

PART 1924 - CONSTRUCTION AND REPAIR

Subpart C - Planning and Performing Site Development Work

TABLE OF CONTENTS

<u>Sec.</u>		<u>Page</u>
1924.101	Purpose.	1
1924.102	General policy.	1
	(a) Rural development.	1
	(b) Subdivisions.	1
	(c) Development related costs.	2
1924.103	Scope.	2
1924.104	Definitions.	2
	2	Applicant.
	Community.	2
	Developer.	2
	Development.	3
	Multiple Family Housing.	3
	Single Family Housing.	3
	Site.	3
	Site approval official.	3
	Street surfaces.	3
	Subdivision.	3
1924.105	Planning/performing development.	3
	(a) General.	3
	(b) Single Family Housing.	5
	(c) Multiple Family Housing.	6
1924.106	Location.	6
	(a) General.	6
	(b) Single Family Housing.	6
	(c) Multiple Family Housing.	6

<u>Sec.</u>		<u>Page</u>
1924.107	Utilities.	7
	(a) Water and wastewater disposal systems.	7
	(b) Electric service.	11
	(c) Gas service.	11
	(d) Other utilities.	11
1924.108	Grading and drainage.	11
	(a) General.	11
	(b) Cuts and fills.	11
	(c) Slope protection.	11
	(d) Storm water systems.	12
1924.109	- 1924.114 [Reserved]	12
1924.115	Single Family Housing site evaluation.	12
	(a) Site review.	12
	(b) Site access.	12
	(c) Exceptions to street requirements.	13
	(d) Site layout.	13
	(e) Covenants, conditions and restrictions.	13
1924.116	- 1924.118 [Reserved]	13
1924.119	Site loans.	14
1924.120	Approval authority.	14
1924.121	[Reserved]	14
1924.122	Exception authority.	14
1924.123	State Supplements.	14
1924.124	Exhibits.	14
1924.125	- 1924.149 [Reserved]	15
1924.150	OMB control number.	15
Exhibit A	- (Reserved)	
Exhibit B	- Site Development Design Requirements.	
Exhibit C	- Checklist of Visual Exhibits and Documentation for RRH, RCH, and LH Proposals.	

PART 1924 - CONSTRUCTION AND REPAIR

Subpart C - Planning and Performing Site Development Work

§1924.101 Purpose.

This subpart establishes the basic Rural Housing and Community Development Service (RHCDS) policies for planning and performing site development work. It also provides the procedures and guidelines for preparing site development plans consistent with Federal laws, regulations, and Executive Orders.

§1924.102 General policy.

(a) Rural development. This subpart provides for the development of building sites and related facilities in rural areas. It is designed to:

- (1) Recognize community needs and desires in local planning, control, and development.
- (2) Recognize standards for building-site design which encourage and lead to the development of economically stable communities, and the creation of attractive, healthy, and permanent living environments.
- (3) Encourage improvements planned for the site to be the most cost-effective of the practicable alternatives. Encourage utilities and services utilized to be reliable, efficient, and available at reasonable costs.
- (4) Provide for a planning process that will consider impacts on the environment and existing development in order to formulate actions that protect, enhance, and restore environmental quality.
- (5) No site will be approved unless it meets the requirements of this part and all state and local permits and approvals in connection with the proposed development have been obtained.

(b) Subdivisions. RHCDS does not review or approve subdivisions. Each site approved by RHCDS must meet the requirements of §1924.115, on a site by site basis.

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Real Property
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(c) Development related costs .

(1) Applicant . The applicant is responsible for all costs incurred before loan or grant closing associated with planning, technical services, and actual construction. These costs may be included in the loan or grant as authorized by RHCDS regulations.

(2) Developer . The developer is responsible for payment of all costs associated with development.

§1924.103 Scope.

