facility.

(B) Ensure that comments are actively solicited and time will be set-aside to take testimony from citizens who may feel that the proposed use of the project facility might compete with an existing business or governmental organization pursuant to Section 14 (c) and (d) of this Chapter.

(C) Be published in a newspaper of general circulation within the boundaries of the applicant or as approved by the Council staff.

(b) A description of the applicant's public engagement process, written comments received by the applicant, evidence of the public hearing notification, minutes from public hearing, and a copy of the signed resolution, passed after the public hearing is held and public comments are considered, supporting the submittal of the application from the governing body of the applicant or all participating agencies if the applicant is a joint powers board, along with minutes of public hearing and proof of publication.

**Section 11. Funding Cycles.** A grant and/or loan request for will be accepted once a fiscal year on a date to be determined by the Council staff. A

request will be scheduled for review by the Council. An applicant may submit one new loan request per calendar year.

## **Section 12. Application Procedures.**

(a) The Wyoming Business Council Regional Director is available to assist applicants with the development of projects and preparation of applications.

(b) An application shall be reviewed by the Council staff to determine eligibility and completeness. An application that is determined by the Council staff to be incomplete shall be provided and explanation of the findings in writing within fifteen (15) working days of its receipt where practical.

(c) The Council staff may, at its expense, hire a qualified third party to verify project cost estimate and structural stability of the project facility. In addition, the Council staff may, at its expenses, hire a qualified third party to determine if any environmental hazards exist and to determine the condition of the facility or building components such as the plumbing, electrical, roof and mechanical systems.

(d) An application that is complete shall be forwarded by the Council staff with a recommendation to the Council for review.

(e) The Council staff shall publish statewide notice of Council and Board meetings at which Business Ready Grant and Loan Program applications will be discussed.

(f) The Council shall prioritize proposed grants and loans it recommends to the Board. The score is not intended to be the only basis for a final recommendation by the Council or award decision by the Board. The final recommendation and award decision on grant and loan proposals shall be at the discretion of the Council and Board respectively. As a method to assist the Board prioritizing grant and loan proposals, Council staff will use the following scoring system:

(i) Financial Preparedness: (Total 20 points)

(A) Clear understanding of equipment costs, operational costs, and maintenance costs (10 points).

(B) Clear identification of sources of ongoing funding for equipment, operations and maintenance (10 points). No project scoring less than five (5) in this category would receive funding.

(ii) Additional Considerations: Council staff will also assess grant and loan loans in the following areas and report results to the Board;

(A) Historic or cultural significance of the project facility and the extent to which the project facility will preserve or enhance that significance.

(B) Extent to which the project facility is intended primarily for youth.

(C) Extent to which the project facility fulfills community quality of life goals as identified in a community or economic development plan, community assessment, or other documentation of community vision goals.

(D) Extent to which the project fulfills economic development goals as identified in economic development plans, or other documentation of economic development strategy.

(E) Extent to which the applicant will utilize a variety of funding sources to finance the project facility. This may include but is not limited to, sources such as historic tax credits, private donations, and federal funding.

(F) Extent to which the applicant demonstrates how the project will increase economic development opportunities.

(iii) Community Facility Business Plan: see Chapter 2, Section 1 (g). The Community Facility Business Plan should reflect a level of detail appropriate for the type and use(s) of proposed facility. Plans will be assessed on:

(A) The extent to which the applicant has partnered with other agencies, non-profit organizations, community development organizations in developing the Community Facility Business Plan and how those partnerships support the long-term viability of the facility.

(B) Experience of the applicant or partners in managing other community facilities or similar programs.

(C) Demonstration in marketing plan for the facility of knowledge of market area, people to be served, and marketing campaigns.

Section 13. **Council Consideration.** The Council shall consider each application, allow for comments from the public, the applicant, the Council staff, and

refer the application to the Board with a recommendation. Under extraordinary circumstances, the Council may recommend a waiver of rule requirements if the Council determines the waiver is consistent with the purpose of the Community Facilities Program.

