

## Re-Lender's Agreement

This agreement dated as of \_\_\_\_\_ is between the United States of America, acting through the U.S. Department of Agriculture (USDA), Rural Housing Service (Agency) and

\_\_\_\_\_ (hereinafter called "Re-lender"). This agreement establishes the Re-lender as an approved originator and servicer of direct Community Facility loans and provides the general terms and conditions for such relationship with the Agency. In consideration of the mutual covenants and agreements contained herein, parties agree as follows:

### 1. Loan Terms

Agency agrees to loan to the Re-lender the principal sum of \$ \_\_\_\_\_ (hereinafter referred to as "the Loan" or "Loan"), at an interest rate outlined in Section 1.1 and to be disbursed as set forth in Section 2. This Loan will be evidenced by a Promissory Note made payable to the Agency. The term of the Promissory Note will not exceed forty (40) years. Relender agrees to use the Loan and its proceeds solely for activities as set forth in its Community Facilities Direct Loan Program application submitted to and approved by the Agency (including any supplements or modifications thereof agreed to by both parties) and in accordance with Loan terms and conditions, the terms and conditions of this Re-lender's agreement and the rules and regulations (as they may be amended) governing the Community Facility (CF) Direct Loan Program, including but not limited to 7 CFR Part 1942, Subpart A, 7 CFR Part 1951, Subpart E, and the annually published Federal Register Notice for CF Re-lending.

Repayment of this Loan to the Agency shall be made as follows:

- 1.1 Repayment terms of each disbursement will be in accordance with the Promissory Note.
  - (a) Interest will accrue on each disbursement at the lesser of \_\_\_\_\_% (the interest rate identified on Form RD 1940-1, "Request for Obligation of Funds") or the interest rate at the time of disbursement. Such interest rate will be increased by 2 per centum per annum if the approved project being financed will involve the use of, or construction on prime or unique farmland in accordance with 7 CFR 1942.17(f).

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-NEW. The time required to complete this information collection is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

1.2 Principal and interest will be paid in equal monthly amortized installments on the last day of each month beginning the month following the disbursement. Principal payments may be deferred for up to three years.

1.3 The Agency will bill the Re-lender on the 15<sup>th</sup> of each month for the principal and interest due on any advances made in the previous month. The Re-lender will remit payment by a Customer Initiated Payment (CIP) system or, if notified by the Agency in writing to do so, any other reasonable method of payment specified. In order to access CIP, the Re-lender must obtain an Agency eAuthentication account.

1.4 Re-lender is responsible for repaying its Loan to the Agency even if the Applicant does not repay the Re-lender.

## 2. Disbursement Procedure

2.1 Disbursement shall take place after:

- (a) This Re-lender's Agreement, the Multi-tier Action Environmental Compliance Agreement (RD Instruction 1970-A, Exhibit H), and Promissory Note are executed;
- (b) All conditions of the Letter of Conditions are satisfied and any other conditions precedent to the disbursement of funds under this award as required by 7 CFR Part 1942 and the annual Federal Register Notice, are fully satisfied;
- (c) Re-lender has provided the Agency adequate security as determined by the Agency and as evidenced by a signed Loan Resolution Security Agreement or similar document;
- (d) Re-lender has provided the Agency with documentation of funding projects located in or serving Persistent Poverty County(ies) or High Poverty Area(s). Re-lender specifically agrees to re-loan a majority of its CF direct loan funds to Applicants whose projects are located in or serve Persistent Poverty County(ies) or High Poverty Area(s) as described in the annual Federal Register Notice.
- (e) The Agency has reviewed and approved the eligibility of the Applicant and Project for the proposed Re-lender loan in accordance with 7 CFR Part 1942 and the annual Federal Register Notice.
- (f) The Agency has reviewed the Preliminary Architectural (or Engineering) Report and determined the proposed project is modest in design and construction; and
- (g) Re-lender has met all environmental requirements as outlined in 7 CFR part 1970 relating to multi-tier actions (7 CFR 1970.55) and its Multi-tier Environmental Compliance Agreement; and including but not limited to the completion of:

- (1) Form RD 2006-38 "Rural Development Environmental Justice and Civil Rights Impact Analysis Certification" for each Applicant loan(s) as outlined in RD Instruction 1970-E, Staff Instruction and Guidance for Conducting Environmental Justice and Socioeconomic Analyses, to ensure no Environmental Justice impact;
- (2) The appropriate level of intergovernmental review consultation in accordance with RD Instruction 1970-I, Intergovernmental Review, which may be Single Point of Contact (SPOC) consultation, consultation with appropriate state and local government offices, or Tribal Government consultation, to ensure there is no Intergovernmental Review conflict;
- (3) For proposals which involve conveyance of real property, prior to issuance of funding to Applicant, Re-lender must make a determination with respect to the presence of environmental conditions and its impact to NEPA on the value of the property in accordance with RD Instruction 1970-J, Environmental Risk Management.
- (4) Enforcing the provisions of 7 CFR 1806 Subpart B with respect to Floodplain Management Requirements.

(h) Re-lender and its Financial Institution have executed SF 3881, ACH Vendor/Miscellaneous Payment Enrollment Form and provided such to the Agency for processing.

2.2 Disbursement(s) will be requested by the Re-lender in writing using Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing". The date of such disbursement shall constitute the date the funds are advanced under the Promissory Note for purposes of computing interest payments.

2.3 Disbursement(s) will be provided to the Re-lender by electronic funds transfer.

### 3. Relending

3.1 All loans made by the Re-Lender shall be to eligible Applicants for eligible projects in accordance with 7 CFR Part 1942 and the applicable annual Federal Register Notice. The Re-lender will make an initial determination of applicant and project eligibility and provide sufficient documentation to the Agency for their review and approval. It is the responsibility of the Re-lender to re-lend the loan funds to eligible Community Facilities applicants and projects located in eligible rural areas as defined in 7 CFR 1942 Subpart A.

3.2 As part of its applicant eligibility determination, it is the responsibility of the Re-lender to determine if other credit is available at reasonable rates in terms in accordance with 7 CFR 1942, Subpart A and document its findings in the Applicant's file.

3.3 The Re-lender will originate and underwrite all loan requests in accordance with its established lending

policies and procedures and will adhere to the Civil Rights requirements outlined in Section 6 for Federally-assisted programs.

3.4 The Re-lender is responsible for screening all Applicant projects in accordance with 7 CFR 1970, Environmental Policies and Procedures, and the Re-lender Environmental Compliance Agreement.

3.5 The Re-lender will obtain the best security position practicable in a manner which will adequately protect its interest during the repayment period of the Applicant's loan.

3.6 It is the responsibility of the Re-lender to inform and monitor the Applicant for compliance with design and construction requirements as outlined in the annually published Federal Register Notice for CF Re-lending

3.7 It is the responsibility of the Re-lender to make and service all loans made with Agency funds in such a manner that will fully protect the interests of the Agency.

3.8 The Re-lender will promptly use Loan proceeds for the purposes set forth in the Application package approved by the Agency. Proceeds must be re-lent within 5 years from the Loan to the Re-lender.

#### 4. Collateral

The Re-lender pledges to adequately secure the Agency by granting specific security interests as outlined in the Loan Resolution Security Agreement or similar document. The Re-lender will provide an Irrevocable Letter of Credit or similar performance guarantee in the minimum amount equal to the principal and interest installments due during the first five (5) years of the Loan.

#### 5. Fidelity Bond Requirements

The Re-lender will provide documentation of a fidelity bond and/or mortgage servicing errors and omissions policy, at its own expense, to cover any losses incurred as a result of dishonest, fraudulent or negligent acts of employees or other parties acting on behalf of the Re-lender.

#### 6. Civil Rights

The Re-lender must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), 7 CFR part 1901, Subpart E (Civil Rights Compliance Requirements), and the Equal Credit Opportunity Act.

6.1 Re-lender will have each Applicant sign Form 400-4, Assurance Agreement, which assures the Agency that the recipient is in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR Part 15 and other Agency regulations.

6.2 Re-lender agrees that no person will be discriminated against based on race, color or national origin, in regard to any program or activity for which the Re-lender receives Federal financial assistance.

6.3 Re-lender will ensure nondiscrimination statements are in advertisements and brochures.

6.4 Re-lender will collect and maintain data on Applicants by race, sex, and national origin, and ensure that Applicants also collect and maintain the same data on beneficiaries.

6.5 Re-lender will ensure that the proposed re-lent funds will not cause any adverse human health or environmental effects on minority and low-income populations.

