



Date

NAME
TITLE
ENTITY
ADDRESS
CITY, ST ZIP

Subject: Letter of Conditions for a Community Facilities Grant
to [Project Description]

Dear Mr./Ms.-----

This letter, with attachments, establishes conditions that must be understood and agreed to by the applicant before further consideration may be given to the application for assistance under the Community Facilities (CF) Program. Any changes in project cost, source of funds, scope of services, or any other significant changes (this includes significant changes in the applicant's financial condition, operation, organizational structure or executive leadership) in the project or applicant must be reported to and approved by USDA Rural Development by written amendment to this letter. Any change not approved by USDA Rural Development (RD) will be cause for discontinuing processing of the application.

This letter is not to be considered as grant approval or as representation to the availability of funds. The application can be processed on the basis of a RD grant not to exceed \$-----. Funds for this project are provided by the Rural Housing Service (RHS) for the amount, recipient, purpose, and location specified in the applicable Appropriations Act.

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," and Form RD 1940-1, "Request for Obligation of Funds," within the next ten (10) days, if you desire that we give further consideration to your application. The execution of these and all other documents required by RD must be authorized by appropriate resolutions of the applicant's governing body.

The grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds," is mailed by RD.

Rural Development • xxxxxxxx Office
[Address] • [City], [STATE] [zip]
Voice [Telephone #] • Fax [Fax #] • TDD [TDD #]

Project Budget—Based on Standard Form 424, “Application for Federal Assistance,” the project cost and funding will be as follows:

a.	<u>Project Cost</u>	<u>Total</u>	<u>RD Grant</u>	<u>Applicant Injection</u>
	Preliminary Design			
	Design Architectural Fees			
	Project Inspection Fees			
	Additional Architectural			
	Environmental			
	Construction			
	Administrative			
	Legal			
	Bond Counsel Equipment			
	Interest			
	Contingencies			
	TOTAL:	\$	\$	\$
b.	<u>Source of Funds</u>			
	Applicant Injection (cost share)		\$	
	RD Grant			
	[Other?]			
	TOTAL:	\$		

The applicant understands and agrees that no project funds will be expended, or contracts issued for construction activities until all funds necessary for the successful construction and development of the project have been secured. The Agency will not disburse funds for construction or renovation activities until the applicant has secured all remaining project funds. Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the borrower may be necessary.

Section I of the attached conditions (Items 1—11) must be satisfied prior to grant closing or before construction begins, whichever occurs first, in either case not later than twelve (12) months [for construction projects] or six (6) months [non-construction projects] from the date of this letter. **In the event the project has not advanced to the point of construction within twelve (12) months, RD reserves the right to discontinue the processing of the application.**

This Letter of Conditions will require a written approval extending the Letter of Conditions offer after one year from the date of this letter.

In addition to the conditions in Sections I-III, the applicant must fully comply with all requirements on Form RD 3570-3, Community Facilities Grant Agreement. The Agency reserves the right to cancel funds if the applicant does not fully comply with all requirements as presented or subsequently modified, as needed.

If you have any questions, feel free to contact this office.

Sincerely,

Name

Title

cc: Community Programs Director, RD
(Legal Counsel)
(Architect)

ATTACHMENT TO LETTER OF CONDITIONS

SECTION I. CONDITIONS TO BE SATISFIED PRIOR TO GRANT CLOSING OR BEFORE CONSTRUCTION BEGINS, WHICHEVER OCCURS FIRST

1. **Certifications Required for Obligation (if applicable)** – RD has identified the following documents which must be executed prior to obligation:
 - a. Form SF-LLL, “Disclosure Form to Report Lobbying,” if applicable, link available here: <https://www.grants.gov/forms/sf-424-family.html>.
2. **Disbursement of Funds**
 - a. The applicant will provide evidence that funds from other sources will be made available for the project cost in the amount of \$------. This evidence should include a copy of the loan/grant award that addresses how funds will be disbursed. The Agency will not disburse funds until all project funding sources have been secured. The applicant may request an exception if this requirement impedes the applicant’s ability to carryout the project specified in the applicable appropriations bill.
 - b. The applicant’s contribution of funds toward the project cost shall be considered the first funds expended except (insert appropriate exceptions if funds from other sources make an exception necessary) and must be deposited in its project account before construction is started. Evidence of this deposit will be required unless express written exception is approved by the Agency.
 - c. Agency funds will not be used to pre-finance funds committed to the project from other sources.
3. **Security Requirements**
 - a. The applicant will be required to complete and execute Form RD 3570-3, “Community Facilities Grant Agreement” before grant funds are disbursed.
 - b. Prior to any disbursement of funds, a Notice of Federal Interest must be recorded in the official real property records for the jurisdiction where the facility is or will be located. The applicant must provide evidence of the recording. Federal interest cannot be defeated by a grantee’s failure to file a Notice of Federal Interest. (include this condition if grant funds are used to improve real estate)
 - c. The Notice of Federal Interest will remain recorded on the secured property after the loan is paid in full. (only include if loan funds are involved)

