

## **DISCLAIMER**

**The attached draft of the Assistance Agreement for the Community Development Financial Institutions Equitable Recovery Program (CDFI ERP) is provided for illustrative purposes only and should not be relied upon or used for any other purpose. The draft Assistance Agreement provides boilerplate provisions of the terms and conditions of the Assistance Agreement that may be entered into between the CDFI Fund and a Recipient under the CDFI ERP. These boilerplate provisions are subject to further modification by the CDFI Fund. The exact terms and conditions of each specific award will be set forth in the Assistance Agreement that is executed by the CDFI Fund and each Recipient.**

**COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND**

**ASSISTANCE AGREEMENT**

<b>Recipient:</b>	<b>CDFI ERP Fund Award Number:</b> <b>UEI Number:</b> <b>Employer Identification Number:</b>
<b>Address:</b>	
<b>Applicable Program: CDFI Equitable Recovery Program (CDFI ERP)</b> <b>CFDA Number: 21.033</b> <b>Date of Applicable NOFA: 6/24/2022</b>	<b>Announcement Date (Period of Performance Start Date): 4/10/2023</b>
By signing this Assistance Agreement and in consideration of the mutual covenants, conditions and agreements hereinafter set forth, the parties hereto, by their respective Authorized Representatives, agree to the following: (i) the award of Assistance hereunder shall be administered pursuant to the General Award Terms and Conditions, attached hereto as Schedule 2, and made a material part hereof; and (ii) the award of Assistance shall be further subject to the provisions, terms, conditions, requirements, certifications and representations set forth in all such additional schedules that are attached hereto and constitute a material part hereof. In witness whereof, the parties hereto do hereby execute and enter into this Assistance Agreement.	
<b>Community Development Financial Institutions Fund</b>	<b>{{AWARD_ORGANIZATION_NAME}}</b>
By: Digitally Signed by <AMIS to Populate> on <AMIS to Populate> Authorized Representative: Title: Federal Award Date* Date:	By: Digitally Signed by <AMIS to Populate> on <AMIS to Populate> Authorized Representative: Title: Date:
<b>Recipient Information</b>	
<b>Entity Type:</b>	
<b>Depository Institution Holding Company/Bank Holding Company:</b>	
Subsidiary Insured Depository Institution (if applicable):	Subsidiary Insured Depository Institution Employer Identification Number (if applicable):
<b>CDFI ERP Award</b>	
<b>Award Amount</b>	
<b>Initial Payment</b>	

\* The Federal Award Date shall be the date in the CDFI Fund's signature block above.

<b>Table of Contents</b>		
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	Signature Page	Yes
<b>1.</b>	Performance Goals and Reporting A. Annual Reports B. Annual Report Submission Deadlines C. Performance Goals	Yes
<b>2.</b>	General Award Terms and Conditions	Yes
<b>3-A.</b>	Certificate of Good Standing	

**Schedule 1**  
**Award No.:**  
**Recipient:**

**PERFORMANCE GOALS AND REPORTING**

Schedule 1 contains annual reporting requirements and the Performance Goals and related measures that the Recipient must achieve during the Period of Performance of this Assistance Agreement. Failure to file annual compliance and certification reports or advise the CDFI Fund of a Material Event may result in noncompliance with your organization's Assistance Agreement. Capitalized terms not defined herein shall have the meanings specified in the General Award Terms and Conditions (Schedule 2).

- Section A.      Annual Reports**
- Section B.      Annual Report Submission Deadlines**
- Section C.      Performance Goals**

A.

**ANNUAL REPORTS**

Throughout the Period of Performance identified in this Assistance Agreement, the Recipient must provide to the CDFI Fund Annual Reports, which are comprised of two parts: Financial Condition Reports and Performance Reports. Additionally, pursuant to section 5.3 of the General Award Terms and Conditions, the CDFI Fund upon adequate notice may also request data from the Recipient to enable the Secretary of the Treasury to conduct a study of the impact of the CDFI Equitable Recovery Program.

**Financial Condition Report Requirements:** The Recipient must submit each component of the Financial Condition Reports marked as “Applicable” in the following chart to the CDFI Fund electronically via the Recipient’s Awards Management Information Systems (AMIS) Account (if applicable, Single Audits must be submitted directly to the Federal Audit Clearinghouse):

<b>Applicable if marked “Yes”</b>	<b>Financial Condition Report Component</b>	<b>Additional Guidance:</b>
	<b><u>Single Audit Report (Non-profit Recipient; if applicable)</u></b>	<p>A Non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 C.F.R. § 200.500) if it expends \$750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 C.F.R. § 200.501. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) per the schedule in Section B below.</p> <p><b>Form of Submission: Federal Audit Clearinghouse and optionally via the Recipient’s AMIS account.</b></p>
	<b><u>Financial Statement Audit (FSA) Report (Non-profit Recipients including Insured Credit Unions and State-Insured Credit Unions)</u></b>	<p>A Non-profit Recipient (including Insured Credit Unions and State-Insured Credit Unions) must submit an FSA report in AMIS.</p> <p>If prepared, a Non-profit Recipient must submit a statement of financial condition audited or reviewed by an independent certified public accountant.</p> <p>Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.</p> <p><b>Form of Submission: Recipient’s AMIS account.</b></p>
	<b><u>Financial Statement Audit (FSA) Report (For-Profit Recipient)</u></b>	<p>For-profit Recipients must submit an FSA report in AMIS, along with the Recipient’s statement of</p>

		<p>financial condition audited or reviewed by an independent certified public accountant.</p> <p><b>Form of Submission: Recipient’s AMIS account.</b></p>
	<b><u>Financial Statement Audit (FSA) Report (Regulated Institutions)</u></b>	<p>If the Recipient is a Regulated Institution, it must submit an FSA report in AMIS. The Recipient may include their statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared, or indicate that such information has been provided to its regulator within the FSA report.</p> <p><b>Form of Submission: Recipient’s AMIS account.</b></p>
<b>Yes</b>	<b><u>Transaction Level Report (TLR)</u></b>	<p>The Recipient must submit a TLR to the CDFI Fund.</p> <p>The TLR is comprised of different sections depending on the type and purpose of transactions being reported on as well as financial entity type and CDFI Fund Award type. A Recipient is expected to report on all of their transactions in the TLR including grant activity regardless of whether the transaction is directly tied to their CDFI Fund Award. Recipients submit one TLR to the Fund regardless of the number of awards that they currently have.</p> <p>If the Recipient is a Depository Institution Holding Company (DIHC) that deploys all or a portion of its CDFI ERP Award through its Subsidiary Insured Depository Institution, that Subsidiary Insured Depository Institution must also submit a TLR. Furthermore, if the DIHC itself deploys any portion of the CDFI ERP Award, the DIHC must submit a TLR.</p> <p><b>Form of Submission: Recipient’s AMIS account.</b></p>

**Performance Report Requirements:** The Recipient must submit each component of the Performance Report marked as “Applicable” in the following chart to the CDFI Fund electronically via the Recipient’s AMIS Account:

<b>Applicable if marked “Yes”</b>	<b>Performance Report Component</b>	<b>How/where to submit:</b>
<b>Yes</b>	<b><u>Performance Progress Report</u></b>	Recipient must submit the Performance Progress Report to the CDFI Fund. This report is used to

		<p>determine Recipient compliance with the applicable Performance Goals in their Assistance Agreements.</p> <p>If the Recipient is a DIHC that deploys all or a portion of its CDFI ERP Award through its Subsidiary Insured Depository Institution, that Subsidiary Insured Depository Institution must also submit a Performance Progress Report. Furthermore, if the DIHC itself deploys any portion of the CDFI ERP Award, the DIHC must submit a Performance Progress Report.</p> <p><b>Form of Submission: Recipient's AMIS account.</b></p>
Yes	<u>Uses of Award Report</u>	<p>Recipient must submit the Uses of Award Report to the CDFI Fund. This report is used to determine Recipient compliance with the applicable Performance Goals in their Assistance Agreement and to demonstrate how CDFI ERP Award funds are expended.</p> <p>If the Recipient is a DIHC that deploys all or a portion of its CDFI ERP Award through its Subsidiary Insured Depository Institution, that Subsidiary Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the DIHC itself deploys any portion of the CDFI ERP Award, the DIHC must submit a Uses of Award Report.</p> <p><b>Form of Submission: Recipient's AMIS account.</b></p>
Yes	<u>Annual Certification Report</u>	<p>Recipient must submit the Annual Certification and Data Collection Report (ACR) to the CDFI Fund.</p> <p><b>Form of Submission: Recipient's AMIS account.</b></p>

**For questions related to these reporting requirements, contact the CDFI Fund's Office of Certification, Compliance Monitoring and Evaluation via a Service Request in AMIS.**

**Subsidiary Insured Depository Institution Requirements:** If the Recipient is a DIHC that deploys all or a portion of its CDFI ERP Award through its Subsidiary Insured Depository Institution, that Subsidiary Insured Depository Institution must submit a TLR, Performance Progress Report, and Uses of Award Report:

Subsidiary Insured Depository Institution	Organization EIN	TLR	Performance Progress Report	Uses of Award Report

**Signatory Annual Report Requirements:** If there are signatories to this Assistance Agreement in addition to the Recipient, the Recipient is responsible for ensuring that each such signatory submits the reports, checked as “applicable” below:

<b>Signatory Organization Name</b>	<b>Organization EIN</b>	<b>Certified CDFI: Y/N</b>	<b>TLR</b>	<b>Financial Statement</b>
N/A				

If a financial statement is required of a signatory(ies) listed above, the Recipient may submit combined financial statements for the Recipient and other signatory(ies), provided that the financial position of each signatory is reported separately.



**B.**

**ANNUAL REPORT SUBMISSION DEADLINES**

The Recipient (and all other signatories to the Assistance Agreement, if any) must submit Annual Report components (described in Section A) according to the schedule below. The reporting schedule and due dates may be modified from time to time at the sole discretion of the CDFI Fund with notice to the Recipients.

**FINANCIAL CONDITION REPORTS**

<b>Single Audit Report Deadlines</b> <b>[If applicable: to be determined by Recipient annually]</b>	
<b>Fiscal Year End Date:</b>	<b>Single Audit Report Due Date:</b>
[fiscal year end date]	[MM/DD/YY] [FYE + 270 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 270 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 270 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 270 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 270 days]

<b>Financial Statements</b> <b>(As applicable)</b>	
<b>Fiscal Year End Date:</b>	<b>Financial Report Due Date:</b>
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]

<b>TLR</b> <b>(As applicable)</b>	
<b>Fiscal Year End Date:</b>	<b>Financial Report Due Date:</b>
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]
[fiscal year end date]	[MM/DD/YY] [FYE + 180 days]

**PERFORMANCE REPORTS**

<b>Performance Progress Report and Uses of Award Report</b>			
	<b>Start Date:</b>	<b>End Date:</b>	<b>Due Date:</b>
Year 1 of Period of Performance	[Announcement Date]	[fiscal year end date]	<b>[MM/DD/YY] [FYE + 90 days]</b>
Year 2 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]	<b>[MM/DD/YY] [FYE + 90 days]</b>
Year 3 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]	<b>[MM/DD/YY] [FYE + 90 days]</b>
Year 4 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]	<b>[MM/DD/YY] [FYE + 90 days]</b>
Year 5 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]	<b>[MM/DD/YY] [FYE + 90 days]</b>

**ANNUAL CERTIFICATION AND DATA COLLECTION REPORT**

Please be advised that Annual Certification Report (ACR) must be submitted by the due date as indicated in AMIS. Please submit questions regarding ACR reporting requirements to the CDFI Fund’s Office of Certification, Compliance Monitoring and Evaluation via a Service Request in AMIS.

C.

**PERFORMANCE GOALS**

The Performance Goals are derived from the Application. Any Recipient that fails to achieve any Performance Goal must provide a narrative explanation for the failure. The Recipient’s compliance with the Performance Goals will be measured by information that the Recipient submits in its Financial Condition Reports and Performance Reports.