This subpart provides supplemental requirements for Rural Rental Housing (RRH) loans, Rural Cooperative Housing (RCH) loans, Farm Labor Housing (LH) loans and grants, and Rural Housing Site (RHS) loans. It also provides a site development standard, as indicated in exhibit B of RD Instruction 1924-C, which supplements this subpart to provide the minimum for the acceptability of development. All of this subpart applies to Single Family Housing unless otherwise noted. All of this subpart also applies to Multiple Family Housing except §§1924.115 and 1924.120, and any paragraph specifically designated for Single Family Housing only. In addition, RHCDS will consult with appropriate Federal, state, and local agencies, other organizations, and individuals to implement the provisions of this subpart.

§1924.104 Definitions .

As used in this subpart:

Applicant . Any person, partnership, limited partnership, trust, consumer cooperative, corporation, public body, or association that has filed a preapplication, or in the case of RHCDS programs that do not require a preapplication, an official application, with RHCDS in anticipation of receiving or utilizing RHCDS financial assistance.

Community . A community includes cities, towns, boroughs, villages, and unincorporated places which have the characteristics of incorporated areas with support services such as shopping, post office, schools, central sewer and water facilities, police and fire protection, hospitals, medical and pharmaceutical facilities, etc., and are easily identifiable as established concentrations of inhabited dwellings and private and public buildings.

Developer . Any person, partnership, public body, or corporation which is involved with the development of a site which will be financed by RHCDS.

Development. The act of building structures and installing site improvements on an individual dwelling site, a subdivision, or a multiple family tract.

Multiple Family Housing. RHCDS RRH loans, RCH loans, LH loans and grants, and RHS loans.

Single Family Housing. RHCDS Rural Housing loans for individuals for construction of, repair of, or purchase of a dwelling to be occupied by one household.

Site. A parcel of land proposed as a dwelling site, with or without development.

Site approval official. The RHCDS official making the determination that a site meets the requirements in this subpart to be acceptable for site loans. (See §1924.120.)

Street surfaces. Streets may be hard or all-weather surfaced.

(1) Hard surface - a street with a portland cement concrete, asphaltic concrete, or bituminous wearing surface or other hard surfaces which are acceptable and suitable to the local public body for use with local climate, soil, gradient, and volume and character of traffic.

(2) All-weather - a street that can be used year-round with a minimum of maintenance, such as the use of a grader and minor application of surface material, and is acceptable and suitable to the local public body for use with local climate, soil, gradient, and volume and character of traffic.

Subdivision. Five or more contiguous (developed or undeveloped) lots or building sites. Subdivisions may be new or existing.

§1924.105 Planning/performing development.

(a) General. Planning is an evaluation of specific development for a specific site. Planning must take into consideration topography, soils, climate, adjacent land use, environmental impacts, energy efficiency, local economy, aesthetic and cultural values, public and private services, housing and social conditions, and a degree of flexibility to accommodate changing demands. All planning and performing development work is the responsibility of the applicant or developer. All development will be arranged and completed according to applicable local, state, or Federal regulations including applicable health and

safety standards, environmental requirements and requirements of this subpart. When a public authority requires inspections prior to final acceptance, written assurance by the responsible public authority of compliance with local, city, county, state or other public codes, regulations, and ordinances is required prior to final acceptance by RHCDS.

(1) RHCDS advice and assistance . When receiving an inquiry about a Single Family Housing site development or a Multiple Family Housing project, the RHCDS official receiving the request will:

(i) Explain the requirements for compliance with subpart G of part 1940 of this chapter, as well as the limitations on applicants during the application review process as prescribed in §1940.309 of subpart G of part 1940 of this chapter.

(ii) Discuss the requirements of RHCDS with respect to compliance with local, regional, and state regulations; construction practices; energy efficiency; nondiscrimination; market analysis; good site planning; and location in accordance with §1924.106 of this subpart. Also, when applicable, provide and explain Form RD 400-4, "Assurance Agreement," Form RD 400-1 "Equal Opportunity Agreement," and HUD Form 935.2, "Affirmative Fair Housing Marketing Plan."

(2) Technical services .

(i) Professional assistance is available from the Soil Conservation Service (SCS) and the Cooperative Extension Service.