-
- d. The grantee understands that any property improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 as adopted by RD through 2 CFR part 400 in effect at this time and as may be subsequently modified.
 - e. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation in the project as provided by 2 CFR part 200 as adopted by RD through 2 CFR part 400 in effect at this time and as may be subsequently modified.
 - f. In accordance with 2 CFR 200.330, the grantee understands that it must submit regular reports on the status of real property in which the Federal Government retains an interest. Reports shall be submitted annually for the first three years of the award and every five years thereafter on SF-429 Real Property Status Report, or similar format.
4. **Insurance and Bonding Requirements (Construction Projects Only)**—The applicant must provide evidence of adequate fidelity bond insurance by grant closing or start of construction, whichever occurs first. Adequate coverage, in accordance with RD's regulations, must then be maintained for the life of the grant. It is the responsibility of the applicant and not that of RD to assure that adequate insurance and fidelity bond coverage is maintained. Applicants are encouraged to review coverage amounts and deductible provisions with their attorney, consulting architect, and/or insurance provider(s). Proof of the following is required:
- a. Property Insurance—Fire and extended coverage will be required on all above-ground structures, including applicant-owned equipment and machinery housed therein. .
 - b. Workers' Compensation Insurance—The applicant will be required to carry workers' compensation insurance for all employees in accordance with state law.
 - c. General liability and vehicular coverage must be maintained.
 - d. National Flood Insurance (if applicable)—If the project involves construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy at the time of closing.
 - e. Earthquake Insurance (if applicable)—If the project involves construction in earthquake prone areas, you must purchase an earthquake insurance policy at the time of loan closing.
5. **Civil Rights & Equal Opportunity**— The grantee has received an award of Federal funding and is required to comply with U.S. statutory and public policy requirements, including but not limited to:

-
- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance. The Standard for compliance is the Architectural Barriers Act Accessibility Standards (ABAAS).
 - b. **Civil Rights Act of 1964** – All recipients are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
 - c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
 - d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - e. **Title IX of the Education Amendments of 1972** (for education facilities only)—Title IX (20 U.S.C. §1681 et seq.) prohibits discrimination on the basis of sex in any Federally funded education program or activity. Title IX applies, with a few specific exceptions, to all aspects of Federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of Federal financial assistance.
 - f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact OGC, as appropriate.
 - g. Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. The recipient must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor the recipient's compliance with these requirements during regular compliance reviews.
 - h. The applicant is subject to a post-grant closing civil rights compliance review by utilizing Form RD 400-8, "Compliance Review."

-
- i. As a recipient of RD funding, you are required to post a copy of the Non-Discrimination Statement listed below in your office and include in full, on all materials produced for public information, public education, and public distribution both print and non-print.

Non-Discrimination Statement

“This institution is an equal opportunity provider and employer.”

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

If the material is too small to permit the full statement to be included, the material at a minimum includes the statement in print size no smaller than the text that “This institution is an equal opportunity provider and employer.”

5. **PROCUREMENT**

- a. All procurement transactions connected to this project, regardless of whether by negotiations or by sealed bids and without regard to dollar value shall be conducted in a manner that provides maximum open and free competition in compliance with but not limited to 7 CFR 1942.18 (j)(2) and 2 CF 200.

6. **Written Agreements for Professional Services (if applicable)**

- a. The bond counsel services agreement submitted by (Bond Counsel) is satisfactory to RD.
- b. The legal service agreement submitted by (Legal Representative) is satisfactory to RD.
- c. An Agreement for Architectural Services with (Architect) will have to be approved by RD.
- d. For Design/Build, or any other Alternative construction method, prior approval is required by the Agency.
- e. For Design/Build Projects/ and other Alternative Methods – Agreement for Project Manager Services require prior approval by RD.
- f. Proposal which may include management agreements will require the minimum requirements of 1942- A, Guide 24.

7. **Land and Rights-of-Way (if applicable)** —The applicant must present satisfactory evidence that they have obtained, or can obtain, any and all lands, rights-of-way, easements, permits and franchises which are required by the architectural plan.

Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation and Real Property Acquisition Act. The following forms may be used for these purposes:

- a. Form RD 442-20, "Right-of-Way Easement"
 - b. Form RD 442-21, "Right-of-Way Certificate" (with map attached)
 - c. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way"
8. **Permits (if applicable)** —All permits involving Federal, State, and local agencies must be obtained and evidence thereof provided to RD prior to bidding. (For Design/Build Projects/Alternative Method - All permits involving Federal, State, and local agencies must be obtained and evidence thereof provided to RD prior to the start of the construction phase of the project.)
9. **Environmental Reviews**— The project as proposed has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and or permits may apply or be required. During any stage of project development, including construction, should environmental issues develop which require mitigation measures, RD applicants are required to notify RD and comply with such mitigation measures. Failure by an applicant to implement mitigation measures may disqualify the project from Agency funding. Mitigation measures identified or prepared as part of the NEPA environmental process must be implemented. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required. [At the conclusion of the proposal's environmental review process, specific action(s) were determined necessary to avoid or minimize adverse environmental impacts. As outlined in the Environmental Report dated [Month] [Day], [Year], the following [action is / actions are] required for successful completion of the project and must be adhered to during project design and construction:]
(Insert mitigation measure requirements from environmental report or assessment)
10. **Architectural and Construction (if applicable)**
- a. RD must approve any agreements or modifications to agreements for professional planning and design services. AIA Document "Standard Form of Agreement Between owner and Architect," may be used when appropriate or other Agency approved forms of agreement
 - b. All construction will be completed under contract. The planning, bidding, contracting, and construction must comply with 7 CFR 1942.9, 1942.18, and any additional requirements of state law and the requirements of other County, State, or Federal agencies.

- c. The following must be reviewed and approved by RD in the sequence indicated:
 - i. Agreement for Architectural Services
 - ii. Final Plans and Specifications for the project
 - iii. Draft/Construction Bid Documents, prior to Going Out to Bid
 - iv. Bid Award Information
 - v. Executed Contract Documents - Contracts are required to be an AIA contract or RD Guide 17. Any other proposed contract will be required to be submitted to the Agency's Office of General Counsel for review and concurrence. All contracts will include RD Guides 18, Guide 19 and Guide 27.
- d. Affirmative steps should be taken to assure that small, minority and/or women-owned businesses are utilized as source of supplies, equipment, construction, and services.
- e. The Plans & Specifications must be reviewed and approved, when applicable, by any regulatory or other agencies that are required to review these documents.
- f. A representative of RD will attend all pre-construction conferences in connection with this project. These conferences must be held prior to the Agency's concurrence to issue the Notice to Proceed to the contractors. The applicant's architect will conduct the conference and document the discussions and agreements. The conference will thoroughly cover applicable items included in Form RD 1924-16, Record of Preconstruction Conference, and the discussion and agreements will be documented. RD Form 1924-16, or acceptable alternative, will be utilized ensuring all RD requirements are included.
- g. Any and all contracts for professional and technical services that the applicant enters into with third parties for the project, including but not limited to, owner's representative, legal, project management, inspection, management agreements, etc. must be reviewed and approved by the Agency and the Office of General Counsel. All contracts must comply with the contract provisions per 7 CFR 1942.18(n). If any contract does not meet the Agency's requirements, the contract will be amended to incorporate such requirements or the contract will not be accepted by the Agency.

For Design-Build Projects:

- a. The applicant is proposing a Design-Build procurement which must be approved by this Agency's National Office. The applicant will provide the required information needed to be submitted for concurrence to the Design-Build procurement method. Please see the attached Design/Build Concurrence Checklist.
- b. The applicant must retain a qualified Construction Project Manager who is independent of the Contractor/Design-Build firm. Credentials of the candidate must