**Period of Performance: Recipient performance will be measured annually as delineated below:**

<b>Period of Performance</b>		
	<b>Start Date:</b>	<b>End Date:</b>
Year 1 of Period of Performance	April 10, 2023	[fiscal year end date]
Year 2 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]
Year 3 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]
Year 4 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]
Year 5 of Period of Performance	[fiscal year beginning date]	[fiscal year end date]
<b>Period of Performance End Date</b>		[Year 5 of Period of Performance fiscal year end date]

**Data collection and calculation:** The data for the Performance Goals shall be obtained and/or calculated by the CDFI Fund from the Annual Report components (described in Section A) submitted to the CDFI Fund through AMIS by the Recipient (and other signatories to this Assistance Agreement, if applicable), from publicly available sources, and/or from information obtained from the Appropriate Federal Banking Agency, if applicable. To maintain compliance with each applicable Performance Goal, the Recipient must demonstrate for each year of the Period of Performance that it meets the required activity levels specified below. Notwithstanding the Performance Goals, as a condition of the Recipient’s CDFI Certification status, the Recipient must continue to meet the CDFI Certification-related Target Market requirements specified in Section 5.8 of the General Award Terms and Conditions (Schedule 2).

Performance Goals and Measures Numbers	<u>Description</u>												
1A.	<p><b>Expenditure of the CDFI ERP Award:</b> At the end of each year of the Period of Performance as indicated below, the Recipient must expend its CDFI ERP Award in Eligible Activities as set forth in 2A below and pursuant to Sections 3.8, 3.9 and 3.11 of Schedule 2 as follows:</p> <p>(1) 60% of the total ERP Award amount by the end of Year 3 of the Period of Performance;</p> <p>(2) 80% of the total ERP Award amount by the end of Year 4 of the Period of Performance; and</p> <p>(3) 100% of the ERP Award amount by the end of the Period of Performance.</p> <table border="1" data-bbox="889 573 1507 848" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th data-bbox="889 573 1144 653">Dollar Amount (\$)</th> <th data-bbox="1144 573 1507 653">% of Total CDFI ERP Award</th> </tr> </thead> <tbody> <tr> <td data-bbox="889 653 1144 705">Total dollar amount of CDFI ERP Award:</td> <td data-bbox="1144 653 1507 705">N/A</td> </tr> <tr> <td data-bbox="889 705 1144 751">Period of Performance, Year 3:</td> <td data-bbox="1144 705 1507 751">60%</td> </tr> <tr> <td data-bbox="889 751 1144 804">Period of Performance, Year 4:</td> <td data-bbox="1144 751 1507 804">80%</td> </tr> <tr> <td data-bbox="889 804 1144 848">Period of Performance, Year 5:</td> <td data-bbox="1144 804 1507 848">100%</td> </tr> </tbody> </table>	Dollar Amount (\$)	% of Total CDFI ERP Award	Total dollar amount of CDFI ERP Award:	N/A	Period of Performance, Year 3:	60%	Period of Performance, Year 4:	80%	Period of Performance, Year 5:	100%		
Dollar Amount (\$)	% of Total CDFI ERP Award												
Total dollar amount of CDFI ERP Award:	N/A												
Period of Performance, Year 3:	60%												
Period of Performance, Year 4:	80%												
Period of Performance, Year 5:	100%												
1B.	<p><b>CDFI ERP Policy Priorities:</b> At the end of each Year 3 and Year 5 of the Period of Performance, the Recipient must expend its CDFI ERP Award, or an equivalent amount, to achieve the applicable policy priority as outlined herein. The Recipient may satisfy this goal using the CDFI ERP Award or other available funds on its balance sheet. Funds used to satisfy the CDFI ERP Program’s Performance Goals and Measures (PG&amp;Ms) may not also be used to satisfy PG&amp;Ms for other CDFI Fund Programs.</p> <table border="1" data-bbox="305 1066 1523 1818"> <thead> <tr> <th data-bbox="305 1066 483 1388">Applicable if marked “Yes”</th> <th data-bbox="483 1066 997 1388">CDFI ERP Policy Priority Goal</th> <th data-bbox="997 1066 1256 1388">Interim Benchmark: Dollar Amount Equal to % of CDFI ERP Award Expended – Period of Performance, Year 3</th> <th data-bbox="1256 1066 1523 1388">Final Benchmark: Dollar Amount of CDFI ERP Award Multiplied by % of Policy Priority – Period of Performance, Year 5</th> </tr> </thead> <tbody> <tr> <td data-bbox="305 1388 483 1675"></td> <td data-bbox="483 1388 997 1675"><b>Majority Minority Census Tracts in ERP-Eligible Geographies:</b> Provide Financial Products and/or Grants in the designated dollar amount in Low- or Moderate-Income Majority Minority Census Tracts that are also ERP-Eligible Geographies to meet the required interim and final benchmarks.</td> <td data-bbox="997 1388 1256 1675">Dollar amount equal to [_XX_] % of CDFI ERP Award amount expended at Year 3</td> <td data-bbox="1256 1388 1523 1675">\$_[XX_] [Calculated based on response to Application Q.12a multiplied by the CDFI ERP Award amount]</td> </tr> <tr> <td data-bbox="305 1675 483 1818"></td> <td data-bbox="483 1675 997 1818"><b>Minority individuals or Minority-owned Businesses:</b> Provide Financial Products and/or Grants in the designated dollar amount to Minority individuals or to</td> <td data-bbox="997 1675 1256 1818">Dollar amount equal to [_XX_] % of CDFI ERP Award</td> <td data-bbox="1256 1675 1523 1818">\$_[XX_] [Calculated based on response to Application Q.12b</td> </tr> </tbody> </table>	Applicable if marked “Yes”	CDFI ERP Policy Priority Goal	Interim Benchmark: Dollar Amount Equal to % of CDFI ERP Award Expended – Period of Performance, Year 3	Final Benchmark: Dollar Amount of CDFI ERP Award Multiplied by % of Policy Priority – Period of Performance, Year 5		<b>Majority Minority Census Tracts in ERP-Eligible Geographies:</b> Provide Financial Products and/or Grants in the designated dollar amount in Low- or Moderate-Income Majority Minority Census Tracts that are also ERP-Eligible Geographies to meet the required interim and final benchmarks.	Dollar amount equal to [_XX_] % of CDFI ERP Award amount expended at Year 3	\$_[XX_] [Calculated based on response to Application Q.12a multiplied by the CDFI ERP Award amount]		<b>Minority individuals or Minority-owned Businesses:</b> Provide Financial Products and/or Grants in the designated dollar amount to Minority individuals or to	Dollar amount equal to [_XX_] % of CDFI ERP Award	\$_[XX_] [Calculated based on response to Application Q.12b
Applicable if marked “Yes”	CDFI ERP Policy Priority Goal	Interim Benchmark: Dollar Amount Equal to % of CDFI ERP Award Expended – Period of Performance, Year 3	Final Benchmark: Dollar Amount of CDFI ERP Award Multiplied by % of Policy Priority – Period of Performance, Year 5										
	<b>Majority Minority Census Tracts in ERP-Eligible Geographies:</b> Provide Financial Products and/or Grants in the designated dollar amount in Low- or Moderate-Income Majority Minority Census Tracts that are also ERP-Eligible Geographies to meet the required interim and final benchmarks.	Dollar amount equal to [_XX_] % of CDFI ERP Award amount expended at Year 3	\$_[XX_] [Calculated based on response to Application Q.12a multiplied by the CDFI ERP Award amount]										
	<b>Minority individuals or Minority-owned Businesses:</b> Provide Financial Products and/or Grants in the designated dollar amount to Minority individuals or to	Dollar amount equal to [_XX_] % of CDFI ERP Award	\$_[XX_] [Calculated based on response to Application Q.12b										

	Minority-owned or Controlled businesses to meet the required interim and final benchmarks.	amount expended at Year 3	multiplied by the CDFI ERP Award amount]
	<b>Persistent Poverty Counties, Native Areas and/or U.S. Territories:</b> Provide Financial Products and/or Grants in the designated dollar amount in Persistent Poverty Counties, Native Areas and/or U.S. Territories to meet the required interim and final benchmarks.	Dollar amount equal to [__XX__]% of CDFI ERP Award amount expended at Year 3	\$[__XX__] [Calculated based on response to Application Q.12c multiplied by the CDFI ERP Award amount]
	<b>Small businesses:</b> Provide Financial Products and/or Grants in the designated dollar amount to businesses in revenue categories listed below to meet the required interim and final benchmarks. i. Businesses with less than \$1 million but more than \$100,000 in annual gross revenue or to Small Farms; or ii. Businesses with \$100,000 or less in annual gross revenue.	i. Dollar amount equal to [__XX__]% of CDFI ERP Award amount expended at Year 3  ii. Dollar amount equal to [__XX__]% of CDFI ERP Award amount expended at Year 3	i. [__XX__] [Calculation based on response to Application Q.12d(i) multiplied by the CDFI ERP Award amount]  ii. \$[__XX__] [Calculated based on response to Application Q.12d(ii) multiplied by the CDFI ERP Award amount]
	<b>Increase Lending in ERP Eligible Geographies:</b> The Recipient must expend its CDFI ERP Award to close Financial Products or make Grants in ERP-Eligible Geographies in designated dollar amounts equal to or greater than those set forth in the interim and final benchmarks.	\$[__XX__] [CDFI ERP Award amount x Application multiplier x 60%]	\$[__XX__] [CDFI ERP Award amount x Application multiplier]

CDFI ERP Programmatic Requirements	<u>Description</u>
<p><b>2A.</b></p>	<p><b>Authorized CDFI ERP Eligible Activities:</b> CDFI ERP Award funds must be expended on one or more of the two types of Eligible Activities below and as further set forth in PG&amp;M 1A above and in Section 3.9 of Schedule 2.</p> <p>(1) Program Activities. The six (6) eligible Program Activities are:</p> <ul style="list-style-type: none"> <li>(a) Financial Products.</li> <li>(b) Financial Services (Regulated Institutions only).</li> <li>(c) Development Services.</li> <li>(d) Grants.</li> <li>(e) Loan Loss Reserves.</li> <li>(f) Capital Reserves (Regulated Institutions only).</li> </ul> <p>(2) Total expenditure on Financial Services and Development Services combined cannot exceed \$[_____].</p> <p>(3) Operational Support Activities. The seven (7) eligible Operational Support Activities are:</p> <ul style="list-style-type: none"> <li>(a) Compensation – Personal Services.</li> <li>(b) Compensation – Fringe Benefits.</li> <li>(c) Professional Service Costs.</li> <li>(d) Travel Costs.</li> <li>(e) Training and Education Costs.</li> <li>(f) Equipment.</li> <li>(g) Supplies.</li> </ul> <p>(4) Total expenditure on Operational Support Activities cannot exceed \$[_____].</p>
<p><b>2B.</b></p>	<p><b>CDFI ERP-Eligible Geographies:</b> Recipient must expend at least 90% of the CDFI ERP Award in Program Activities in ERP-Eligible Geographies as further set forth in Section 3.8 of Schedule 2.</p>

**Schedule 2**  
**Award No.:**  
**Recipient:**

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**GENERAL AWARD TERMS AND CONDITIONS**

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**ARTICLE I  
INCORPORATION BY REFERENCE**

Section 523 of Division N of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) (Authorizing Statute), as from time to time amended, is incorporated by reference and given the same force and effect as if set out in full text.

12 C.F.R. Part 1805, as from time to time amended, is incorporated by reference and given the same force and effect as if set out in full text, unless otherwise noted herein. In the event of any inconsistency between 12 C.F.R. Part 1805 and the terms set forth in these General Award Terms and Conditions, all schedules and any amendments hereto, the terms of this Assistance Agreement shall govern. In the event of any inconsistency between 12 C.F.R. Part 1805 and the Authorizing Statute, the Authorizing Statute shall govern.