(ii) An applicant or developer for a Multiple Family Housing project or a Single Family Housing site which requires technical services under §1924.13(a) must contract for the technical services of an architect, engineer, land surveyor, landscape architect, or site planner, as appropriate, to provide complete planning, drawings, and specifications. Such services may be provided by the applicant's or developer's "in house" staff subject to RHCDS concurrence. Technical services must be performed by professionals who are qualified and authorized to provide such services in the state in which the project would be developed. All technical services must be provided in accordance with the requirements of professional registration or licensing boards. At completion of all construction or completion of a phase or phases of the total project, the person providing technical services under this

section must notify the RHCDS field office in writing that all work has been completed in substantial conformance with the approved plans and specifications.

(iii) For developments not specifically required to have technical services under paragraph (a)(2)(ii) of this section, such services may be required by the state director when construction of streets or installation of utilities is involved.

(3) Drawings, specifications, contract documents, and other documentations . Adequate drawings and specifications must be provided by the applicant or developer to RHCDS in sufficient detail to fully and accurately describe the proposed development. Contract documents must be prepared in accordance with §1924.6 or, in the case of more complex construction, §1924.13.

(b) Single Family Housing . Proposals for development of individual dwelling sites must meet the following requirements:

(1) Site development design requirements . Exhibit B will be used as a minimum by applicants or developers in preparing proposals and supporting documents for Single Family Housing loans, in addition to specific requirements made in this subpart.

(2) Environmental review .

(i) An individual Single Family Housing loan is normally considered a Categorical Exclusion under the National Environmental Policy Act (NEPA). However, Form RD 1940-22, "Environmental Checklist for Categorical Exclusions," must be completed by RHCDS to determine that the specific action complies not only with NEPA, but also with other applicable environmental laws, executive orders, and regulations. To complete the form, the preparer will use reliable environmental information. Sources of such information include, but are not limited to, the state's Natural Resource Management Guide and the appraisal. If the completed Form RD 1940-22 indicates a potential impact to one or more environmental resources, the action is subject to disqualification as Categorical Exclusion and a Class I assessment must be completed in accordance with §1940.317(g) of subpart G. If it is obvious at the outset that the action will be disqualified as a Categorical Exclusion, the preparer should forego completion of Form RD 1940-22 and proceed directly to the Class I assessment.

(ii) If it appears that an action will be subject to disqualification as a Categorical Exclusion due to indications of cumulative impacts, a Class I or Class II assessment will be completed, as appropriate, in accordance with subpart G of part 1940. A cumulative impact is the impact on the environment which results from the incremental impact of the proposed action, when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions.

(c) Multiple Family Housing. Exhibit C of this subpart should be used as a guide by the applicant or developer in preparing a proposal and supporting documents for multiple family housing projects.

§1924.106 Location.

(a) General. It is RHCDS's policy to promote compact community development and not to approve sites located in floodplains, on wetlands, or on important farmlands, unless there is no practical alternative. Furthermore, RHCDS will not finance development on locations that adversely affect properties which are listed or are eligible for listing on the National Register of Historic Places, located within the Coastal Barrier Resource System, or on a barrier island. (Environmental requirements and instructions are found in 7 CFR part 1940, subpart G.) In order to be eligible for RHCDS participation:

- (1) The site must be located in an eligible area as defined in the program regulations under which the development is being funded or approved.
- (2) The site must comply with the applicable environmental laws, regulations, Executive Orders, and subpart G of part 1940.

(b) Single Family Housing. In addition to the general requirements in paragraph (a) of this section, sites must provide a desirable, safe, functional, convenient, and attractive living environment for the residents.

(c) Multiple Family Housing. Multiple family housing projects shall be located in accordance with the requirements in paragraph (r) of §1944.215. Locating sites in less than desirable locations of the community because they are in close proximity to undesirable influences such as high activity railroad tracks; adjacent to or behind industrial sites; bordering sites or structures which are not decent, safe, or sanitary; or bordering sites which have potential environmental concerns such as processing plants, etc., is not acceptable. Screening such

sites does not make them acceptable. Sites which are not an integral part of a residential community and do not have a reasonable access, either by location or terrain, to essential community facilities such as water, sewerage, schools, shopping, employment opportunities, medical facilities, etc., are not acceptable.

§1924.107 Utilities.

