



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name Wyoming Business Council		
b. Agency/Board Address 214 West 15th Street	c. City Cheyenne	d. Zip Code 82001
e. Name of Agency Liaison Warren Appel		f. Agency Liaison Telephone Number (307) 777-2803
g. Agency Liaison Email Address warren.appel1@wyo.gov		h. Adoption Date 10/26/2018
i. Program Wyoming Housing Infrastructure Loan Program		

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. **Yes.** Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
1	General Provisions	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
2	Workforce Housing Infrastructure Loans	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **10/26/18, 10/26/18**

- approved as to form by the **Registrar of Rules**; and
- provided to the **Legislative Service Office and Attorney General**:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules

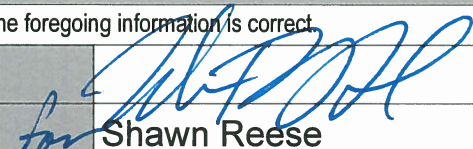
a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**: **10/26/18**

b. Date on which final rules were approved as to form by the **Secretary of State** and sent to the **Legislative Service Office**: **10/26/18**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Shawn Reese
Signatory Title	Chief Executive Officer
Date of Signature	10/26/2018

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Statement of Reasons

Wyoming Housing Infrastructure Loan Program

Chapter 1: General Provisions

Chapter 2: Workforce Housing Infrastructure Loans

These rules are repealed in their entirety as this program has exhausted its financial allocation and is now defunct, making these rules unnecessary and obsolete.

Wyoming Housing Infrastructure Loan Program Rules
Chapter 1
GENERAL PROVISIONS

Repealed

Wyoming Housing Infrastructure Loan Program Rules
Chapter 2
WORKFORCE HOUSING INFRASTRUCTURE LOANS

Repealed

Wyoming Housing Infrastructure Loan Program Rules
Chapter 1
GENERAL PROVISIONS

Section 1. — Purpose.

(a) — ~~The purpose of the program is to promote and continue economic development at the city, town and county level by providing adequate housing necessary to create additional economic health and a stronger state economy in order to promote the economic welfare of the state and its residents. These rules are adopted in order to implement W.S. 9-12-901 through 9-12-905, which provide for the making of loans to eligible applicants for workforce housing infrastructure. The rules provide for a method of application, review and recommendation, the establishment of terms and conditions of awards and a hearing process.~~

(b) — ~~Guiding Principles of the Wyoming House Infrastructure Program:~~

(i) — ~~Support to Wyoming’s communities which are diverse in size, resources and economies.~~

(ii) — ~~Support projects which will help people, families and communities thrive.~~

(iii) — ~~Support and encourage communities to develop innovative responses to their housing challenges through a flexible housing program.~~

Section 2. — Authority. Rulemaking for this program is the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12-902.

Section 3. — Definitions.

(a) — ~~“Affordability” means that monthly mortgage payments including taxes and insurance do not exceed 30 percent of the homeowner’s monthly gross income.~~

(b) — ~~“Applicant” means the eligible applicant per Chapter 1, Section 4.~~

(c) — ~~“Area median income” means the median family income in Wyoming adjusted by county as published by the U.S. Department of Housing and Urban Development annually.~~

(d) — ~~“Board” means the Wyoming State Loan and Investment Board.~~

(e) — ~~“Community Development Organization” means as defined by W.S. 9-12-301(a)(ii).~~

(f) — ~~“Contractor” means a Wyoming state agency, authority or instrumentality under contract with the Council as necessary or convenient to facilitate the Council’s duties under this program.~~

(g) — ~~“Community Land Trust” means land held in trust as a public investment for the long term benefit of a community to provide secure, affordable access to land and workforce housing for community residents.~~

(h) — ~~“Council” means the Wyoming Business Council Board of Directors.~~

(i) — ~~“Council Staff” means the staff of the Wyoming Business Council assigned to administer the program.~~

(j) — ~~“Joint Powers Board” means as enumerated in W.S. 16-1-101 through 16-1-110.~~

(k) — ~~“Multi-year project” means a large scale, stand alone project which will be constructed over separate fiscal years and which cannot be separated into smaller, independently operational phases.~~

(l) —“Phased projects” mean a project in which parts (“phases”) are completed and fully functional before the entire project is built out. For example, a subdivision that will eventually have twenty lots may be phased such that infrastructure will open up five lots at a time over four different phases. The first five lots can be occupied immediately upon completion of the infrastructure, and do not require completion of the remaining three phases.