The Uniform Administrative Requirements (2 C.F.R. Part 200), as from time to time amended, is incorporated by reference and given the same force and effect as if set out in full text.

**ARTICLE II  
DEFINITIONS**

When used in this Assistance Agreement (including all schedules and any amendments hereto), the following terms shall have the meanings specified below. Capitalized terms used, but not defined herein, shall have the respective meanings assigned to them in the Act, the Community Development Financial Institutions Program Regulations, and/or the Uniform Requirements (as such terms are hereinafter defined).

Act shall mean the Riegle Community Development and Regulatory Improvement Act of 1994, (12 U.S.C. § 4701 et seq.), as amended.

Authorizing Statute shall mean Section 523 of Division N of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) enacted on December 27, 2020.

Advance Payment shall mean Federal funds paid by the CDFI Fund to a Recipient before the Recipient expends the CDFI ERP funds authorized under this Assistance Agreement.

Affiliate shall mean any company or entity that Controls, is Controlled by, or is under common Control with the Recipient, as defined in 12 C.F.R. § 1805.104.

Announcement Date shall mean the date on which the CDFI Fund announces the Recipients of CDFI ERP Awards made under this Assistance Agreement and the applicable NOFA as indicated on the signature page of this Assistance Agreement.

Annual Certification Report or ACR shall mean the Annual Certification and Data Collection Report Form, OMB Control No. 1559-0046.

Application shall mean the CDFI Fund's CDFI ERP application form, including any written or verbal information submitted by the Applicant in connection therewith and any exhibits, attachments, appendices and/or written or verbal supplements thereto, submitted by the Recipient to the CDFI Fund, in response to the CDFI ERP NOFA (87 FR 37912, June 24, 2022). This includes the SF-424 Mandatory Form that must be submitted in Grants.gov and the online application that must be submitted via the CDFI Fund's Award Management Information System (AMIS).

Application Deadline shall mean September 22, 2022.

Appropriate Federal Banking Agency shall mean an appropriate Federal banking agency as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(q)), and includes, with respect to Insured Credit Unions, the National Credit Union Administration.

Asian or Asian American shall mean a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinents including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippines Islands, Thailand and Vietnam, as the term is defined in the [1997 Office of Management and Budget Standards on Race and Ethnicity](#).

Assistance Agreement or Agreement shall mean the Assistance Agreement between the CDFI Fund and the Recipient/co-Recipient, of which these General Award Terms and Conditions are a material part, including the signature page, any schedules and attachments hereto, as the Agreement may, from time to time, be amended in accordance with its terms.

Authorized Representative shall mean an employee or officer of the Recipient who has the authority to legally bind and make representation on behalf of the Applicant including, but not limited to, signing the Application, Assistance Agreement, and other award documentation. Consultants working on behalf of the Recipient cannot be designated as Authorized Representative.

Awards Management Information System or AMIS shall mean the enterprise-wide business system utilized by the CDFI Fund and CDFI Fund award Recipients.

Bank Holding Company shall mean a bank holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(w)(2)), any company which has Control over any bank or any other bank holding company (12 U.S.C. § 1841). As defined in the Bank Holding Company Act of 1956, such companies must register with the Board of Governors of the Federal Reserve System and hence are called registered bank holding companies.

Black or African American shall mean a person having origins in any of the black racial groups of Africa, as those terms are further defined in [1997 Office of Management and Budget \(OMB\) Standards on Race and Ethnicity](#).

Budget shall mean the amount of the CDFI ERP Award to be expended in the CDFI ERP Eligible Activity categories pursuant to Section 3.9 herein.

Budget Period shall have the same meaning as Period of Performance.

Capital Reserves shall mean, as applied to regulated institutions only, CDFI ERP Award funds set aside as reserves to support the Recipient's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.

Closing shall mean the proper execution and delivery of the Agreement and any related documents, and includes any Payment of Assistance by electronic funds transfer or otherwise to an account designated by the Recipient.

Community Development Financial Institution or CDFI shall mean any entity certified as a CDFI by the CDFI Fund pursuant to 12 C.F.R. § 1805.201.

Community Development Financial Institutions Fund or CDFI Fund shall mean the Community Development Financial Institutions Fund established pursuant to section 104(a) (12 U.S.C. § 4703(a)) of the Riegle Community Development Banking and Financial Institution Act of 1994 (Pub. L. 103-325, 12 U.S.C. § 4701, *et seq.*).

CDFI Equitable Recovery Program or CDFI ERP shall mean the program authorized by the Authorizing Statute and implemented pursuant to the Community Development Financial Institutions Program Regulations.

CDFI Equitable Recovery Program Assistance or CDFI ERP Award shall mean the financial assistance in the form of a grant made by the CDFI Fund to a Recipient pursuant to the Authorizing Statute.

CDFI ERP-Eligible Geographies or ERP-Eligible Geographies shall mean geographies that meet at least one of the following two criteria: (1) is a census tract that (a) demonstrates Severe Impact of COVID-19 pandemic; AND (b) is a Low- or Moderate-Income Census Tract; AND (c) is in an Investment Area, or (2) is a Native Area, as designated by the CDFI Fund and as applied to the 2010 census tracts. Please refer to "CDFI ERP List of Eligible Geographies" available at [CDFI Equitable Recovery Program | Community Development Financial Institutions Fund \(cdfifund.gov\)](https://www.cdfifund.gov) for additional information.

Community Development Financial Institutions Program Regulations or CDFI Program Regulations shall mean the regulations set forth in 12 C.F.R. Parts 1805 and 1815, as the same may, from time to time, be amended.

Compensation (Fringe Benefits) shall mean allowances and services provided by the Recipient to its employees as Compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under

formally established and consistently applied organizational policies of the Recipient and subject to the applicable provisions of the Uniform Requirements.

Compensation (Personal Services) shall mean all remuneration, paid currently or accrued, for services of Recipient's employees rendered during the Period of Performance under the CDFI ERP Award in accordance with section 200.430 of the Uniform Requirements.

Control or Controlling shall mean: (1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of Voting Securities of any company, directly or indirectly or acting through one or more other persons; (2) Control in any many over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any company; or (3) Power to exercise, directly or indirectly, a controlling influence over the management, credit or investment decisions, or policies of any company.

Depository Institution Holding Company or DIBC shall mean a Bank Holding Company or a Savings and Loan Holding Company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(w)(1)).

Development Services shall mean activities undertaken by a CDFI, its Affiliate or contractor that promote community development and prepare or assist current or potential borrowers or investees to use the Recipient's Financial Products or Financial Services. For example, such activities include financial or credit counseling, homeownership counseling, and business planning and financial management assistance.

Eligible Activities shall mean Program Activities and Operational Support Activities as defined herein.

Eligible Market shall mean (i) a geographic area meeting the requirements set forth in 12 C.F.R. § 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

Equipment shall mean tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit as defined in the Uniform Requirements. Items costing less than \$5,000 may be included if the Recipient's capitalization policy recognizes these as capital assets. Non-expendable items include, among other items, computer hardware, computer software, related peripherals, and office equipment. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. §§ 8301-8303 with respect to the purchase of Equipment.

Federal Award Date shall mean the date that this Assistance Agreement is signed by and determined to be effective by the CDFI Fund.

Financial Products shall mean loans, equity investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees; in the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs.

Financial Services shall mean, as applied to regulated institutions only, checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.

Grants shall mean funds transferred without a repayment requirement to a person, business, or other organization.

Hispanic or Hispanic American or Latino shall mean a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race, as the term is defined in the [1997 Office of Management and Budget Standards on Race and Ethnicity](#).

Indirect Costs shall mean costs or expenses as defined in the Uniform Requirements.

Insider shall mean any director, officer, employee, principal shareholder (owning, individually or in combination with family members, five percent or more of any class of stock), or agent (or any family member or business partner of any of the above) of the Recipient or of any Affiliate or Community Partner of the Recipient.

Insured Credit Union shall mean any credit union, the member accounts of which are insured by the National Credit Union Share Insurance Fund.

Insured Depository Institution shall mean any bank or thrift, the deposits of which are insured by the Federal Deposit Insurance Corporation.

Investment Area shall mean the geographic area meeting the requirements set forth in 12 C.F.R. § 1805.201(b)(3).

Loan Loss Reserves shall mean funds set aside in the form of cash reserves or through accounting-based accrual reserves to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.

Low-Income shall mean an income, adjusted for family size, of not more than: for Metropolitan Areas, 80 percent of the area median family Income; and for non-Metropolitan Areas, the greater of: (i) 80 percent of the area median family income; or (ii) 80 percent of the statewide non-Metropolitan Area median family Income, as defined in accordance with the CDFI Program Regulations at 12 C.F.R. § 1805.104.

Low- or Moderate-Income Census Tract shall mean any census tract where the median family income is at or below 120% of the Metropolitan, statewide or national median family income, depending on the tract's location within or outside of Metropolitan Areas.

Majority Minority Census Tract shall mean any census tract in which at least 50% of the population self-identifies as a member of one or more racial or ethnic minority population(s), including: American Indian or Alaska Native; Asian; Black or African American; Hispanic or Latino; Native Hawaiian or Other Pacific Islander; and/or Some Other Race. Definitions for the first five of the six terms listed may be found in the [1997 Office of Management and Budget \(OMB\) Standards on Race and Ethnicity](#). A definition for "Some Other Race" may be found in the [American Community Survey and Puerto Rico Community Survey 2015 Subject Definitions](#).

Material Event shall mean an occurrence that affects the Recipient's strategic direction, mission, or business operation and, thereby, its status as a certified CDFI and/or its compliance with the terms and conditions of this Assistance Agreement as further described in Section 5.9 herein.

Material Weakness shall mean a reportable condition, in which the design or operation of one or more of the internal control components does not reduce, to a relatively low level the risk that misstatements caused by error or fraud, in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Metropolitan Area shall mean an area designated as such by the Office of Management and Budget pursuant to 44 U.S.C. § 3504(e) and 31 U.S.C. § 1104(d) and Executive Order 10253 (3 C.F.R., 1949-1953 Comp., p. 758), as amended.

Minority or Minorities shall mean, as defined in the Authorizing Statute, any Black American, Hispanic American, Asian American, Native American, Native Alaskan, Native Hawaiian, or Pacific Islander, as those terms are defined herein and further defined in the [1997 Office of Management and Budget \(OMB\) Standards on Race and Ethnicity](#).

Minority-owned or Controlled business shall mean: (i) Minority-owned for-profit entity: A for-profit entity that is not a Minority Depository Institution and that has at least 51 percent of its equity ownership (or the equivalent in limited liability companies) interest being owned by individuals who identify themselves as Minorities; (ii) Minority-Controlled not-for-profit entity with at least 51 percent of its Board of Directors (i.e., Governing Board) comprised of individuals who identify themselves as Minorities; or (iii) Minority Depository Institution.

Minority Depository Institution shall mean as the term is defined in section 308(b) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 1463 note), or otherwise considered to be a Minority Depository Institution by the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or by the National Credit Union Administration.

Moderate-Income shall mean an income, adjusted for family size, of not more than: for Metropolitan Areas, 120 percent of the area median family Income; and for non-Metropolitan Areas, the greater of: (i) 120 percent of the area median family Income; or (ii) 120 percent of the statewide non-Metropolitan Area median family Income.

Native American or American Indian or Alaska Native shall mean a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliations or community attachment, as the term is defined in the [1997 Office of Management and Budget Standards on Race and Ethnicity](#).

Native Area(s) shall mean Native American geographic areas defined as Alaska Native Village Statistical Areas, Federal American Indian Reservations, Hawaiian Home Lands, Joint Use Areas, Off-Reservation Trust Lands, Oklahoma Tribal Statistical Areas, and Tribal Designated Statistical Areas, as such terms are defined by the U.S. Census Bureau. See United States Census Bureau at [www.census.gov/programs-surveys/geography/about/glossary.html](http://www.census.gov/programs-surveys/geography/about/glossary.html). The CDFI Fund has determined that for purposes of the CDFI ERP loans made to tribal members, tribal businesses and businesses owned or controlled by tribal members residing or located in federally-designated tribal service areas (e.g., geographical area designated by a tribe and approved by the Bureau of Indian Affairs where federal assistance services, such as the Housing Improvement Program, can be delivered), would be deemed as loans made in a Federal American Indian Reservation and thus would be in an eligible Native Area.

