

FSA-2319-A TX FSFL
(XX-XX-XX)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

Position 5

AGREEMENT WITH PRIOR LIENHOLDER
(For Subordinations)

WHEREAS, on _____, the United States of America acting through the Farm Service Agency, United States Department of Agriculture (hereinafter referred to as “Government”), made a loan in the amount of \$ _____ to _____ (hereinafter called “Borrower”). Said loan and _____ wife _____ is evidenced by a note of that same date and in that same amount. The payment of the note is secured by a deed of trust on certain lands owned by Borrower and is dated _____ and recorded in Volume _____, Page _____, _____ Records, _____ County, Texas; and

WHEREAS, Borrower has applied to the _____ (hereinafter referred to as “Mortgagee”), for a loan in the amount of \$ _____ (hereinafter referred to as “Indebtedness”) to be secured by a deed of trust (hereinafter referred to as “Security Instrument”) which said deed of trust is (to be) filed for record in the office of the County Clerk of _____ County, Texas; and

WHEREAS, the loan to be made to the Borrower by the Mortgagee will be secured by a lien on real estate owned by Borrower and the Mortgagee desires that its lien be superior to the deed of trust lien held by the Government; and

WHEREAS, the Borrower and Mortgagee have requested the Government to subordinate its lien to the Mortgagee’s deed of trust lien securing the Indebtedness; and

WHEREAS, the Mortgagee will not consummate its loan unless the Government subordinates its lien; and

WHEREAS, the Government will not subordinate its lien unless or until the Mortgagee executes this agreement.

NOW, THEREFORE, in consideration of the Government’s subordination of its deed of trust lien, the Mortgagee does hereby covenant and agree:

1. Unless prior written notice has been given by Mortgagee to the Government, Mortgagee will not:
 - (a) declare the Security Instrument to be in default;
 - (b) accelerate the Indebtedness secured by the Security Instrument;
 - (c) commence the foreclosure of the Security Instrument pursuant to a power of sale, if any, contained in said Security Instrument or by way of a judicial foreclosure;
 - (d) assert superior title to said real estate retained by virtue of an express vendor's lien, if any; and/or
 - (e) sell, transfer or otherwise dispose of the Indebtedness and Security Instrument.

Said notice will be mailed to the Government by certified mail and will be delivered to the Government not less than thirty (30) calendar days prior to the intended action. Said notice will be addressed to and delivered to the Government as follows:

- (a) County Executive Director, Farm Service Agency,
 _____ ; and
 (b) State Executive Director, Attn: Price Support Division, Farm Service Agency,

and to such other addresses designated by the Government in writing to the Mortgagee.

If Mortgagee takes any action described in the notice required by this paragraph, Mortgagee shall give notice to Government within ten (10) calendar days of taking such action. Said notice shall be mailed in the manner and to the addresses specified in this paragraph.

2. If a default occurs in the payment of the Indebtedness, Mortgagee shall give Government written notice of such default. Said notice shall be mailed to the Government in the manner and to the addresses specified in 1 and within thirty (30) days of the occurrence of such default.

3. In the event of a default under the Security Instrument, the Government may, at its option:

- (a) cure any default and provide evidence of such cure to Mortgagee. If the default is a monetary default, the Government may pay the amount of the Borrower's delinquent payments to the Mortgagee. Any cure by Government must be completed within thirty (30) calendar days following the Government's receipt of the notice of default from Mortgagee; or
- (b) pay the Indebtedness secured by the Security Instrument in full. If the Government elects to pay the Indebtedness in full, the procedure described in 4 in this Agreement will be followed.

4. In the event that Mortgagee elects to sell, transfer or otherwise dispose of the Indebtedness and Security Instrument and after the Mortgagee provides notice to the Government of this intended action as required by this Agreement, the Government may, at its option, purchase or pay off said Indebtedness and Security Instrument. Government shall have the first and prior right to purchase or pay off the Indebtedness and Security Instrument, subject to the laws governing Mortgagee's loan program, lending practices and loan servicing, if any. If Government elects to purchase or pay off the Indebtedness, Government will advise Mortgagee of its election in writing within thirty (30) calendar days following the Government's receipt of the notice of the Mortgagee's intended action or notice of default. Within ten (10) calendar days of receipt of the Government's election, Mortgagee will provide Government with Indebtedness information (including the current unpaid balance of the Indebtedness with a daily per diem figure for interest and with an itemized description of each component of the unpaid balance including unpaid principal, accrued interest and advances, fees and charges, if any). Within thirty (30) calendar days of receipt of the complete Indebtedness information, Government may purchase or pay said Indebtedness in full. When the Indebtedness is purchased or paid in full by the Government, Mortgagee will endorse its note or other evidence of the Indebtedness to the "United States of America" and assign its Security Instrument to the United States of America on a form acceptable to the Government.