(m) —“State development organization” means as defined by W.S. 9-12-301(a)(iv).

(n) —“Workforce housing” means owner-occupied, residential dwellings priced to be affordable to families that have a gross income capped at or below 120 percent of the area median income. The 120 percent cap may be modified to accommodate the needs of an applicant if it can be demonstrated that housing costs are high relative to the ability to pay based on a comparison of area median income to the cost of housing. In no case shall the cap exceed 150 percent of the area median income.

(o) —“Workforce housing infrastructure” means publicly owned infrastructure to the boundaries of a workforce housing subdivision or development, and if determined by the Council to be consistent with the purposes of this program, through a workforce housing subdivision or development. To be considered “workforce housing infrastructure” under this program, the infrastructure shall be for a workforce housing subdivision or development for which the political subdivision making application under this program has required, through a development agreement, zoning or other land use restriction, the inclusion of a specified percentage or number of housing units at specified maximum initial sale prices or to have a specified initially finished, maximum square footage.

Section 4. — Eligible Applicants.

(a) — A county, an incorporated city or town, special improvement district and joint power board may apply. A joint powers board may apply with the approval of all participating agencies to the joint powers agreement.

(b) — The Council may enter into cooperative agreements with the Eastern Shoshone Tribe and the Northern Arapaho Tribe in order to promote the purposes of this program and fund infrastructure projects.

(c) — A county, an incorporated city or town and joint powers board may contract with a Community Development Organization, State Development Organization or non-profit organization to use loan funds from an approved application.

Section 5. — Eligible Workforce Housing Infrastructure Activities. Workforce housing infrastructure includes:

- (a) — Rights of way;
- (b) — Sewer and water distribution projects;
- (c) — Storm water control and drainage facilities;
- (d) — Streets, roads and bridges;
- (e) — Curbs, gutters and sidewalks;
- (f) — Lift stations;
- (g) — Traffic signals;
- (h) — Street lighting;
- (i) — Payment for the additional cost of over-sizing water and sewer distribution lines through or to a subdivision to accommodate future expansion;
- (j) — The purchase of land as necessary to accommodate infrastructure projects;

(k) — Other infrastructure consistent with the purpose of this program, including, but not limited to, the following if publicly owned:

- (i) — Telecommunications
- (ii) — Electric utility lines
- (iii) — Gas utility lines
- (iv) — Infrastructure required by local government development regulation.

Section 6. — Ineligible Workforce Housing Infrastructure Activities. Workforce housing infrastructure shall not include:

(a) — Projects, the primary purpose of which is to bring public infrastructure to existing housing which is supplied by a well or uses a septic system. Nothing prohibits the use of funding under this program to provide such infrastructure as incidental to an approved project.

(b) — Refinancing of existing projects that have been financed previously with other resources.

(c) — Financing any project under the Wyoming Water Development Program established by W.S. 41-2-112 through 41-2-124.

(d) — Financing any project that does not provide for the construction of additional housing units or that involves rehabilitation or expansion of existing infrastructure unless the Council determines the rehabilitation or expansion is necessary to meet the purposes of this program.

(e) — Financing any infrastructure project which is not under public ownership.

Section 7. — Ownership of Infrastructure. The infrastructure funded by this program shall be publicly owned.

Section 8. — Local Public Hearing and Approval.

(a) — An applicant is required to solicit citizen input through a published public hearing before submission of an application. For the purposes of this program seven (7) days is the minimum period for notification of a hearing date.

(b) — An application must be accompanied by a signed resolution passed by the applicant.

Section 9. — Funding Cycles.

(a) — Applications will be accepted once a year or as determined by the availability of funds. Applications will be ranked and reviewed through a competitive application and scoring system adequate to measure the benefits of each application.