Native Hawaiian or Other Pacific Islander shall mean a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands, as the term is defined in the [1997 Office of Management and Budget Standards on Race and Ethnicity](#).

Notice of Funds Availability or NOFA shall mean the notice published by the CDFI Fund in the Federal Register that announced the availability of funds for the program funding round identified in the signature page of this Assistance Agreement.

Operational Support Activities shall mean Compensation – Personal Services, Compensation – Fringe Benefits, Professional Service Costs, Travel Costs, Training and Education Costs, Equipment and Supplies, combined.

Payment shall mean a transfer of Assistance funds from the CDFI Fund to the Recipient pursuant to this Assistance Agreement.

Performance Goals and Measures (Performance Goal or PG&Ms) shall mean the performance goals and measures as described in Schedule 1.

Performance Period End Date shall mean the Performance Period End Date specified in Section C of Schedule 1 hereto.



Period of Performance shall mean the period beginning on the Announcement Date and ending on the Performance Period End Date.

Persistent Poverty County/Counties or PPC shall mean any county, including county equivalent areas in Puerto Rico, that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses and the 2011-2015 5-year data series available from the American Community Survey of the Bureau of the Census, or any other territory or possession of the United States that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990, 2000 and 2010 Island Areas Decennial Censuses, or equivalent data, of the Bureau of the Census (Pub. L. No. 116-93). The PPC determinations for Guam, American Samoa, the Northern Mariana Islands and the U.S. Virgin Islands are based on territory-wide data from the Island Area Censuses.

Professional Service Costs shall mean CDFI ERP Award funds used to pay for professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the Recipient, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee.

Program Activities shall mean Financial Products, Financial Services (Regulated Institutions only), Development Services, Grants, Loan Loss Reserves, and Capital Reserves, combined.

Program Income shall mean gross income earned by the Recipient as defined in the Uniform Requirements.

Recipient shall mean the entity that receives CDFI ERP Award under this Assistance Agreement.

Regulated Institutions shall mean Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions, and Depository Institution Holding Companies.

Savings and Loan Holding Company shall mean a savings and loan holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(w)(3)).

Service Request shall mean a written inquiry or notification submitted to the CDFI Fund via AMIS.

Severe Impact shall mean a census tract that meets one or more of the following criteria due to the COVID-19 pandemic:

- a) Demonstrates severe mortality, based on being in the highest tercile of the number of deaths per 100,000 people, according to reported cumulative mortality for the period from April 1, 2020 to March 31, 2021, based on data from the [Center for Disease Control and Prevention](#) and [Government of Puerto Rico](#); or

- b) Demonstrates severe change in unemployment, based on:
- i. For the 50 states, District of Columbia and Puerto Rico, being in the highest tercile of reported change in the average unemployment rate for the twelve-month period of April 2020 - March 2021, as compared to the same twelve-month period for the previous year (April 2019 – March 2020), based on data from [Bureau of Labor Statistics](#), Local Area Unemployment Statistics.
  - ii. For American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands, being in the highest tercile of reported change in average county employment for the twelve-month period of April 2020 – March 2021, as compared to county employment in January 2020, based on data from [Argonne National Laboratory, Decision and Infrastructure Sciences Division](#), County Economic Impact Index (CEII) and Territory Economic Impact Index (TEII); or
- c) Demonstrates low community resilience, based on being in highest tercile of the percentage of individuals or families that have 3 or more resilience-related risk factors relative to the impact of disasters such as pandemics, based on data from the [U.S. Census Bureau](#), Community Resilience Estimates (CRE) Program. Census tracts that were not covered by the community resilience data from the CRE Program were deemed to be low community resilience if they were located within a Persistent Poverty County.

Small Farm shall mean any farm with gross cash farm income (GCFI), defined as the total revenue received by a farm business in a given year, less than \$350,000, as defined by [United States Department of Agriculture, Economic Research Service](#).

State-Insured Credit Union shall mean any credit union that is regulated by, and/or the member accounts of which are insured by, a State agency or instrumentality.

Subsidiary shall mean any company that is owned or Controlled directly or indirectly by another company and includes any service corporation owned in whole or part by an Insured Depository Institution or any Subsidiary of such a service corporation, except as provided in 12 C.F.R. § 1805.200(b)(4).

Subrecipient shall mean any entity that receives a transfer of CDFI ERP Award funds from the Recipient pursuant to section 3.11(b) of the General Award Terms and Conditions (Schedule 2) in order to carry out any part of the Assistance.

Subsequent Payment shall mean any additional Payment after the initial Payment representing all or a portion of the balance of the CDFI ERP Award in case where a Recipient exercises its option to receive the CDFI ERP Award in two or more Payments, as further specified in Section 3.5(b) of the General Award Terms and Conditions (Schedule 2).

Subsequent Payment Request shall mean a Payment request by the Recipient to the CDFI Fund representing all or a portion of the balance of the CDFI ERP Award, as further specified in Section 3.5(a) of the General Award Terms and Conditions (Schedule 2).

Supplies shall mean all tangible personal property other than Equipment, as defined in the Uniform Requirements. A computing device is a Supply if the acquisition cost is less than the lesser of the capitalization level established by the Recipient for financial statement purposes or \$5,000, regardless of the length of its useful life.

Target Market shall mean an Investment Area(s) and/or a Targeted Population(s).

Targeted Population shall mean the individuals or identifiable group of individuals meeting the requirements of 12 C.F.R. § 1805.201(b)(3)(iii) of the CDFI Program Regulations as designated in the Recipient's most recently approved CDFI certification documentation.

Training and Education Costs shall mean the costs of training and education provided by the Recipient for employees' development in accordance with 2 C.F.R. § 200.473 of the Uniform Requirements.

Travel Costs shall mean costs of transportation, lodging, subsistence, and related items incurred by the Recipient's employees who are on travel status on business related to the CDFI ERP Award in accordance with 2 C.F.R. § 200.475 of the Uniform Requirements.

Tribal Government shall mean the federally or state-recognized governing body (including tribal council) of a Native American tribe or Alaska Native village, as applicable.

Uniform Requirements shall mean the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 C.F.R. Part 200.

### **ARTICLE III THE ASSISTANCE; CLOSING; PAYMENTS; PROGRAM INCOME**

- 3.1 CDFI ERP Award. At Closing and at any time a Subsequent Payment is made, and subject to all of the terms and conditions hereof and in reliance upon all representations, warranties, assurances, certifications and agreements contained herein, the CDFI Fund hereby agrees to provide to the Recipient, subject to the availability of funds, and the Recipient hereby agrees to accept from the CDFI Fund, the CDFI ERP Award.
- 3.2 Purpose of CDFI ERP Award. The CDFI ERP Award shall be used to assist Low- or Moderate-Income communities and borrowers, including minorities, that have significant unmet capital or Financial Services needs, and were disproportionately impacted by the COVID-19 pandemic. To achieve this purpose, Recipients shall use the CDFI ERP Award for Eligible Activities in ERP-Eligible Geographies as set forth in Schedule 1 of this Assistance Agreement and further described in Schedule 2.

3.3 Closing. The obligation of the CDFI Fund to provide any or all of the CDFI ERP Award to the Recipient at Closing or any time thereafter, including at any time a Subsequent Payment is requested, is subject to the fulfillment, as determined by the CDFI Fund, in its sole discretion, of the following conditions precedent, each of which shall be fulfilled prior to any Closing or Subsequent Payment being made, to the satisfaction of the CDFI Fund.

- (a) Performance; Representations and Warranties. At Closing and at any time a Subsequent Payment is made, (i) the Recipient shall have performed and complied with all applicable agreements and conditions contained herein required to be performed or complied with by it, and (ii) the representations and warranties set forth in this Agreement and the Assurances and Certifications contained in the Application shall be true and correct in all material respects.
- (b) Certificate of Good Standing. Unless otherwise determined in the sole discretion of the CDFI Fund and further described in Schedule 3-A, the CDFI Fund shall have received from the Recipient a Certificate of Good Standing (COGS) from the Secretary of State for the Recipient's state of formation dated within 180 days prior to the Federal Award Date of the Assistance Agreement.
- (c) Performance Goals. The CDFI Fund and the Recipient shall have determined, by mutual agreement, the Performance Goals for the Recipient. Such Performance Goals are set forth in Schedule 1.
- (d) Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated by the Assistance Agreement and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the CDFI Fund, and the CDFI Fund shall have received from the Recipient all such counterpart originals or certified copies or other documents as the CDFI Fund may reasonably request.

3.4 Payments.

- (a) The CDFI Fund shall not pay any Award amounts pursuant hereto until the Recipient has satisfied all conditions precedent to receiving such Payment including, but not limited to, the Recipient being in compliance (or being in default or noncompliant but not deemed ineligible to receive funding from the CDFI Fund) with the terms and conditions of any prior awards from the CDFI Fund. The Recipient must deliver to the CDFI Fund, as applicable, the original signed Assistance Agreement, and all required documentation.
- (b) The Recipient shall maintain and ensure the accuracy of its banking information as reflected in its System for Award Management (SAM) account. In the event that the Recipient's SAM account contains inaccurate or non-current banking information, the CDFI Fund is not responsible for reimbursement or Payment to the Recipient for any Assistance transferred to an incorrect account.

- (c) The initial Payment of CDFI ERP Award will be based on the amount the Recipient has indicated that it expects to expend on CDFI ERP Award Eligible Activities within the first twelve (12) months of the Award Announcement Date. The CDFI Fund reserves the right to increase or decrease the initial Payment amount to ensure that any Subsequent Payment is at least \$75,000.
- (d) Following the Announcement Date, if the Recipient is found to be noncompliant or in default under any CDFI Fund award, the CDFI Fund may, in its sole discretion, rescind the CDFI ERP Award to the Recipient if:
  - (i) the Recipient fails to remedy the noncompliance or default within the timeframe established in writing by the CDFI Fund, or
  - (ii) the Recipient fails to satisfy any condition related to the noncompliance or default within the timeframe established in writing by the CDFI Fund.

### 3.5 Subsequent Payments.

- (a) If the entire amount of the CDFI ERP Award is not paid at initial Closing, the Recipient must request a subsequent payment (“Subsequent Payment Request”). All Subsequent Payment Requests must be received by the CDFI Fund no later than 30 days prior to end of the Period of Performance. If the Recipient does not request Payment of all of the CDFI ERP Award by said date, the CDFI Fund, in its sole discretion, may terminate its obligation to pay said funds.
- (b) The CDFI Fund shall not make a subsequent payment (“Subsequent Payment”) until the Recipient has expended at least ninety percent (90%) of the previous payment(s) into a CDFI ERP Eligible Activity pursuant to Programmatic Requirement 2A in Schedule 1 herein. Subsequent Payment Requests must be in the amount the Recipient expects to expend for a CDFI ERP Award or Eligible Activities within a twelve (12) month period in the remaining Period of Performance.
- (c) Subsequent Payment Requests must be submitted via the Recipient’s AMIS Account (or as otherwise directed by the CDFI Fund).
- (d) Recipients will be limited to four (4) Subsequent Payments, unless such limitation is waived by the CDFI Fund.
- (e) If the Recipient requests the final Subsequent Payment less than six (6) months prior to the Performance Period End Date, the CDFI Fund will require a verification that the Recipient will be able to expend the funds in CDFI ERP Eligible Activities pursuant to Programmatic Requirement 2A of Schedule 1 herein within the remaining Period of Performance.