**Section 14. Demonstration of Need.** To qualify for a grant or loan, an applicant shall demonstrate:

(a) A commitment by the applicant to adequately maintain and insure the project facility for which the grant or loan is requested for at least four (4) years.

(b) A partnership or other working arrangement or agreement with other local governmental entities to ensure the viability of the project facility for at least four (4) years.

(c) The project facility is not otherwise provided in the community or that such a facility exists except that the financing of that facility has not been paid in full; see Chapter 1, Section 10.

(d) The project facility will not compete with existing governmental organizations or businesses; see Chapter 1, Section 10.

(e) The relationship of the project facility to a community economic development plan or to the enhancement of quality of life in the community.

(f) That all project costs will be funded at the time of receipt of a grant or loan under this article with funding sources specified within the project application.

(g) The availability of funds sufficient to maintain the project facility. The grant and or loan application shall clearly identify maintenance funding sources sufficient to cover maintenance costs for a period of at least four (4) years.

**Section 15. Grant Match Requirements.**

(a) A grant and/or loan in an amount up to \$500,000 shall require a minimum match of fifteen percent (15%) of eligible project activity costs.

(b) A grant and/or loan in an amount of over \$500,000 shall require a minimum match of twenty-five percent (25%) of eligible project activity costs.

(c) Applicants can use the Special Assistance Loan Fund to complete minimum match requirements. Terms and specifications related to Special Assistance Loan Funds are addressed in Chapter 3 of the Community Facilities Grant and Loan Program Rules.

## **Section 16. Fund Disbursement and Project Monitoring.**

(a) Fund Disbursement. Funds shall be disbursed to the grantee only as needed to discharge obligations incurred in accordance with the Board approved eligible project costs. Request for disbursement shall be made on a form supplied by the Council staff and supported by adequate proof that such an obligation has been incurred for the project purpose and is due and owing.

(b) Fund reversion.

(i) If the Council staff determines that the project has not been completed within the timeline established in the grant agreement between the grantee and Wyoming Business Council, Council staff shall notify the grantee in writing at least thirty (30) days prior to presenting the matter for Council review.

(ii) If the Council staff determines that the project is complete, but the full amount of the grant or loan has not been expended, the Council staff shall notify grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant or loan shall revert to uncommitted status.

(iii) Projects that have not been started within one year: Council staff will notify grantee of a pending expiration prior to the one year anniversary unless contingency for delay start was noted during the award. The grantee can submit a written request to continue the project. Council staff may request new and/or updated information and documentation. Council staff may recommend and the Council may grant an extension of time in which to start the project.

(iv) Projects with contingencies: Grantee is required to provide timely updates on the status of the contingencies. If the contingency timeline lapses without conditions met, then the award will expire. The grantee has the option to submit a new application or can request an extension or modification of the contingency terms through the Council staff. Council staff may recommend and the Council may grant an extension of time or modification to the contingencies.

(v) Procurement Standards. All grantees must follow the state procurement regulations that exist in statute for cities and towns. If a non-

municipal grantee has produced a procurement policy, then Council staff or qualified consultants reserves the right to review that policy prior to fund disbursement.

(c) Project Monitoring.

(i) Reporting. Within fifteen (15) calendar days at the conclusion of each calendar quarter during the term of the grant or loan contract construction services period of the grant agreement or cooperative agreement, the grantee shall supply Council staff with a progress report. Each progress report shall set forth in narrative form the work accomplished under the grant or loan during the quarter and shall include a financial status report. At the end of the project, the grantee shall furnish Council staff with a final infrastructure report of the project. The grantee shall likewise furnish the Council staff with a cumulative financial statement, reflecting the total expenditure pursuant to this grant agreement. Council staff may at any point during the grant period request the grantee to provide updated financial information from the Community Facility Business Plan.

(ii) Audits and inspections. The Council staff may, at its expense, conduct an audit of the records of the grantee and inspect the construction and operation of the project.

(iii) Record retention. Grantee agrees to retain all records related to the project for four (4) years following the Council staff's date of notice to grantee of closeout of the grant.

(d) Project Evaluation.