(b) — An applicant may only submit one application per funding cycle.

(c) — An applicant may request, with a single application, funds up to the annual maximum amount for a multi-year project for a period not to exceed three fiscal years.

Section 10. — Application Procedures. Responsibilities of the Council or contractor.

(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 or contractor to determine eligibility and completeness. An application that is determined by the Council Staff or contractor

to be incomplete shall be provided an explanation of the findings in writing within fifteen (15) working days of its receipt where practical.

(c) — An application that is complete shall be forwarded by the Council Staff or contractor with a recommendation to the Council for its review.

(d) — The Council Staff or contractor shall publish statewide notice of Council and Board meetings at which Workforce Housing Infrastructure Program applications will be discussed.

(e) — The Council shall consider each application, allow for comments from the public, the applicant, and the Council Staff or contractor, and refer to the Board the application with a recommendation.

(f) — 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 Wyoming Housing Infrastructure Program.

Section 11. — Application Evaluation and Scoring System. The Council and Board shall evaluate an application utilizing the following criteria. The score is not intended to be the only basis for a final recommendation by the Council or award decision by the Board (170 total points).

(a) — The need for the proposed housing (25 points).

(b) — The affordability of the proposed housing (40 points).

(c) — The number of additional housing units to be developed, with consideration of critical workforce housing needs in the community to be served (15 points).

(d) — The extent to which the project is part of an fulfills an overall community and economic development plan (10 points).

(e) — The extent to which the project demonstrates readiness (20 points).

(f) — The viability and thoroughness of a housing development plan which includes, at a minimum, a subdivision development description with build out plan, , market investigation and marketing plan (25 points).

(g) — Developer/builder performance and experience including management qualifications, financial capacity and track record of successful development. (25 points).

(h) — Contributions toward the project from non Council sources. Non Council contributions may include but are not limited to cash, land for rights of way, construction materials and manpower. (10 points).

Section 12. — Program Administration. The Council may negotiate and enter into contacts or memoranda of understanding with Wyoming state agencies, authorities or instrumentalities as necessary or convenient to facilitate the Council's duties under this program.

Section 13. — Fund Disbursement and Project Monitoring

(a) — Fund Disbursement. Funds shall be disbursed to the applicant 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 Council Staff or contractor and supported by adequate proof that such an obligation has been incurred for the project purpose.

(b) — Fund reversion.

(i) — If the Council Staff or contractor determines the project has not started within one (1) year from the date the loan is approved, the loan will automatically expire. Based

on information supplied by the applicant, Council Staff or contractor may grant an extension of time in which to start the project.

(ii) — If the Council Staff or contractor determines that the project has not been completed within a reasonable time, Council Staff or contractor shall notify the applicant in writing at least thirty (30) days prior to presenting the matter for Board review.

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

(e) — Project Monitoring.

(i) — Written reports. Within 15 calendar days at the conclusion of each calendar quarter during the term of the loan contract, the applicant shall supply Council Staff or contractor with a written progress report. Each progress report shall set forth in narrative form the work accomplished under the loan during the quarter and shall include a financial status report. At the end of the project, the applicant shall furnish Council Staff or contractor with a comprehensive report of the project. The applicant shall likewise furnish Council Staff or contractor with a cumulative financial statement, reflecting total expenditures pursuant to the loan agreement.

(ii) — Audits and inspections. The Council Staff or contractor may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

(iii) — Record retention. Applicant agrees to retain all records related to the project for three (3) years following Council Staff's or contractor's date of notice to applicant of closeout of the loan.

(d) — Project Evaluation.

(i) — Written evaluation reports. The applicant shall submit periodic narratives evaluating program outcomes against established measures. Council Staff or contractor shall stipulate the frequency and content of the report, tailored to the specific nature of each loan, in agreements between the Council and the applicant.

(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. Evaluation results will be available to other applicant.

Wyoming Housing Infrastructure Loan Program Rules
Chapter 2
WORKFORCE HOUSING INFRASTRUCTURE LOANS

Section 1. — General Policy. It is the policy and intent of the program to support and encourage communities to develop innovative responses to their workforce housing challenges. Project structure however, must demonstrate a method to ensure:

(a) — Constraints are in place that prevent unduly enriching a developer/builder.