- 3.6 Authorized Uses of Program Income. Any Program Income derived by the Recipient from the CDFI ERP Award provided under the terms of the Assistance Agreement shall be used by the Recipient for Authorized CDFI ERP Eligible Activities pursuant to Programmatic Requirement 2A of Schedule 1 herein.
- 3.7 Restrictions on the Use of Program Income.
- (a) The Recipient shall not use any Program Income earned hereunder to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. § 1352.
  - (b) The Recipient shall not use any Program Income to pay any costs incurred in connection with (i) any defense against any claim or appeal of the United States Government, any agency or instrumentality thereof (including the CDFI Fund), against the Recipient, or (ii) any prosecution of any claim or appeal against the United States Government, any agency or instrumentality thereof (including the CDFI Fund), which the Recipient instituted or in which the Recipient has joined as a claimant.
- 3.8 CDFI ERP Geographic Areas.
- (a) The Recipient must expend 90% of the total CDFI ERP Award for Program Activities in ERP-Eligible Geographies during the five-year Period of Performance, as set forth in Performance Goal 1A of Schedule 1 of this Assistance Agreement, and generally consistent with the Recipient's CDFI ERP Application. To the extent the Recipient uses its CDFI ERP Award for Financial Products and Grants, 90% of the dollar volume of such Financial Products and/or Grants must be deployed to projects/individuals/businesses that are located/reside in ERP-Eligible Geographies. To the extent the Recipient expends its CDFI ERP Award on Financial Services and/or Development Services, 90% of the clients who receive Financial Services and/or Development Services must be located/reside in ERP-Eligible Geographies. To the extent the Recipient uses its CDFI ERP Award for Loan Loss Reserves, ninety percent (90%) of the dollar volume of loans that are supported by CDFI ERP funded Loan Loss Reserves must be deployed in ERP-Eligible Geographies. The amount of loans supported by the Loan Loss Reserves must be based on a reasonable potential loss rate, supported by documentation. Ninety percent (90%) of the equivalent amount of the CDFI ERP Award that is used for Capital Reserves must be used to support Financial Products deployed in ERP-Eligible Geographies. This 90% requirement does not apply to Operational Support Activities.
  - (b) Notwithstanding Section 3.8(a) above, to the extent the Recipient expends up to 10% of any CDFI ERP Award on Program Activities on projects/businesses/individuals located/residing outside of ERP-Eligible Geographies, those expenditures must serve Low- or Moderate-Income persons and businesses (including non-profit organizations) disproportionately

impacted by the COVID-19 pandemic that are included in Eligible Markets, and generally consistent with the Recipient's CDFI ERP Application.

3.9 Authorized CDFI ERP Eligible Activities.

- (a) The Recipient must use the CDFI ERP Award only for Eligible Activities designated in Schedule 1 and further set forth in this Assistance Agreement.
- (b) If the Recipient uses the CDFI ERP Award for both Financial Services and Development Services, it is subject to the restrictions set forth in Section 3.11(d).
- (c) If the Recipient uses the CDFI ERP Award for Operational Support Activities, it is subject to the restrictions set forth in Section 3.11(e). Any CDFI ERP Award expended on Operational Support Activities must enable CDFIs to build organizational capacity and acquire technology, staff, and other tools necessary to accomplish the Program Activities under the CDFI ERP Award.
- (d) The CDFI ERP Award funds are considered expended once the Recipient allocates them to one of the thirteen (13) CDFI ERP Eligible Activities set forth in Programmatic Requirement 2A in Schedule 1.
- (e) The CDFI ERP Program Activities, as set forth in Programmatic Requirement 2A(1) of Schedule 1, shall be used by the Recipient to alleviate economic impacts of COVID-19 pandemic in ERP-Eligible Geographies such as job loss, disruptions in healthcare and mental healthcare, disruptions in childcare, and increased housing instability.
- (f) Starting Year 3 of the Period of Performance, the Recipient must satisfy Performance Goal 1A of Schedule 1 during the timeframe as set forth therein. The Recipient must satisfy this Performance Goal exclusively using the CDFI ERP Award. The CDFI Fund will not approve an amendment to extend the Period of Performance to allow a Recipient additional time to expend the CDFI ERP Award.
- (g) The Recipient should refer to Subpart E of the Uniform Requirements (2 C.F.R. Part 200) for information regarding selected items of cost and unallowable items of cost.
- (h) The Recipient may incur expenses beginning on the Announcement Date. Any advanced expenditures prior to receiving the CDFI ERP Award funds must be consistent with Programmatic Requirement 2A Schedule 1 and may be reimbursed with the CDFI ERP Award upon receipt.

3.10 CDFI ERP Policy Priorities. As measured at the end of each Year 3 and Year 5 of the Period of Performance, the Recipient shall have provided Financial Products and/or Grants according to the Recipient's CDFI ERP policy priority commitment in an amount set forth in Performance Goal 1B in Schedule 1. The Recipient may satisfy this goal using the CDFI ERP Award or other available

funds on its balance sheet. The measurement at the end of Year 3 is calculated based on a percentage of the amount of the CDFI ERP Award that has been expended by the Recipient at the end of Year 3, as set forth in Performance Goal 1B in Schedule 1.

3.11 Restrictions on the Use of the CDFI ERP Award.

- (a) The Recipient shall not use any CDFI ERP Award provided hereunder in a manner other than as authorized hereunder, unless the Recipient consults with and obtains the prior written approval of the CDFI Fund. The Recipient acknowledges that receipt of the CDFI ERP Award does not mean all proposed activities set forth in the Application have been approved by the CDFI Fund. Authorized CDFI ERP Eligible Activities are set forth in Schedule 1 of this Assistance Agreement.
- (b) The Recipient shall not use the CDFI ERP Award to support the activities of, or otherwise to pass through, transfer, or co-award to third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior approval. Notwithstanding the foregoing, Depository Institution Holding Companies may transfer Assistance to the Subsidiary Insured Depository Institution identified on the signature page of the Assistance Agreement in accordance with Section 3.12 herein.
- (c) CDFI ERP Award funds expended to satisfy the CDFI ERP Program Performance Goals and Measures shall not also be used by the Recipient to satisfy Performance Goals and Measures of other CDFI Fund programs.
- (d) The Recipient shall not use more than 25% of the CDFI ERP Award for Financial Services and Development Services, combined.
- (e) The Recipient shall only use the CDFI ERP Award for Direct Costs associated with an Eligible Activity. Direct Costs are those described in section 2 C.F.R § 200.413 of the Uniform Requirements that are incurred by the Recipient to carry out the Eligible Activities.
- (f) The Recipient shall not use CDFI ERP Award funds for Indirect Costs as defined in the Uniform Requirements. The eligible activity categories as set forth in the Uniform Requirements are not authorized for Indirect Costs or an associated Indirect Cost Rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E – Cost Principles of the Uniform Requirements.
- (g) The Recipient shall not use any CDFI ERP Award provided hereunder to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. § 1352.



- (h) The Recipient shall not use any CDFI ERP Award to pay any costs incurred in connection with
    - (i) any defense against any claim or appeal of the United States Government, any agency or instrumentality thereof (including the CDFI Fund), against the Recipient, or
    - (ii) any prosecution of any claim or appeal against the United States Government, any agency or instrumentality thereof (including the CDFI Fund), which the Recipient instituted or in which the Recipient has joined as a claimant.
  - (i) The Recipient shall not use any CDFI ERP Award provided hereunder for expenses, including consultant fees, related to the preparation of an application for certification, allocation, award or funding to the CDFI Fund.
  - (j) The Recipient shall not use any CDFI ERP Award provided hereunder to pay for organized fundraising (including financial campaigns, solicitations of gifts and requests, grant writing, and similar expenses incurred to raise capital or obtain contributions) regardless of the purpose for which the funds will be used. For additional information regarding fund raising and investment management costs, please refer to 2 C.F.R. § 200.442, as applicable.
  - (k) The Recipient shall not use any CDFI ERP Award provided hereunder for the prohibited activities set forth in 2 C.F.R. § 200.216, Prohibition on certain telecommunications and video surveillance services and Equipment.
- 3.12 Depository Institution Holding Company Recipients. As applicable and in the case where the Depository Institution Holding Company Recipient deploys its CDFI ERP Award through its Subsidiary Insured Depository Institution, the Award must be used to capitalize the Subsidiary Insured Depository Institution to carry out authorized CDFI ERP Eligible Activities pursuant to Section 3.9 herein. The Recipient must ensure that the transfer of funds to the Subsidiary Insured Depository Institution meets the requirements described in the Uniform Requirements at 2 C.F.R. § 200.331. Furthermore, in such instances where the Depository Institution Holding Company deploys all or a portion of its CDFI ERP Award through its Subsidiary Insured Depository Institution, such Subsidiary Insured Depository Institution must submit a Performance Progress Report, TLR, and Uses of Award Report. If the Depository Institution Holding Company deploys any portion of the CDFI ERP Award, the Depository Institution Holding Company must submit a Performance Progress Report, TLR, and Uses of Award Report.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES**

The Recipient hereby represents and warrants to the CDFI Fund the following:

- 4.1 Organization, Standing and Powers. The Recipient is a validly existing Tribal Government, or an entity validly existing and in good standing under federal law or the laws of the state or Tribe of its legal formation and has all requisite power and authority to own and operate its assets and

properties, to carry on its business as it is now being conducted and to carry out its proposed, hereby authorized use(s) of the CDFI ERP Award provided hereunder.

- 4.2 Qualification. The Recipient is duly qualified, in good standing and authorized to transact business in each jurisdiction where the conduct of the Recipient's business, the carrying out of its proposed, authorized use(s) of the CDFI ERP Award to be provided hereunder or the ownership of its assets and properties requires such qualification, or, if not so qualified, the Recipient's failure so to qualify shall not have a material adverse effect on the Recipient, its financial condition or operations and will not impair the Recipient's ability to carry out its proposed, authorized use(s) of the CDFI ERP Award to be provided hereunder or its right to enforce any material agreement to which it is a party. The Recipient has performed and complied with all applicable agreements and conditions required by the Assistance Agreement to be performed or complied with by it before or at Closing or at any time a Subsequent Payment is made.
- 4.3 Authorization; Consents. The execution, delivery and performance by the Recipient of the Assistance Agreement and the carrying out of its proposed, authorized use(s) of the CDFI ERP Award provided hereunder are within the Recipient's corporate powers and have been duly authorized by all requisite corporate action. No additional consent, license, approval, authorization, qualification, exemption, franchise, designation, permit or order of, notice to or declaration or filing with, any third party, including, without limitation, any governmental entity (other than the CDFI Fund), which has not been previously obtained, is required in connection with the conduct of the Recipient's business or in connection with the valid execution, delivery and performance by the Recipient of the Assistance Agreement or any documents or agreements connected herewith or the carrying out of the proposed, hereby use(s) of the CDFI ERP Award to be provided hereunder.
- 4.4 Execution and Delivery; Binding Agreement. The Assistance Agreement and all documents connected therewith have been or will be, on or before the Federal Award Date, duly authorized, executed and delivered on behalf of the Recipient and constitute, on or before the Federal Award Date, legal, valid and binding obligations of the Recipient enforceable in accordance with their respective terms.
- 4.5 No Conflicts. The execution, delivery and performance by the Recipient of the Assistance Agreement and the carrying out of the proposed, hereby authorized uses(s) of the CDFI ERP Award provided hereunder shall not result in any violation of and shall not conflict with, or result in a breach of any of the terms of, or constitute a default under, any provision of Federal or State law to which the Recipient is subject, the Recipient's incorporation, charter, organization, formation or otherwise establishing documentation, bylaws or any agreement, judgment, writ, injunction, decree, order, rule or regulation to which the Recipient is a party or by which it is bound.
- 4.6 Litigation. The Recipient has neither actual nor constructive knowledge of any suit, action, proceeding or investigation pending or threatened that questions the validity of the Assistance

Agreement or any action taken or to be taken pursuant hereto or contemplated hereby including, but not limited to, the carrying out of the proposed, hereby authorized use(s) of the CDFI ERP Award to be provided hereunder.