All development under this subpart must have adequate, economic, safe, energy efficient, dependable utilities with sufficient easements for installation and maintenance.

(a) Water and wastewater disposal systems .

(1) Single Family Housing . If sites are served by central water or sewer systems, the systems must meet the requirements of paragraphs (a)(2)(i) and (ii) of this section. If sites have individual water or sewer systems, they must meet the requirements of the state department of health or other comparable reviewing and regulatory authority and the minimum requirements of exhibit B, paragraphs V and VI of this subpart. Sites in subdivisions of more than 25 dwelling units on individual systems, or sites that do not meet the requirements of exhibit B, paragraphs V and VI, must have state director concurrence.

(2) Multiple Family Housing . Proposals processed under this paragraph shall be served by centrally owned and operated water and wastewater disposal systems unless this is determined by RHCDS to be economically or environmentally not feasible. All central systems, whether they are public, community, or private, shall meet the design requirements of the state department of health or other comparable reviewing and regulatory authority. The regulatory authority will verify in writing that the water and wastewater systems are in compliance with the current provisions of the Safe Drinking Water Act and the Clean Water Act, respectively.

(i) Sites which are not presently served by a central system, but are scheduled for tie-in to the central system within 2 years, should have all lines installed during the initial construction. Such sites must have an approved interim water supply or wastewater disposal system installed capable of satisfactory service until the scheduled tie-in occurs.

(ii) In addition to written assurance of compliance with state and local requirements, there must be assurance of continuous service at reasonable rates for central water and wastewater

disposal systems. Public ownership is preferred whenever possible. In cases where interim facilities are installed pending extension or construction of permanent public services, the developer must assume responsibility for the operation and maintenance of the interim facility or establish an entity for its operation and maintenance which is acceptable to the local governing body. If a system is not or will not be publicly owned and operated, it must comply with one of the following:

(A) Be an organization that meets the ownership and operating requirements for a water or wastewater disposal system that RHCDS could finance under subpart A of part 1942 or be dedicated to and accepted by such an organization.

(B) Be an organization or individual that meets other acceptable methods of ownership and operation as outlined in HUD Handbook 4075.12, "Ownership and Organization of Central Water and Sewerage Systems." RHCDS should be assured that the organization has the right, in its sole discretion, to enforce the obligation of the operator of the water and sewerage systems to provide satisfactory continuous service at reasonable rates. The advice and assistance of the Regional Attorney should be obtained in preparing any necessary agreement with the organization or individual supplying water and sewerage systems.

(C) Be adequately controlled as to rates and services by a public body (unit of Government or public services commission).

(iii) When central systems are not available, RHCDS will thoroughly evaluate the proposed individual systems for economic feasibility and potential impact on the environment. Information and guidance for evaluation and design of individual water and wastewater systems is contained in Environmental Protection Agency (EPA) publications "Manual of Individual Water Supply Systems" and "Design Manual, Onsite Wastewater Treatment and Disposal Systems," respectively. Multiple family developments of more than 25 dwelling units with individual systems must have the National Office concurrence. A request for concurrence must contain written recommendations and the following:

(A) Information prepared by the local, county or state regulatory authority having jurisdiction indicating whether individual systems are feasible on the proposed sites. Supporting factual data should include evidence that clearly shows that individual systems will perform satisfactorily for a reasonable period of time with reasonable maintenance cost. Reasonable time and reasonable cost can be equated with the cost and expected life of a central system if one were available.

(B) Supporting information for the proposed individual water systems, covering the following points:

(1) Documentation of how individual water supplies can be developed with satisfactory water production at a reasonable cost. In areas where difficulty is anticipated in developing an acceptable water supply, the availability of a water supply will be determined before closing the loan.

(2) Documentation that the quality of the supply meets the chemical, physical, and bacteriological standards of the regulatory authority having jurisdiction. The maximum contaminant levels of U.S. EPA shall apply. Individual water systems must be tested for quantity and bacteriological quality. Where problems are anticipated with chemical quality, chemical tests may be required. Chemical tests would be limited to analysis for the defects common to the area such as iron and manganese, hardness, nitrates, pH, turbidity, color, or other undesirable elements. Polluted or contaminated water supplies are unacceptable. In all cases, assurance of a potable water supply before loan closing is required.