(i) Evaluation Reports. After the conclusion of the construction services period and through the remaining period of the grant, grantee shall submit periodic narratives evaluating program outcomes against established measures. Council staff shall stipulate the frequency and content of the report, tailored to the specific nature to each grant or loan, in agreements between the Council and grantee.

(ii) Evaluation results. The Council shall use the evaluation report information to measure program outcomes, to promote learning from experience and to improve program performance. Council staff may make evaluation results available to grantees and other practitioners as appropriate.

(iii) Written comprehensive report. At the expiration of the grant agreement, the grantee shall furnish Council staff with a comprehensive report of the project. The grantee shall furnish Council staff with any updates to the cumulative financial statement, reflecting any additional expenditures if any, pursuant to this grant agreement.

## Chapter 2

### COMMUNITY FACILITIES GRANTS

**Section 1. Application Submittal Requirements.** An applicant shall submit one (1) copy of the draft application and draft application materials to the Wyoming Business Council Regional Director at least two weeks in advance of the application deadline. An applicant shall submit three (3) copies and one digital copy of its completed application to the Council staff. The application shall include:

- (a) An application cover page in a form provided by the Council staff.
- (b) A copy of the certificate of incorporation for the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.
- (c) A full description of the proposed project.
- (d) A clear budget statement of the source of all funds needed to complete the project. An explanation of the level of commitment of other funds to complete the project. The budget must be supported by an engineer's or architect's estimate of project costs. Grants will be made only to applicants who demonstrate that upon receipt of the grant all project costs will be funded.
- (e) An inspection report prepared by an engineer or architect documenting the structural condition of the facility or building to be renovated. The report shall also include information indicating the condition and age in the facility or building components to include but not be limited to:
  - (i) Plumbing.
  - (ii) Mechanical.
  - (iii) Roof.
  - (iv) Environmental hazards, i.e. asbestos, lead based paint.
- (f) A detailed map of the site showing the location of the facility or building to be funded.

(g) The applicant shall provide the following information that will be used to determine the long term viability of the community facility. The grant may not be approved if the project facility is determined to not be viable.

(i) A Community Facility Business Plan for the operation of the project facility to include at a minimum the following:

(A) Executive Summary, a one page summary of the entire business plan.

(B) Financial projects for four (4) years that clearly identify funding sufficient to cover the projected operation and maintenance costs.

(C) Performance measures of desired outcomes, in the form of baselines or other evaluation criteria, which will address how well the project meets local community economic development or enhancement of quality of life goals.

(D) Ownership, identify all owners of the project facility.

(ii) A Community Facility Business Plan should contain, as appropriate, the following:

(A) Description of the equipment necessary to operate and maintain the project facility.

(B) Description of the personnel necessary to operate and maintain the project facility. Include the management experience of the personnel and partners.

(C) A project facility marketing plan.

(h) A copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(i) A copy of a signed resolution supporting the submittal of the application from the governing body of the applicant or all participating agencies if the applicant is a joint powers board.

(j) Information outlining the capacity of the applicant to properly manage the grant and the project. This should include previous grant management experience and the name and qualifications of the individual who will manage the grant.

(k) Information required to document need. To satisfy the requirements of Chapter 1, Section 14, the following documentation shall be submitted with the application:

(i) Written certification by the applicant committing to adequately maintain the project facility for which the grant is requested for at least four (4) years. The certification shall clearly identify funding sources to cover all maintenance and operational costs.

(ii) Copy of the partnership or working agreement or agreement with other local governmental entities to ensure the viability of the project facility for at least four (4) years.

(iii) Copy of the agreement between the applicant and the school district as required in Chapter 1, Section 9.

(iv) Written certification by the applicant that the project facility is not otherwise provided in the community or that such facility exists except that the financing of that facility has not been paid in full. Written certification that the project facility will not compete with existing governmental organizations or businesses. See Chapter 1, Section 10 for related public notice and hearing requirements.