6.6 The Re-lender will be subject to periodic Civil Rights compliance reviews by the Agency as long as Federal loan funds are outstanding.

## 7. Reporting/Monitoring Requirements

After the first disbursement of Loan funds, Re-lender shall provide the Agency with the following status and servicing reports, plus any other report as the Agency shall from time to time require for proper monitoring of the Federal funds:

7.1 Quarterly Financial statements are due 30 days following the end of each calendar quarter.

7.2 Quarterly status report of re-lent loans to include the following for each: Borrower name, outstanding principal and interest balance, interest rate, status, amount and due date of the next installment due, and servicing actions conducted for any delinquent loan. The status report is due 30 days following the end of each calendar quarter.

7.3 Annual audited financial statement due 150 days following the end of the Re-lender's fiscal year end.

7.4 Annually with the end of year Quarterly Report, provide the following:

(a) Most recent Financial Strength and Performance Rating which is not more than 3 years old.

(b) Documentation of Fidelity Bond coverage.

(c) Civil Rights data for each Applicant as further described in Section 6 paragraph 6.4.

7.5 The Re-lender shall immediately notify the Agency in writing if any of the occurrences specified in paragraph 8.3(c) occur.

7.6 The Agency has a right to conduct reviews of the Re-lenders operations and the operations of any agent of the Re-lender, for the purpose of verifying compliance with this Agreement. The Re-lender and/or its

agents shall provide access to all pertinent information to allow the Agency, or any party authorized by the Agency, to conduct such reviews.

## 8. Default

8.1 On the occurrence of any event of default under the Promissory Note, this Re-lender's Agreement or any other instruments securing or relating to this Loan, the Agency may declare all or any portion of the debt and interest created thereby to be immediately due and payable and may proceed to enforce its rights under such documents.

8.2 On the occurrence of any event of default, the Agency may suspend future disbursements of Loan funds until such time as the default is cured to the satisfaction of the Agency.

8.3 Any of the following may be regarded as an "event of default" in the sole discretion of the Agency:

(a) Failure, inability, or unwillingness of Re-lender to carry out or comply with the specific activities in its loan application as approved by the Agency, the Letter of Conditions, or any terms or conditions of this Re-lender's Agreement, other agreements related to this Loan, or any applicable law or regulation applicable to this program.

(b) Failure of Re-lender to pay any installment of principal or interest on its Promissory Note(s) to the Agency when due as specified in Section 1.

(c) The occurrence of: (1) Re-lender becoming insolvent, or ceasing, being unable, or admitting in writing its inability, to pay its debts as they mature, or making a general assignment for the benefit of, or entering into any composition or arrangement with creditors; (2) proceedings for the appointment of a receiver, trustee or liquidator of Re-lender or of a substantial part of its assets, being authorized or instituted by or against it.

(d) Submission or making of any report, statement, warranty, or representation by Re-lender or agent on its behalf to the Agency in connection with the financial assistance awarded hereunder which is false, incomplete or incorrect in any material respect.

(e) Failure of Re-lender to remedy any material adverse change in its financial or other condition (such as the representational character of its board of directors or policymaking body) arising since the date of the Loan which condition was an inducement to the Agency's original award.

## 9. Organization

Re-lender shall not change its articles of incorporation, or charter, or by-laws without the written consent of the

Agency.

10. Other Parties

This Re-lender's Agreement is not for the benefit of any third party. The Agency shall not be under any obligation to any such parties, whether directly or indirectly interested in the Re-lender's Agreement, to pay any charges or expenses incident to (non)compliance by Re-lender with any of the Re-lender's duties or obligations under this Agreement.

11. Successors and Assigns

The Re-lender's Agreement shall be binding upon the Re-lender and its successors and assigns and upon the Agency and its successors and assigns, and shall survive the closing of the Loan and disbursement of funds.

12. Applicable Laws

Interpretation of this Re-lender's Agreement shall be governed and enforced in accordance with applicable Federal Law.

13. Duration of Agreement

This Agreement shall be valid for the term of the Loan. No changes will be made to the terms without prior written consent of the parties.

IN WITNESS WHEREOF, the Agency and Re-lender have executed this Agreement as of the date first above-mentioned.

[PLACE APPROPRIATE SIGNATURE LINES BELOW]