(C) Supporting information for individual wastewater disposal systems with subsurface discharge provided by a soil scientist, geologist, soils engineer, or other person recognized by the local regulatory authority. This data must include the following:

(1) Assurance of nonpollution of ground water. The local regulatory authority having jurisdiction must be consulted to ensure that installation of individual wastewater systems will not pollute ground water sources or create other health hazards or otherwise violate state water quality standards.

(2) Records of percolation tests. Guidance for performing these tests is included in the EPA design manual, "Onsite Wastewater Treatment and Disposal Systems" and the minimum RHCDS requirements are in exhibit B, paragraph VI. (These may be waived by the state director when the state has established other acceptable means for allowing onsite disposal.)

(3) Determination of soil types and description. The assistance of the SCS or other qualified persons should be obtained for soil type determination and a copy of its recommendations included in the documentation.

(4) Description of ground water elevations, showing seasonal variations.

(5) Confirmation of space allowances. An accurate drawing to indicate that there is adequate space available to satisfactorily locate the individual water and wastewater disposal systems; likewise, documented assurance of compliance with all local requirements. Structures served by wastewater disposal systems with subsurface discharge require larger sites than those structures served by another type system.

(6) Description of exploratory pit observations, if available.

(D) Supporting information for individual wastewater disposal systems with surface discharge covering the following points:

§ 1924.107(a)(2)(iii)(D) (Con.)

(2) Program of maintenance, parts, and service available to the system-owner for upkeep of the system.

(3) A plan for local inspection of the system by a responsible agency with the authority to ensure compliance with health and safety standards.

(b) Electric service. The power supplier will be consulted by the applicant to assure that there is adequate service available to meet the needs of the proposed site. Underground service is preferred.

(c) Gas service. Gas distribution facilities, if provided, will be installed according to local requirements where adequate and dependable gas service is available.

(d) Other utilities. Other utilities, if available, will be installed according to local requirements.

§ 1924.108 Grading and drainage .

(a) General. Soil and geologic conditions must be suitable for the type of construction proposed. In questionable or unsurveyed areas, the applicant or developer will provide an engineering report with supporting data sufficient to identify all pertinent subsurface conditions which could adversely affect the structure and show proposed solutions. Grading will promote drainage of surface water away from buildings and foundations, minimize earth settlement and erosion, and assure that drainage from adjacent properties onto the development or from the development to adjacent properties does not create a health hazard or other undesirable conditions. Grading and drainage will comply with exhibit B, paragraphs III and IV, of this subpart.

(b) Cuts and fills. Development requiring extensive earthwork, cuts and fills of 4 feet or more shall be designed by a professional engineer. Where topography requires fills or extensive earthwork that must support structures and building foundations, these must be controlled fills designed, supervised, and tested by a qualified soils engineer.

(c) Slope protection. All slopes must be protected from erosion by planting or other means. Slopes may require temporary cover if exposed for long periods during construction.

(d) Storm water systems . The design of storm water systems must consider convenience and property protection both at the individual site level and the drainage basin level. Storm water systems should be compatible with the natural features of the site. In areas with inadequate drainage systems, permanent or temporary storm water storage shall be an integral part of the overall development plan. Design of these facilities shall consider safety, appearance, and economical maintenance operations.

§§ 1924.109 - 1924.114 [Reserved]

§ 1924.115 Single Family Housing site evaluation .

(a) Site review . The site approval official will evaluate each site (developed or undeveloped) to determine acceptance for the program. Information on the site will be provided by the appraiser or site approval official on Attachment 5-B, "Single Family Housing Site Checklist" contained in Chapter 5: Property Requirements of HB-1-3550. The review appraiser (if applicable) and the site approval official will review all the information, complete any required information, and sign the back of Attachment 5-B certifying the site acceptable. If it is acceptable a copy of Attachment 5-B will be given to the applicant as a notice that the site has been approved. **NOTE:** The site cannot be certified as acceptable until the site approval official has satisfactorily completed the appropriate level of environmental review required by subpart G of part 1940 for the site. (See § 1924.105(b)(2) of this subpart.) (Revised 03-31-99, PN 303.)