If Mortgagee timely provides the notices and information required by this paragraph and if, within the time limits prescribed by this paragraph, the Government fails to exercise its rights under this paragraph to purchase or pay off the Indebtedness and Security Instrument, Mortgagee is released from all obligations under this paragraph.

5. If the Government commences liquidation proceedings and thereafter acquires the said real estate, the Mortgagee will not declare its Security Instrument to be in any non-monetary default.

6. If the Security Instrument secures the repayment of future advances, Mortgagee will make no advances for purposes other than the payment of taxes, legal fees, collection costs, insurance or

payments on other prior liens without the prior written consent of the Government, acting through the State Executive Director, Farm Service Agency.

7. This Agreement is Mortgagee's consent to the Government for making (or transferring) loans and taking (or retaining) the related lien on the said real estate.

8. If the Government obtains title to the real estate either by foreclosure or voluntary conveyance, Mortgagee will grant consent so the Government may transfer the real estate subject to the Security Instrument; provided however, Mortgagee's consent to the transfer of the real estate does not constitute Mortgagee's consent to the transferee's assumption of the Indebtedness. Any assumption of the Indebtedness is subject to the laws governing Mortgagee's loan program, if any.

9. Upon written request by the Government and within ten (10) calendar days of receipt of the request, Mortgagee will provide Government with the following information if it is in the possession of the Mortgagee:

- (a) current unpaid balance of the Indebtedness;
- (b) the amount of the delinquency, if any, on the Indebtedness;
- (c) amortization schedule for payments on the Indebtedness;
- (d) information as to the status of insurance and/or ad valorem taxes;
- (e) copies of any current insurance policies covering the real estate; and
- (f) information pertaining to Borrower's defaults under the Indebtedness and/or Security Instrument.

The Indebtedness balance information provided by Mortgagee will include an itemized description of each component of the unpaid balance including unpaid principal, accrued interest and advances, fees and charges, if any.

10. This Agreement is binding on Mortgagee and on Mortgagee's heirs, executors, administrators, successors and assigns and on any person or entity which may claim Mortgagee's rights under the Security Instrument under principles of subrogation.

EXECUTED AND DELIVERED THIS _____ day of _____, _____ .

MORTGAGEE:

Name: _____

If a Corporation

By: _____

Name: _____

Title _____

(Address)

(Address)

(Contact Person – Please Print)

(Telephone Number)

GOVERNMENT:

UNITED STATES OF AMERICA

By: _____

Name: _____

Title: _____

Farm Service Agency

State of Texas

United States Department of Agriculture

BORROWER APPROVAL AND CONSENT:

The Borrower consents to the provisions of this Agreement and approves this Agreement.

Date: _____

Borrower

Borrower

ACKNOWLEDGMENT

(Individual mortgagee)

STATE OF TEXAS

COUNTY OF _____)

This instrument was acknowledged before me on _____ by

_____ .

(SEAL)

Notary Public, State of Texas**ACKNOWLEDGMENT**

(Corporate mortgagee)

STATE OF TEXAS

COUNTY OF _____)

This instrument was acknowledged before me on _____ by _____

_____, President of _____

_____, a Texas corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

ACKNOWLEDGMENT
(FSA)

STATE OF TEXAS
COUNTY OF _____)

This instrument was acknowledged before me on _____ by
_____, in his/her capacity
_____, (Title), Farm Service Agency, United States
Department of Agriculture on behalf of the United States of America.

(SEAL)

Notary Public, State of Texas

ACKNOWLEDGMENT
(Borrower)

STATE OF TEXAS
COUNTY OF _____)

This instrument was acknowledged before me on _____ by
_____.

(SEAL)

Notary Public, State of Texas

Privacy Act Statement: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1436, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to obtain waivers of liens when liens filed by parties other than CCC are found on facilities and equipment that are pledged as collateral. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-14, Applicant/Borrower. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for CCC financing under the Farm Storage Facility Loan Program.

Public Burden Statement (Paperwork Reduction Act): This information collection is exempted from the Paperwork Reduction Act as it is required for the administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F-Administration). The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden by emailing to: askusda@usda.gov. **RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

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Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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