(v) An applicant must demonstrate the project facility relates to and is mentioned in a community economic development plan or a need exists to enhance the quality of life in the community. This is demonstrated by having some or all of the following in place:

(A) A current Comprehensive Economic Development Strategy (CEDS), Community Assessment, Certified Tourism Community planning, Main Street planning, or other economic development plan covering the area.

(B) A capital facilities plan with a priority listing of proposed community facility projects and sites related to economic development and quality of life goals.

(C) Other appropriate plans or studies which support the project facility and indicate its chances of achieving success in fulfilling economic development and quality of life goals.

(vi) A written certification that all project facility costs identified in the application budget will be funded at the time of receipt of the grant.

(l) A contingency contract for purchase or transfer of the project facility upon notification of a grant award or evidence the project facility is already owned by the applicant.

Section 2. **Grant Amount.** A maximum of \$1,000,000 per project. Applicants can request an additional \$1,000,000 from the Special Assistance Loan Fund.

## Chapter 3

### COMMUNITY FACILITIES LOANS

**Section 1. General Policy.** A loan may be made to fund a portion of any project facility which is an eligible activity. In no event shall a loan be made to pay off or refinance an existing loan.

(a) A general Community Facilities Loan may be made to fund all of the funding request or fund in conjunction with a Community Facilities grant request.

(b) A Special Assistance Loan may be used to loan additional funding in excess to the maximum award amount and/or the full or partial funding of the required match.

**Section 2. Application Submittal Requirements.**

An applicant shall submit one (1) copy of the draft application and draft application materials to the Wyoming Business Council Regional Director at least two weeks in advance of the application deadline. An applicant shall submit three (3) copies and one digital copy of its completed application to the Council staff. The application shall include:

(a) An application provided by the Council staff.

(b) A copy of the certificate of organization filed with the Secretary of State and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(c) A full description of the proposed project.

(d) A clear budget statement of the source and use of all funds needed to complete the project facility. An explanation of the level of commitment of other funds to complete the project facility. The budget must be supported by an engineer's or architect's estimate of project costs. Loans will be made only to applicants that demonstrate that upon receipt of the loan all project costs will be funded.

(e) An inspection report prepared by an engineer or architect documenting the structural condition of the facility or building to be renovated. The report shall also include information indicating the condition and age of the facility or building components to include but not be limited to:

(i) Plumbing.

- (ii) Mechanical.
- (iii) Roof.
- (iv) Environmental hazards, i.e. asbestos, lead based paint.

(f) A detailed map of the site showing the location of the infrastructure to be funded.

(g) A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.

(i) A Community Facility Business Plan for the operation of the project facility to include at a minimum the following:

(A) Executive Summary, a one page summary of the entire business plan.

(B) Financial projects that clearly identify funding sufficient to cover the projected operation and maintenance costs.

(C) Performance measures of desired outcomes, in the form of baselines or other evaluation criteria, which will address how well the project meets local community economic development or enhancement of quality of life goals.

(D) Ownership, identify all owners of the project facility.

(ii) A Community Facility Business Plan should contain, as appropriate, the following:

(A) Description of the equipment necessary to operate and maintain the project facility.

(B) Description of the personnel necessary to operate and maintain the project facility. Include the management experience of the personnel and partners.

(C) A project facility marketing plan.

(h) The source of repayment of the loan.

(i) Proposed security for the loan.

(j) In order for the Council to determine the ability of the applicant to repay a loan and to aid the Attorney General in evaluating the legality of the proposed indebtedness, an applicant shall provide an annual budget for the preceding and current fiscal years and a completed financial statement provided on a “General Financial Information” form provided by the Council staff, that includes, but is not limited to the following information:

(i) Assessed valuation for the current and two (2) preceding fiscal years;

(ii) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate, and remaining term;

(iii) Total mills levied within the jurisdiction of the applicant for the current and two (2) preceding years: and, a breakdown of the mill levy for the current fiscal year;

(iv) Sales and use tax imposed within the jurisdiction of the applicant;

(v) A summary of the applicant’s total investments and cash balances for the two (2) preceding fiscal years.