- 4.7 Compliance with Other Instruments. The Recipient is not, and at any Closing connected herewith, will not be in violation of any provision of its incorporation, charter, organization, formation or otherwise establishing documents, or any loan agreement or other material agreement to which it is a party. The Recipient is not, and at any Closing connected herewith will not be, in violation of any instrument, judgment, decree, order, statute, rule or governmental regulation applicable to it, the violation of which might have a material adverse effect on the business, affairs, operations, or condition of the Recipient.
- 4.8 Disclosure. Neither the Assistance Agreement nor any attachment hereto, nor any certification or other document referenced or incorporated herein or therein and furnished to the CDFI Fund by the Recipient contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. The Recipient has disclosed, in writing, to the CDFI Fund all facts that might reasonably be expected to result in a material adverse effect upon the Recipient's ability either to conduct its principal business or to carry out its proposed and authorized use of the CDFI ERP Award to be provided hereunder. The Recipient has not knowingly and willfully made or used a document or writing containing any false, fictitious or fraudulent statement or entry as part of its correspondence or communication with the CDFI Fund. The Recipient acknowledges, under 18 U.S.C. § 1001, that if it knowingly and willfully makes or uses such document or writing it or its employee(s) or agents shall be fined or imprisoned for not more than five years, or both.
- 4.9 Taxes; Debts; Bankruptcy. The Recipient is not delinquent on any debts owed to Federal, State, local or Tribal Governments including, but not limited to, amounts due under the Internal Revenue Code, and has never filed for bankruptcy nor had a conservator appointed. The Recipient has neither actual nor constructive knowledge of any pending or anticipated bankruptcy filings or conservatorship appointments on its behalf.
- 4.10 Debarment, Suspension and Other Responsibility Matters. Pursuant to 31 C.F.R. § 19.335, neither the Recipient nor any of its principals (as defined by 31 C.F.R. § 19.995): (a) are presently excluded or disqualified from covered transactions by any Federal department or agency; (b) within the three-year (3-year) period preceding the date of this Assistance Agreement, have been convicted of or had a civil judgment rendered against them for any of the offenses listed in 31 C.F.R. § 19.800(a) or any other Federal criminal law; (c) are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in 31 C.F.R. § 19.800(a); or (d) within the three-year (3-year) period preceding the date of this Assistance Agreement, have had one or more public transactions (Federal, State, or local) terminated for cause, default, or noncompliance.

4.11 Status as a CDFI.

Since its certification as a CDFI, the Recipient has neither actual nor constructive knowledge of any changes that may adversely affect its status as a Certified CDFI.

- 4.12 Nondiscrimination Certification. Within the two-year period preceding the Announcement Date, there has been no final determination of liability in any proceeding instituted against the Recipient in, by or before any court, governmental or administrative body or agency, which proceeding involves allegations of discrimination by the Recipient on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex; for which a corrective action plan has not been implemented. Recipient certifies that it has posted information on its websites, bulletins, and publications that explains how individuals can file a civil rights complaint regarding the allegations of discrimination by the Recipient, including any associated with its products and services.

**ARTICLE V  
COVENANTS AND AGREEMENTS OF THE RECIPIENT**

Until the closeout of the Assistance Agreement pursuant to Section 7.11 herein (except with respect to Section 5.3 herein which shall remain in effect for three years following the closeout hereof pursuant to said section), the Recipient shall duly perform and observe each and all of the following covenants and agreements:

- 5.1 Compliance with Government Requirements. In carrying out its responsibilities pursuant to the Assistance Agreement, the Recipient shall comply with all applicable Federal, State, local and Tribal laws, regulations, ordinances, Office of Management and Budget (OMB) Circulars, Uniform Administrative Requirements (2 C.F.R. Part 200) and Executive Orders. Furthermore, the CDFI Fund's Environmental Quality Regulations (12 C.F.R. Part 1815) are applicable to the Recipient, as well as all other federal environmental requirements applicable to federal awards.
- 5.2 Fraud, Waste and Abuse. If the Recipient becomes aware at any time of the existence or apparent existence of fraud, waste or abuse of Assistance provided pursuant to the Assistance Agreement, the Recipient shall promptly report such incidence(s) to the Office of Inspector General of the U.S. Department of the Treasury by the online form on the OIG website: <https://www.treasury.gov/about/organizational-structure/ig/Pages/OigOnlineHotlineForm.aspx>, or by calling 1-800-359-3898.
- 5.3 Record Retention and Access.
- (a) The Recipient shall comply with all record retention and access requirements set forth in the Uniform Requirements at 2 C.F.R. §§ 200.334-338. Public access to Recipient records shall be maintained in accordance with the Uniform Requirements at 2 C.F.R. § 200.337, including access applicable under the Freedom of Information Act (5 U.S.C. § 552) (FOIA).

- (b) The Recipient shall maintain such records as may be reasonably necessary to verify that the applicable Performance Goals have been achieved. These records may include, but are not limited to, records (i) disclosing the manner in which the Assistance provided hereunder is used; (ii) demonstrating compliance with the requirements of the Authorizing Statute, the Act, the CDFI Program Regulations, and the Assistance Agreement; and (iii) evaluating the accomplishments of the CDFI ERP. The Recipient shall maintain documentation supporting the data reported by the Recipient to the CDFI Fund.
- (c) The CDFI Fund and the U.S. Department of the Treasury, and their representatives, shall have full and free access during reasonable business hours to the Recipient's offices and facilities and all books, documents, records, reports, and financial statements relevant to the CDFI ERP Award provided hereunder. The Recipient shall permit any of these authorities to copy such documents, as they deem appropriate. The purposes of such inspections and/or audits will include, but not be limited to, ensuring that representations, warranties, covenants, and/or certifications provided by the Recipient are accurate. The CDFI Fund will, consistent with applicable law, including the Freedom of Information Act (5 U.S.C. § 552) and the Privacy Act (5 U.S.C. § 552a), maintain the confidentiality of all financial and other proprietary information disclosed to the CDFI Fund pursuant to this section.

5.4 General Data Collection. The Recipient shall maintain such records as reasonably may be necessary to:

- (a) Disclose the manner in which the CDFI ERP Award provided hereunder is used;
- (b) Demonstrate compliance with the requirements of the Authorizing Act, the Act, CDFI Program regulations, and the Assistance Agreement; and
- (c) Evaluate the accomplishments of the CDFI ERP.

5.5 Point of Contact. The Recipient shall ensure and maintain accurate information on its Authorized Representatives and Points of Contact in its AMIS account.

5.6 Equal Credit Opportunity Act. The Recipient shall provide its products and services in a manner that is consistent with the Equal Credit Opportunity Act (ECOA; 15 U.S.C. § 1691, *et seq.*), to the extent the Recipient is subject to the requirements of ECOA. Notwithstanding the above, pursuant to Section 523(d) of the Authorizing Statute, a Recipient subject to the requirements of ECOA: (a) may collect data described in section 701(a)(1) of ECOA (15 U.S.C. §1691(a)(1)) from borrowers and applicants for credit for the sole purpose and exclusive use of ensuring that the economic impacts of the COVID-19 pandemic are adequately addressed; and (b) shall not be subject to adverse action related to the collection of such data described above in (a) by the Bureau of Consumer Financial Protection or any other Federal agency.

5.7 Certain Insider Activities. The Recipient shall comply with the restrictions on Insider activities set forth in the CDFI Program Regulations (at 12 C.F.R. § 1805.807).

5.8 Maintain CDFI Certification; Maintain Status as an Insured Credit Union, State-Insured Credit Union, Depository Institution Holding Company or Insured Depository Institution (if applicable).

- (a) The Recipient shall do all things necessary to preserve, renew and keep in full force and effect its certification as a CDFI, including, but not limited to, filing an ACR annually after its fiscal year end date and as stated in the Recipient's ACR Reporting Schedule in AMIS.
- (b) Notwithstanding the foregoing, if the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI ERP Award through a Subsidiary Insured Depository Institution, such Subsidiary Insured Depository Institution must submit a TLR.
- (c) If the Recipient is an Insured Credit Union, Depository Institution Holding Company, Insured Depository Institution or State-Insured Credit Union, the Recipient shall do all things necessary to preserve, renew and keep in full force and effect its status as an Insured Credit Union, Depository Institution Holding Company, Insured Depository Institution, or State-Insured Credit Union, as applicable.

5.9 Advise the CDFI Fund of Certain Material Events. The Recipient shall advise the CDFI Fund in writing via AMIS, within 30 days of the event and in reasonable detail, of any of the Material Events listed below. The Certification of Material Events Form can be accessed on the CDFI Fund website via the following page: <https://www.cdfifund.gov/programs-training/programs/erp>.

- (a) any proceeding instituted against the Recipient in, by or before any court, governmental or administrative body or agency, which proceeding or outcome could have a material adverse effect upon the operations, assets or properties of the Recipient;
- (b) any proceeding instituted against the Recipient in, by or before any court, governmental or administrative body or agency, which proceeding involves allegations of discrimination by the Recipient on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex;
- (c) all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. § 200.339 of the Uniform Requirements;
- (d) any material adverse change in the condition, financial or otherwise, or operations of the Recipient that would impair the Recipient's ability to carry out the authorized uses of the Assistance;
- (e) any substantial change in the business of the Recipient;
- (f) the loss of the Recipient's Insured Credit Union status as defined in 12 U.S.C. § 1752(7) or State-Insured Credit Union (if applicable);

- (g) the occurrence of any Event of Noncompliance, as that term is defined in Section 6.1 herein, or any event which upon notice or lapse of time, or both, would constitute an Event of Noncompliance;
- (h) the merger, consolidation or acquisition of the Recipient by or with another entity;
- (i) loss of the Recipient's Depository Institution Holding Company status under 12 U.S.C. § 1813(w)(1) or Subsidiary Insured Depository Institution status under 12 U.S.C. § 1813(c)(2) (if applicable);
- (j) change in the Recipient's shareholders or organization that results in (i) the CDFI Fund's ownership of equity in the Recipient exceeding 50 percent and/or (ii) the CDFI Fund controlling the Recipient's operations (the CDFI Fund's ownership of equity is calculated by dividing the shares owned by the CDFI Fund by the total number of shares issued by the Recipient);
- (k) the debarment, suspension, exclusion or disqualification, by the U.S. Department of the Treasury, or any other Federal department or agency, of any individual or entity (or principal thereof) that received any portion of the CDFI ERP Award in a procurement or nonprocurement transaction, as defined in 31 C.F.R. § 19.970;
- (l) any event or change that would result in the Recipient not being certified as a CDFI (applicable) or losing its status as a Nonprofit Organization (if applicable);
- (m) the existence of any non-compliance with the terms and conditions of any loan or other credit agreement with a creditor other than the CDFI Fund;
- (n) any adverse finding by the Appropriate Federal Banking Agency related to the Recipient; or
- (o) such other events that may be determined by the CDFI Fund, in its sole discretion, to be Material Events and for which the CDFI Fund has issued related guidance.

5.10 Tracking Use of CDFI ERP Award and Advance Payments.

- (a) The Recipient must account for and track the use of the CDFI ERP Award.
- (b) For every dollar of CDFI ERP Award received from the CDFI Fund, the Recipient must be able to verify how it was used. This requires the Recipient to separately account for the proceeds and uses of the CDFI ERP Award.
- (c) Recipients that are Institutions of Higher Education, Hospitals, Other Non-Profits, State, local, or federally-recognized Indian Tribal Governments should refer to 2 C.F.R. § 200.305(b)(7) of the Uniform Requirements for additional guidance on proper treatment of Advance Payments, including whether Advance Payments need to be held in interest

bearing accounts and when interest earned on Advance Payments must be remitted back to the federal government. Recipients must retain records pursuant to Section 5.3 herein to document that required payments of interest have been made.