(i) — This may include but is not limited to the following method: to ensure the land developer or homebuilder is not unduly enriched as a result of the public investment for the workforce housing infrastructure, the applicant, developer and builder shall enter into a development agreement that includes the following cost information for the lot and the house:

(A) — Developer lot cost: the developer shall provide cost information for the workforce housing subdivision. The costs shall include but are not limited to, land costs, on-site and off-site improvement costs (i.e. water, sewer, roads), materials and labor, soft costs including design and planning, consultant fees, permitting costs, construction interest and developer fees (developer fees shall be limited to no more than 15% of development costs). This information will be used to determine the developer cost for each lot.

(B) — Public investment lot cost: the applicant shall provide cost information for the eligible workforce housing infrastructure as outlined in Chapter 1, Section 5. This information will be used to determine the public investment cost for each lot.

(C) — House cost: the builder shall provide cost information for the workforce housing. The cost shall include but are not limited to, cost of construction including materials and labor, soft costs including design and planning, consultant fees, permitting costs, construction interest and builder profit, overhead and general requirements (this shall be limited to no more than 14% of builders costs).

(D) — As part of the development agreement the applicant shall place a lien on each workforce housing lot. For example, if the public investment cost to construct the workforce housing infrastructure is \$300,000 and 30 workforce housing lots will be developed the lien amount per lot would be \$10,000. The lien is filed with the county clerk along with the final plat of the subdivision or at the time the workforce housing infrastructure loan is executed if the plat was previously filed. All homes sell for the predetermined lot cost, plus house cost as identified in the development agreement. At the time of closing the sale price of the home to the homebuyer is reduced by the per lot cost of the public investment for the workforce housing infrastructure. The homebuyer has two payments, one to their mortgage company and the other to the applicant of the workforce housing loan i.e. city, town, county, special improvement district, joint powers board or tribe.

(b) — Constraints are in place to prevent speculators from buying a house in order to quickly sell at a profit.

(i) — This may include but is not limited to the following: The homebuyer shall live in the house for a minimum of 5 yrs in order to receive the benefit of the lower workforce housing loan interest rate. If the homebuyer sells the house before five years from the date of closing, the interest rate would then be calculated at the same rate as the first mortgage. The loan may be assumed by the new homeowner if the family gross income is at or below 120 percent of the area median income.

- (c) — The public investment is passed on to the home buyer.
- (d) — Loan repayment.
- (e) — Loan collateralization.
- (f) — Land trust requirements are satisfied.

Section 2. — Application Submittal Requirements. An applicant shall submit four (4) copies of its completed application to the Council or contractor. It shall include:

- (a) — An application cover page in a form provided by the Council Staff or contractor.
- (b) — A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization, State Development Organization or non-profit organization.
- (c) — 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.
- (d) — A copy of the signed resolution of support from the applicant or the member agencies if the applicant is a joint powers board
- (e) — A full description of the proposed project including a development agreement between the applicant and the developer/builder.
- (f) — A clear total development costs statement and a sources and uses statement listing 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. Loans will be made only to applicants who demonstrate that upon receipt of the loan all project costs will be funded.
- (g) — A detailed map of the project showing the location of the entire infrastructure project and identifying the housing site(s) and all other sites which will benefit from the infrastructure to be funded.
- (h) — The method to prevent unduly enriching a developer/builder.
- (i) — The method to prevent speculators from buying a housing and quickly selling at a profit.
- (j) — The method to ensure the public investment is passed on to the home buyer.
- (k) — The source of repayment of the loan.
- (l) — Proposed security for the loan.
- (m) — 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 or contractor, that include, but is not limited to the following information:
 - (i) — As available, assessed valuation for the current and two 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 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 preceding fiscal years.