(k) A copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(l) A copy of a signed resolution supporting the submittal of the application from the governing body of the applicant or all participating agencies if the applicant is a joint powers board.

(m) Information outlining the capacity of the applicant to properly manage the loan and the project. This should include previous loan and grant management experience and the name and qualifications of the individual who will manage the loan.

(n) Information required to document need. To satisfy the requirements of Chapter 1, Section 14, the following documentation shall be submitted with the application:

(i) Written certification by the applicant committing to adequately maintain the project facility for which the loan is requested for at least

four (4) years. The certification shall clearly identify funding sources to cover all maintenance and operational costs.

(ii) Copy of the partnership or working agreement or agreement with other local governmental entities to ensure the viability of the project facility for at least four (4) years.

(iii) Copy of the agreement between the applicant and the school district as required in Chapter 1, Section 9.

(iv) Written certification by the applicant that the project facility is not otherwise provided in the community or that such facility exists except that the financing of that facility has not been paid in full. Written certification that the project facility will not compete with existing governmental organizations or businesses. See Chapter 1, Section 10 for related public notice and hearing requirements.

(v) An applicant must demonstrate the project facility relates to and is mentioned in a community economic development plan or a need exists to enhance the quality of life in the community. This is demonstrated by having some or all of the following in place:

(A) A current Comprehensive Economic Development Strategy (CEDS), or other economic development plan covering the area.

(B) A capital facilities plan with a priority listing of proposed community facility projects and sites related to economic development and quality of life goals.

(C) Other appropriate plans or studies which support the project facility and indicate its chances of achieving success in fulfilling economic development and quality of life goals.

(vi) A written certification that all project facility costs identified in the application budget will be funded at the time of receipt of the grant.

(o) A contingency contract for purchase or transfer of the project facility upon notification of a loan award, or evidence the project facility is already owned by the applicant.

(p) Other applicable information as requested by the Council staff.

### Section 3. **Loan Amount.**

(a) The maximum for a general Community Facilities Loan shall be \$1,000,000 per application.

(b) The maximum for a Special Assistance Loan shall be \$1,500,000 per application.

**Section 4. Interest Rate and Term.**

(a) A general Community Facilities Loan and a Special Assistance Loan shall be made at a no or low interest rate as recommended by the Council and established by the Board.

**Section 5. Security Interest.**

(a) A loan shall be adequately collateralized as recommended by the Council and determined by the Board. The Council may recommend and the Board may require a first position security interest in the revenue generating facility and the related user fees or assessments. Other security may be required as determined by the Council and approved by the Board.

(b) If a lien is required on the facilities, the applicant shall:

(i) Maintain adequate insurance on the facility;

(ii) Pay all applicable taxes and assessments when due;

(iii) Maintain the facility in good condition.

**Section 6. Attorney General Opinion.** No loan shall be made without the written opinion of the Attorney General certifying the legality of the transaction and all loan documents. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the Attorney General determines such an election is otherwise required by law.

**Section 7. Evaluation.**

(a) Criteria. The Council staff shall evaluate an application and will formulate a recommendation to the Council utilizing the following criteria:

(i) Whether the user fees or assessments generated by the project facility will be sufficient so that the loan may be considered a reasonable and prudent investment of state funds.

(ii) Whether the applicant is current on all its repayment obligations to the Community Facilities Program account or other state loan accounts.

(b) Interagency Consultation. The Council staff shall request that pertinent state agencies assist in the review of the applications and provide comments to the Council staff for Council and Board consideration.

Section 8. **Council Recommendation.** The Council shall consider each application and refer to the Board with a recommendation including the amount of the loan, the term of the loan, and the type of security required to secure the loan.

Section 9. **Disbursement of Loan Proceeds.** At closing, the loan proceeds shall be deposited in an interest bearing escrow account to be disbursed solely for the approved loan purposes. Interest earned shall be credited to the borrower. Borrower shall submit all requests for payment along with supporting documentation on a form provided by the Council staff. The Council staff shall approve or disapprove pay requests in whole or part within five (5) working days and notify the escrow bank of the amount to be disbursed to the borrower.