(b) Site access . Each site must be contiguous to and have direct access from:

(1) A hard surfaced or all weather road which is developed in full compliance with public body requirements, is dedicated for public use, and is being maintained by a public body or a home owners association that has demonstrated its ability or can clearly demonstrate its ability to maintain the street; or

(2) An all weather extended driveway which can serve no more than two sites connecting to a hard surface or all weather street or road that meets the requirements of the above paragraph; or

(3) A hard surfaced street in a condominium or townhouse complex which:

(i) Is owned in common by the members or a member association and is maintained by a member association that has demonstrated its ability or can clearly demonstrate its ability to maintain the street; and

(ii) Connects to a publicly owned and dedicated street or road.

(c) Exceptions to street requirements. A site not meeting the conditions in paragraph (b) of this section will be acceptable if:

(1) The applicant is a builder for a conditional commitment (a loan will not be approved until the site meets the conditions in paragraph (b) of this section), or the builder posts an irrevocable performance and payment bond (or similar acceptable assurance) that assures the site approval official that the site will be developed to meet the conditions in paragraph (b) of this section; or

(2) The site is recommended by the site approval official and approved by the state director. A request for state director approval must justify that it is in the best interest of both the government and the applicant to approve the site.

(d) Site layout.

(1) Sites shall be surveyed and platted. Permanent markers shall be placed at all corners.

(2) Sites shall meet all requirements of state and local entities and RHCDS.

(e) Covenants, conditions and restrictions. Sites in subdivisions shall be protected by covenants, conditions, and restrictions (CC&Rs) to preserve the character, value, and amenities of the residential community and to avoid or mitigate potential environmental impacts unless, an exception is granted by the state director after considering the suitability of local ordinances, zoning, and other land use controls.

(1) CC&Rs shall be recorded in the public land records and specifically referenced in each deed.

(2) The intent of the CC&Rs is to assure the developers that the purchasers will use the land in conformance with the planned objectives for the community. In addition, the CC&Rs should assure the purchasers that the land covered by the CC&Rs will be used as planned and that other purchasers will use and maintain the land as planned to prevent changes in the character of the neighborhood that would adversely impact values or create a nuisance.

§§1924.116 - 1924.118 [Reserved]

RD Instruction 1924-C

§1924.119 Site Loans .

Subdivisions approved under subpart G of part 1822 (RD Instruction 444.8) or Exhibit F of subpart I of part 1944, will meet the general requirements of this subpart to insure lots in the subdivision will meet the requirements of §1924.115.

§1924.120 Approval authority .

The state director is responsible for delegating Single Family Housing site review and approval authority to appropriate employees when the employees have had sufficient training and have demonstrated the capability to perform the required actions. The delegation will be in writing in accordance with RD Instruction 2006-F.

§1924.121 [Reserved]

§1924.122 Exception authority .

The Administrator of RHCDS may in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority upon the written request of the state director or the appropriate program Assistant Administrator. Requests for exceptions must be supported with documentation to explain the adverse effect on the Government, proposed alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§1924.123 State supplements .

State directors will obtain prior National office clearance for all state supplements including exhibits. These will be in accordance with RD Instruction 2006-B. State directors may supplement this subpart only to meet state and local laws and regulations and to provide for orderly processing of submittals. State exhibits may be developed for use by applicants or developers if the exhibits to this subpart are not adequate for use in the state. Those exhibits may be developed to further explain the items needed within the various submittals; organization of those items; and coordination of this subpart with the requirements of the RHCDS programs providing the financial assistance.

§1924.124 Exhibits .

State directors may obtain additional copies of the exhibits to this subpart from the Finance Office for use by RHCDS offices in assisting applicants and developers with site development.

§§1924.125 - 1924.149 [Reserved]

§1924.150 OMB Control Number .

The reporting requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0164. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 10 minutes per response, with an average of .13 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0164), Washington, D.C. 20503.

Attachments: Exhibits B and C

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Exhibits B and C not automated (see Manual).