- (d) The Recipient shall determine whether any individual or entity (or principal thereof), receiving any portion of the CDFI ERP Award is currently debarred, suspended, excluded or disqualified by the U.S. Department of the Treasury or any other Federal department or agency, as described in 31 C.F.R. Part 19. The Recipient shall include in all of its procurement and nonprocurement contracts and agreements, between the Recipient and an individual or entity (or principal thereof) receiving any portion of the CDFI ERP Award, a representation that such individual or entity (or principal thereof) is not currently debarred, suspended, excluded or disqualified by any Federal department or agency. Notwithstanding the foregoing, the above representations are not required in those procurement contracts in which the Recipient enters into for goods or services for less than \$25,000.
- (e) The Recipient shall include in all of its nonprocurement transaction agreements, for which it is using the CDFI ERP Award, a representation that the individual or entity (or principal thereof) receiving the CDFI ERP Award is currently not debarred, suspended, excluded, or disqualified by the U.S. Department of the Treasury or any other Federal department or agency.

5.11 Buy American. The Recipient and any Subrecipient shall comply with the Buy American Act, 41 U.S.C. §§ 8301-8303 (as amended from time to time), which includes a requirement that all unmanufactured articles, materials, and supplies purchased with any CDFI ERP Award be mined or produced in the United States, and that all manufactured articles, materials, and supplies purchased with any CDFI ERP Award be manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States. A Recipient or Subrecipient may request in writing a waiver from the CDFI Fund via a Service Request through its AMIS account from the requirements of the Buy American Act if its application would be inconsistent with the public interest or the cost would be unreasonable.

5.12 Terms and Conditions Related to Regulated Institutions

- (a) Prior Notice to Appropriate Federal Banking Agency of Sanctions. Prior to imposing or exercising any sanction(s) under Section 6.2 herein, the CDFI Fund will provide the Appropriate Federal Banking Agency with written notice of the proposed remedy (or remedies). Moreover, the CDFI Fund will not impose or exercise any proposed remedy (or remedies) if the Appropriate Federal Banking Agency, in writing, not later than 30 calendar days after receiving the notice from the CDFI Fund of any proposed remedy (or remedies) against the Recipient, takes all of the following actions:
  - (i) Objects to the proposed remedy (or remedies);
  - (ii) Determines that the remedy (or remedies) would:
    - a. Have a material adverse effect on the safety and soundness of the Recipient; or



- b. Impede or interfere with an enforcement action against the Recipient by the Appropriate Federal Banking Agency;
- (iii) Proposes a comparable alternative action; and
- (iv) Specifically explains:
  - a. The basis for the determination made pursuant to this section, and, if appropriate, provides documentation to support the determination; and
  - b. How the alternative action proposed would be as effective as the remedy (or remedies) proposed by the CDFI Fund in securing compliance and deterring future noncompliance.

(b) Regulated Institutions as Recipient. The provisions of the Authorizing Statute, the Act, the CDFI Program Regulations, and the Assistance Agreement shall be enforceable under 12 U.S.C. § 1786, 12 U.S.C. § 1818, and 12 U.S.C. § 1844 by the Appropriate Federal Banking Agency, and any violation of such provisions will be treated as a violation of the Federal Credit Union Act, Federal Deposit Insurance Act, or Bank Holding Company Act, as applicable. Nothing herein shall be construed to preclude the CDFI Fund from directly enforcing the Assistance Agreement as provided for hereunder and under the terms of the Authorizing Statute.

(c) No Authority to Limit Supervision and Regulation. Nothing herein is intended nor should be construed to affect any authority of the Appropriate Federal Banking Agency to supervise and regulate the Recipient.

5.13 Federal Funding Accountability and Transparency Act of 2006 Compliance: Reporting Subawards and Executive Compensation.

(a) Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$30,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

(b) Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$30,000 or more;

ii. in the preceding fiscal year, you received—

(A) 80 percent (80%) or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

(c) Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier Subrecipient under this award, you shall report the names and total compensation of each of the Subrecipient's five most highly compensated executives for the Subrecipient's preceding completed fiscal year, if—

i. in the Subrecipient's preceding fiscal year, the Subrecipient received—

(A) 80 percent (80%) or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. Where and when to report. You must report Subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the Subrecipient by November 30 of that year.

(d) Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. Subawards,

and

ii. The total compensation of the five most highly compensated executives of any Subrecipient.

(e) Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 C.F.R. Part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

- ii. A foreign public entity;
  - iii. A domestic or foreign non-profit organization;
  - iv. A domestic or foreign for-profit organization;
  - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. Subrecipient means an entity that:
- i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the Recipient's or Subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):
- i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

5.14. Reporting of Matters Related to Recipient Integrity and Performance. If the total value of the Recipient's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies, including the CDFI ERP Award pursuant to this Assistance Agreement, exceeds \$10,000,000 for any period of time during the Period of Performance, then the Recipient shall report semiannually to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings as described in Appendix XII to the Uniform Requirements (2 C.F.R. Part 200) for the most recent five year period, either to report information about any proceeding(s) not previously reported or affirm that there is no new information to report.

5.15. Reporting of Beneficiary Demographic Data. As further set forth in future guidance, Recipients will be required to report beneficiary demographic data pertaining to borrowers and/or beneficiaries (or end user) as part of their reporting requirements. Recipients will be required to collect and report data on the race of borrowers and/or beneficiaries of the program based on the following categories: (1) American Indian; (2) Alaskan Native; (3) Asian; (4) Black or African American; (5) Native Hawaiian; (6) Other Pacific Islander; (7) White; (8) Multi-Racial; or (9) Other (please specify). Recipients will be required to collect and report data on the ethnicity of borrowers and/or beneficiaries of the program based on the following category: (1) Hispanic or Latino; or (2) Not Hispanic or Latino. Section 523(d) of Authorizing Statute allows a CDFI that receives an CDFI ERP Award to collect such data, notwithstanding any limitations by the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) and without any adverse action related to that collection by the Bureau of Consumer Financial Protection or any other federal agency.

## **ARTICLE VI EVENTS OF NONCOMPLIANCE AND REMEDIES**

6.1 Events of Noncompliance. If any one or more of the following events occurs, the CDFI Fund, in its sole discretion, may find the Recipient to be in noncompliance:

- (a) Fraud, mismanagement or noncompliance with the Act;
- (b) Any representation, covenant, warranty, certification, assurance or any other statement of fact set forth in this Assistance Agreement or the Application including, but not limited to, the Assurances and Certifications contained in the Application, or any representation or warranty set forth in any document, report, certificate, financial statement or instrument now or hereafter furnished in connection with the Assistance Agreement, is found by the CDFI Fund to be inaccurate, false, incomplete or misleading when made, in any material respect;
- (c) A Material Weakness, an audit finding (as described in 2 C.F.R. § 200.516(a) of the Uniform Administrative Requirements), a qualified opinion or any statement in the Recipient's annual audited financial statements that evidences a failure of the Recipient to be financially sound, be managerially sound and/or maintain appropriate internal controls;
- (d) The failure of the Recipient to observe, comply with or perform any term, covenant, agreement or other provision contained in the CDFI Program Regulations (12 C.F.R. Part 1805), the Authorizing Statute, this Assistance Agreement including, but not limited to, the Performance Goals and reporting requirements, or the Application including, but not limited to, the Assurances and Certifications contained therein or any instrument, note or any other document delivered to the CDFI Fund in connection with or pursuant to the Assistance Agreement;
- (e) The failure of the Recipient to conduct its business in the usual and ordinary course or to maintain its corporate existence and right to carry on its business and duly obtain all necessary renewals, licenses and extensions thereof and to maintain, preserve and renew all such rights, powers, privileges and franchises;
- (f) The Recipient's becoming insolvent or unable to meet its obligations as they mature, making a general assignment for the benefit of creditors, or consenting to the appointment of a trustee or a receiver, or admitting in writing its inability to pay its debts as they mature;
- (g) The institution of bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings by or against the Recipient and, if instituted against it, the same being consented to by the Recipient or remaining undismissed for a period of thirty (30) calendar days;
- (h) The occurrence of a Material Event (as defined in Section 5.9 of this Assistance Agreement) to the extent that such event has a material adverse effect on the Recipient, its financial condition or business operations and impairs the Recipient's ability to carry out the Eligible Activities and uses.
- (i) The Appropriate Federal Banking Agency makes an adverse finding regarding the Recipient;

- (j) The failure of the Recipient to fully expend the CDFI ERP Award prior to the end of the Period of Performance; and
- (k) Any finding by the U.S. Treasury Office of Inspector General of fraud, mismanagement, or similar conduct, as interpreted by the CDFI Fund, on the part of the Recipient or any Affiliates, provided such fraud, mismanagement, or similar conduct was performed or overseen by any current key personnel of the Recipient, as set forth in the Application. Such finding does not provide a cure and may require repayment of any CDFI ERP Award that has been distributed to the Recipient pursuant hereto.

6.2 Sanctions. If, after reasonable notice and opportunity for hearing, the CDFI Fund finds the Recipient to be in noncompliance under Section 6.1 herein, the CDFI Fund may, in its sole discretion, take any one or more of the following actions, subject to Section 6.4 herein:

- (a) Require changes in the Recipient's Performance Goals;
- (b) Revoke approval of the Recipient's Application;
- (c) Revoke approval of any other applications submitted to the CDFI Fund by the Recipient under any of the CDFI Fund's programs, and declare such applications to be ineligible;
- (d) Reduce or terminate the CDFI ERP Award authorized hereunder;
- (e) Require repayment of any CDFI ERP Award that has been paid to the Recipient pursuant hereto;
- (f) Render the Recipient ineligible to apply for additional awards from the CDFI Fund through future funding rounds;
- (g) Require the Recipient to convene a meeting(s) of its board of directors at which meeting(s) the CDFI Fund will be given the opportunity to address the attendees with respect to the CDFI Fund's evaluations and concerns regarding the performance of the Recipient under the Assistance Agreement;
- (h) Limit the availability of the CDFI ERP Award to specific uses;
- (i) Take such other actions as the CDFI Fund deems appropriate including, but not limited to, termination of CDFI certification.

The CDFI Fund reserves the right to require the Recipient to repay all or a portion of the CDFI ERP Award if it expends any portion of the Award for an activity that the CDFI Fund determines does not meet the criteria set forth in Section 3.9.

- 6.3 No Waiver. No course of dealing on the part of the CDFI Fund or any delay or failure on the part of the CDFI Fund to exercise any right herein will operate as a waiver of the right or otherwise prejudice the CDFI Fund's rights, powers and remedies under the Authorizing Statute, the Assistance Agreement, the Act, the CDFI Program Regulations (12 C.F.R. Part 1805) or any other applicable law or regulation.
- 6.4 Notice of Noncompliance; Time to Cure. Prior to exercising or imposing any remedy/remedies for noncompliance under section 6.2 herein, the CDFI Fund will provide the Recipient with written notice of the noncompliance and the prescribed remedy/remedies, if any, for noncompliance, provided that the CDFI Fund reserves the right to provide the notice through alternative reasonable means. Unless otherwise specified in the notice, and provided that the CDFI Fund reserves the right to provide hearing through alternative reasonable means, the Recipient shall have up to thirty (30) days from the date of the noncompliance notice to cure the noncompliance. If the Recipient believes that the noncompliance is of such a nature that it cannot be cured within the time set forth in the notice, then the Recipient may, within five (5) days of the date of the notice, request, in writing, additional time to cure the noncompliance. If the CDFI Fund determines, in its sole discretion, that such additional time is necessary, the CDFI Fund may extend the cure period. If the CDFI Fund does not extend the cure period, as outlined above, and the Recipient fails to cure the noncompliance within the thirty-day (or other period specified in the written notice) cure period, the CDFI Fund may, in its sole discretion, impose or exercise the remedy/remedies, if any, for noncompliance set forth in its written notice, and any other remedy for noncompliance to which it might be entitled hereunder, or in law or at equity, within a timeframe set by the CDFI Fund in its sole discretion. Nothing in the Assistance Agreement, however, will create in the Recipient any right to any formal or informal hearing or comparable proceeding not otherwise required by law.