(n) — ~~The housing developer(s) will be required to submit information on the housing to be developed to determine need, feasibility, affordability and readiness.~~

(o) — ~~An agreement or plan that outlines future operations and maintenance schedules, funding, and responsible parties.~~

(p) — ~~Information sufficient to evaluate the project against scoring criteria in Chapter 1, Section 11, Application Evaluation.~~

(q) — ~~For community land trust projects information sufficient to determine compliance with the community land trust requirements in Chapter 2, Section 3.~~

(r) — ~~Any other applicable information as requested by the Council Staff or contractor.~~

Section 3. — Community Land Trust Projects.

(a) — ~~In addition to meeting all other requirements of the program, loans made for a project involving a community land trust shall require:~~

(i) — ~~The land subject of the trust be owned or leased by a political subdivision of the state, including a city, town, county, special improvement district or a housing authority authorized by W.S. 15-10-116.~~

(ii) — ~~The land be used for workforce housing with lots for housing leased and with the political subdivision remaining the owner of the land or the primary lessee.~~

(iii) — ~~The leases of the lots be upon such terms as to allow commercial lenders to lend funds for housing construction on terms comparable to housing built on fee owned lands. The commercial lender shall have all remedies in the event of a default by the homebuyer, however, in no case shall the commercial lender be allowed to foreclose on the land subject to the trust.~~

(iv) — ~~The housing development on lands subject to the trust including a specified percentage or number of housing units at specified maximum initial sale prices or be required to have a specified initially finished, maximum square footage as required by the political subdivision making application under this program, through zoning or other land use restriction.~~

(v) — ~~The lease terms for the housing constructed on the land subject to the trust provide for continuation of the initial long term community benefit through subsequent sales of the housing.~~

(b) — ~~The political subdivision owning or leasing the land subject to the community land trust may fulfill the requirements of this section directly, through a housing authority created pursuant to W.S. 15-10-116, or by agreement with private non-profit entities.~~

Section 4. — Previous Applicant. ~~An applicant must show that satisfactory performance has been demonstrated under previous loans awarded through this program, any other grant and loan programs through the Council or through any agency or instrumentality of the State.~~

Section 5. — Loan Amount. ~~An annual maximum of \$1,000,000.~~

Section 6. — Interest Rate and Term.

(a) — ~~The Council shall establish the interest rate and term based on the quality of the revenue stream dedicated to repay the loan and the quality of the collateral to secure the loan.~~

The following criteria shall be used when determining the quality of the revenue stream and collateral:

- (i) — Revenue stream
 - (A) — Certainty of stream over time
 - (B) — Debt coverage ratio
- (ii) — Collateral
 - (A) — Liquidity
 - (B) — Loan to value ratio
 - (C) — Market risk influence on collateral

(b) — The interest rate shall not exceed an annual interest rate equal to the average prime interest rate as determined by the State Treasurer. To determine the average prime interest rate, the State Treasurer shall average the prime interest rate for at least seventy five percent (75%) of the thirty (30) largest banks in the United States. The interest rate shall be adjusted on January 1 of each year. Adjustment to the maximum interest rate each year is applicable to new applications only.

(c) — The interest rate may be lower than the maximum allowed if the Council determines the quality of revenue stream dedicated to repayment of the loan demonstrate a high likelihood the loan will be repaid. The term of the loan shall not exceed the economic life of the infrastructure financed. In no case shall the term of the loan exceed thirty years.

Section 7. — Security Interest. A loan shall be adequately collateralized. Collateral may include, but is not limited to land, buildings, marketable securities, bank deposits and equipment.

Section 8. — 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 9. — Council Consideration. The Council shall consider each application, allow for comments from the public, the applicant, and the Council Staff or contractor and refer to the Board the application 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 10. — Disbursement of Loan Proceeds. At closing, the loan proceeds shall be deposited in an escrow account to be disbursed solely for the approved loan purposes. The applicant shall pay the costs of the escrow account. If the escrow account is interest bearing, interest earned shall be credited to the applicant. Applicant shall submit all requests for payment on a form provided by the Council Staff or contractor, with supporting documentation. The Council Staff or contractor shall approve or disapprove pay requests in whole or in part within 5 working days and notify escrow bank of the amount to be disbursed to the applicant. Escrow deposits over \$100,000 shall be secured with securities or other assets owned by the bank and acceptable to the applicant and the Council.