Notwithstanding the foregoing, if the CDFI Fund determines, in its sole discretion, that the Recipient has engaged in fraud, mismanagement, or other prohibited misconduct, or that the noncompliance is of such a nature that it cannot be cured, the CDFI Fund may, in its sole discretion, impose the prescribed remedy/remedies without notice, except as may be required by law.

## **ARTICLE VII MISCELLANEOUS**

- 7.1 Entire Agreement. The Assistance Agreement (including all schedules and amendments hereto) and the Application and the attachments, exhibits, appendices and supplements to the Application, and the Notice of Funds Availability between the Recipient and the CDFI Fund with respect to the obligation of funds necessary to provide the CDFI ERP Award to the Recipient contain the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements or understandings, written or oral, in respect thereof, and no change, modification, or waiver of any provision hereof shall be valid unless in writing and signed by the party to be bound. The Application, including any attachments, exhibits,



appendices and supplements thereto, any attachments, schedules, exhibits, appendices and supplements to the Assistance Agreement are incorporated in and made a part of this Agreement.

- 7.2 Assignment. The Recipient may not assign, pledge or otherwise transfer any rights, benefits or responsibilities of the Recipient under the Assistance Agreement without the prior written consent of the CDFI Fund. In addition, any assignment by the Recipient shall comply, to the extent applicable, with the Assignment of Claims Act, codified at 31 U.S.C. § 3727.
- 7.3 Successors. The rights, benefits and responsibilities of each of the parties to the Assistance Agreement shall inure to their respective successors, subject to this Section 7.3. If the Recipient merges with or is acquired by another entity, the CDFI Fund reserves the right to request information from and examine the new entity and determine its eligibility as a Recipient. If the CDFI Fund determines in its sole discretion that the new entity is not eligible or acceptable as a Recipient, or if the new entity does not agree to comply with all the provisions of the Assistance Agreement and shall continue operations and performance as if there were no interruption in the parties to the Assistance Agreement, the CDFI Fund may terminate the continued provision of CDFI ERP Award under the Assistance Agreement and take any or all remedies it deems appropriate in accordance with Article VI hereof.
- 7.4 Severability. If any provision of the Assistance Agreement shall for any reason be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other provision of the Assistance Agreement, and the Assistance Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.
- 7.5 Applicable Law. The Assistance Agreement shall be governed by and construed in accordance with Federal law to the extent such Federal law is applicable, and to the extent Federal law is not applicable, the Assistance Agreement shall be governed by and construed in accordance with the law of the State of formation of the Recipient.
- 7.6 Disclaimer of Relationships.
- (a) The Recipient shall not be deemed to be an agency, department or instrumentality of the United States merely by virtue of it being a Recipient.
  - (b) Nothing in the Assistance Agreement, nor any act of the CDFI Fund or the Recipient, shall be construed by either of them, or by a third party, to create any relationship of third-party beneficiary, principal and agent, limited or general partner or joint venture, or of any association or relationship involving the CDFI Fund.
  - (c) Notwithstanding any other provision of law, the CDFI Fund shall not be deemed to control the Recipient by reason of any CDFI ERP Award provided hereunder for the purpose of any other applicable law, provided that the CDFI Fund does not own more than fifty percent (50%) of the equity of the Recipient.

- 7.7 Counterparts. The Assistance Agreement may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.
- 7.8 Headings. The headings contained in the Assistance Agreement are for convenience only and shall not affect the meaning or interpretation of the Assistance Agreement.
- 7.9 Amendments.
- (a) The terms of the Assistance Agreement may be amended, modified, or supplemented by the mutual written consent of the parties hereto.
  - (b) If the Recipient proposes to amend the Performance Goals, Annual Report Due Dates, and/or make other change(s) (other than a change to its fiscal year end date), amendment requests must be submitted to the CDFI Fund in writing via a Service Request through the Recipient's AMIS account with all required documentation. The Recipient must include the required justification for the amendment when it submits the amendment request to the CDFI Fund. Amendment requests must be submitted no later than 60 days prior to the proposed effective date of the amendment. Except in emergency circumstances, as determined by the CDFI Fund, the CDFI Fund will not process any amendment request submitted less than 60 days prior to the end of the Period of Performance.
  - (c) The CDFI Fund shall not approve an amendment to extend the Period of Performance solely to allow the Recipient additional time to expend the CDFI ERP Award.
  - (d) Notwithstanding the above, the CDFI Fund may, upon reasonable notice to the Recipient, unilaterally amend the Assistance Agreement for the sole purpose of making ministerial or administrative changes or correcting scrivener's errors.
- 7.10 Survival of Representations and Warranties. All representations, warranties, covenants, and agreements made by the Recipient in the Assistance Agreement or the Application, including, without limitation, all Assurances and Certifications contained in the Application, or in any document, report, certificate, financial statement, note or instrument now or hereafter furnished in connection with the Assistance Agreement shall survive the execution and delivery of the Assistance Agreement and the provision of any CDFI ERP Award pursuant hereto.
- 7.11 Closeout. Unless otherwise mutually agreed upon in writing by the Recipient and the CDFI Fund, the Assistance Agreement shall be closed out pursuant to 2 C.F.R. § 200.344 of the Uniform Requirements when all of the following conditions have been met:
- (a) the CDFI Fund determines that the Recipient has submitted to the CDFI Fund all reports and information required under this Assistance Agreement;
  - (b) the CDFI Fund determines that all CDFI ERP Award provided under the Agreement has been used as authorized by this Assistance Agreement;

- (c) the CDFI Fund determines that the Recipient has met all of the requirements under the Authorizing Statute, the Act, CDFI Program Regulations and Performance Goals in this Assistance Agreement.
- 7.12 Termination. The Assistance Agreement may be terminated in whole or in part by the CDFI Fund, the Recipient, or both parties pursuant to the requirements of 2 C.F.R. § 200.340 of the Uniform Requirements. Termination does not preclude the CDFI Fund from pursuing any debt collections pursuant to Section 6.2 of the Assistance Agreement.
- 7.13 Applicability of Criminal Provisions. The criminal provisions of 18 U.S.C. § 657 regarding embezzlement or misappropriation of funds are applicable to all Recipients and Insiders.
- 7.14 Disclosure of Recipient Reports by CDFI Fund. The CDFI Fund will, consistent with applicable law, make reports described in Schedule 1 hereof available for public inspection after deleting any materials necessary to protect privacy or proprietary interests. However, the Assistance Agreement, including any reports described in Schedule 1, will be subject to disclosure to law enforcement agencies for law enforcement purposes.
- 7.15 Limitation on CDFI Fund and Federal Liability. The liability of the CDFI Fund and the United States Government arising out of the provision of any CDFI ERP Award to the Recipient hereunder shall be limited to the amount of such CDFI ERP Award. The CDFI Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State. Nothing herein is intended or should be construed to affect the application of any Federal tax law.
- 7.16 Compliance with Non-Discrimination Statutes. The Recipient shall comply with all Federal statutes relating to non-discrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Drug Abuse Office and Treatment Act of 1972; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; §§ 523 and 527 of the Public Health Service Act of 1912; and Title VIII of the Civil Rights Act of 1968.
- 7.17 Trafficking in persons.
- (a) **Provisions applicable to a Recipient that is a Private Entity.**
- (i) The Recipient, its employees, Subrecipients under this award, and Subrecipients' employees may not--
- (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - (2) Procure a commercial sex act during the period of time that the award is in effect; or
  - (3) Use forced labor in the performance of the award or subawards under the award.

- (ii) The CDFI Fund as the Federal awarding agency may unilaterally terminate this award, without penalty, if the Recipient or a Subrecipient that is a Private Entity --
  - (1) Is determined to have violated a prohibition in paragraph (a)(1) of this Section; or
  - (2) Has an employee who is determined by the CDFI Fund official authorized to terminate the award to have violated a prohibition in paragraph (a)(1) of this Section through conduct that is either--
    - (A) Associated with performance under this award; or
    - (B) Imputed to the Recipient or the Subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 31 C.F.R. § 19.335.

(b) **Provision applicable to a Recipient other than a Private Entity.** The CDFI Fund as the Federal awarding agency may unilaterally terminate this award, without penalty, if a Subrecipient that is a Private Entity—

- (i) Is determined to have violated an applicable prohibition in paragraph (a)(i) of this Section; or
- (ii) Has an employee who is determined by the CDFI Fund official authorized to terminate the award to have violated an applicable prohibition in paragraph (a)(i) of this Section through conduct that is either--
  - (1) Associated with performance under this award; or
  - (2) Imputed to the Subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 31 C.F.R. § 19.335.

(c) **Provisions applicable to any recipient.**

- (i) The Recipient must inform the CDFI Fund immediately of any information the Recipient receives from any source alleging a violation of a prohibition in paragraph (a)(i) of this Section.
- (ii) The CDFI Fund's right to terminate unilaterally that is described in paragraph (a)(2) or (b) of this Section:
  - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
  - (2) Is in addition to all other remedies for noncompliance that are available to the CDFI Fund under this award.
- (iii) The Recipient must include the requirements of paragraph (a)(1) of this Section in any subaward the Recipient makes to a Private Entity.

(d) **Definitions.** For purposes of this Section:

- (i) “Employee” means either:
  - (1) An individual employed by the Recipient or a Subrecipient who is engaged in the performance of the project or program under this award; or
  - (2) Another person engaged in the performance of the project or program under this award and not compensated by the Recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  
- (ii) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subsection to involuntary servitude, peonage, debt bondage, or slavery.
  
- (iii) “Private entity”:
  - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25.
  - (2) Includes:
    - (A) A non-profit organization, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).
    - (B) A for-profit organization.
  
- (iv) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

7.18 Conflicts of Interest. In accordance with 2 C.F.R. § 200.318 of the Uniform Requirements the Recipient must maintain written standards of conduct covering conflicts of interest and employees engaged in the selection, award and administration of contracts. If the Recipient has a parent, Affiliate, or Subsidiary organization that is not a state, local government, or Indian tribe, the Recipient must also maintain written standards of conduct covering organizational conflicts of interest.

7.19 Change in Key Personnel. If the Recipient replaces its Executive Director, Chief Financial Officer, the Board Chairperson or equivalent leadership official, the Recipient must notify the CDFI Fund in writing via a Material Event Form. The form should be submitted via a Service Request through the Recipient’s AMIS account within 30 days of the occurrence.

7.20 General Procurement Standards. If the Recipient uses the CDFI ERP Award to procure property or services, the Recipient shall comply with the General Procurement Standards as described in the Uniform Requirements at 2 C.F.R. §§ 200.318 – 200.327.

Schedule 3-A

Award No.:

Recipient:

**CERTIFICATE OF GOOD STANDING****Instructions:**

As applicable, a Recipient must provide the CDFI Fund with a Certificate of Good Standing from the Secretary of State for the Recipient's jurisdiction of formation. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must be dated within 180 days prior to the Federal Award Date of the Assistance Agreement. The Recipient is required to attach the certificated in the Award record in AMIS.

Capitalized terms used, but not defined herein, shall have the respective meanings assigned to them in Schedule 2.

**Special information for Recipients who are Regulated Institutions:**

Recipients that are regulated institutions do not have to provide a Certificate of Good Standing.

**Special information for Tribally Incorporated Recipients/ Tribal Recipients:** CDFI ERP Recipients that are federally or state recognized tribes do not have to provide a Certificate of Good Standing.

Tribally Incorporated Recipients. CDFI ERP Recipients who are incorporated by a Tribal Government rather than a state may provide the Certificate of Good Standing from the Tribal Government.

If the Tribal Government does not normally provide a Certificate of Good Standing, the Recipient may provide a letter from the Tribal Government confirming the Recipient is validly incorporated and is in good standing under the laws of the Tribal Government and is registered to conduct business. Offices within the Tribal Government that may be able to provide a letter with this information include: Officer/Secretary of the Tribal Council, Bureau of Indian Affairs Office, Executive Secretary of the Tribe, in house Tribal Legal office, Tribe Finance Office (head of Finance Department), or the Tribal Operations office.