-
- be submitted to the Agency for evaluation and concurrence prior to executing an agreement.
- c. All development will be completed by contract. The planning, bidding, contracting, and construction must comply with 7 CFR 1942, Subpart A, and any additional requirements of the State's law and the requirements of other County, State, or Federal agencies.
 - d. If approved for the Design-Build procurement method, the applicant's construction budget will be noted in the RFP documents to set parameters for a Guaranteed Maximum Price (GMP) agreement to be awarded through an open and free solicitation process. The GMP will be established no later than at the completion of the Design Development stage.
 - e. The following must be reviewed and approved by RD in the sequence indicated:
 - i. Preliminary Architectural Report
 - ii. Agreement for Architectural Services/Agreement for Project Manager Design-Build Procurement Method—Checklist Items
 - iii. Request for Qualifications (RFQ)
 - iv. RFQ Short List
 - v. Request For Proposals (RFP)
 - vi. Recommendation of Award
 - vii. Executed Contract Documents – Contracts are required to be an AIA contract or RD Guide 17. Any other proposed contract will be required to be submitted to the Agency for review and concurrence. All contracts will include RD Guides 18, Guide 19 and Guide 27.
 - viii. Final Plans and Specifications for the project
 - f. **BUILD AMERICA, BUY AMERICA ACT (BABAA)** (include if applicable following assessment of entity and project consideration of current agency-wide public interest waivers, see Implementation Guide, Attachment A)

The recipient must comply with the provisions of the Build America, Buy America Act (the "Act"). Pub. L. No. 117-58, §§ 70901-52, enacted on November 15, 2021. The Act requires that "none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- b. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and

the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

- c. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

The BABAA requirement applies to the entirety of an infrastructure project, even if only a portion of the project is funded by Federal funds. The requirement applies to each product, manufactured good, or construction material incorporated in the project.

11.1. **Definitions (as applied in this condition only)**

Construction Materials—include an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

Domestic Content Procurement Preference—means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

Infrastructure—includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure also includes structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle (EV) charging stations. “Infrastructure” has a broad interpretation, and the definition provided is illustrative and not exhaustive.

Manufactured Product—Items assembled out of components, or otherwise made or processed from raw materials into finished products. Manufactured products must be manufactured (assembled) in the United States, and the cost of components that were

mined, produced, or manufactured in the United States must be greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

Manufacturer's Certification—Documentation provided by a manufacturer, certifying that the items provided by manufacturer meet the domestic preference requirements of the Act.

Project—means the construction, alteration, maintenance, or repair of infrastructure in the United States.

11.2. Compliance

The recipient must comply with the provisions of the Build America, Buy America Act (BABAA). Pub. L. No. 117-58, §§ 70901-52, enacted on November 15, 2021. By accepting these conditions, the recipient attests that they or their designee(s) will maintain documentation for BABAA provisions to indicate compliance.

Minimum records include certifications from manufacturers, the architect/engineers, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR)/ Resident Inspector (RI). Documentation must be available and reviewable upon request.

11.3. Evidence Standards

Manufacturers

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative. The manufacturer may submit a letter on letterhead or provide other evidence acceptable to the Agency.

Architects and Engineers (A/E)

The need to comply with BABAA will be spelled out in agreements for A/E services, construction contracts, and procurement contracts. Generally, the A/E contract will include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the recipient upon substantial completion of the project. The architect or engineer should certify in writing to the completeness and accuracy of the manufacturers' certifications.

Resident project representative (RPR) / Resident inspector (RI)

As part of their duties, RPR/RI will be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They will photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

Contractors

The construction contract(s) will include a requirement to procure and install only items that comply with BABAA or are subject to a waiver approved by the Secretary of Agriculture or designee. The contractors are to provide manufacturers' certifications for all BABAA compliant items to the architect/engineer no later than with applications for payment. At substantial completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided to the architect/engineer.

11.4. Obtaining Waivers under the BABA Act

The Secretary of Agriculture or a designee may grant waivers to the procurement requirements under the following conditions:

- (1) *Nonavailability*. The Secretary of Agriculture or delegate determines that the iron, steel or relevant manufactured goods or construction materials are not produced or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (2) *Unreasonable cost*. The Secretary of Agriculture or delegate determines that the inclusion of domestic iron, steel, or relevant manufactured goods will increase the cost of the overall project by more than 25%.
- (3) *Inconsistent with public interest*. The Secretary of Agriculture or delegate determines that the application of these restrictions would be inconsistent with the public interest.

11.5. BABAA Waivers for Rural Development

A waiver of the domestic procurement requirement for a specific product in a specific infrastructure project may be obtained upon a satisfactory showing of evidence that the waiver is warranted by a recipient and a recommendation by the Agency. Waivers of the procurement requirement are granted by the Secretary of Agriculture or by a designee of the Secretary. The requirements are posted publicly at the USDA OCFO website: USDA Buy America Waivers for Federal Financial Assistance | USDA located at <https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>

Before submitting a request for waiver, recipient should determine whether they qualify for agency-wide public interest waivers that have already been approved by USDA. One such public interest waiver is referred to as the “*De Minimis*, Small Grants, and Minor Components” waiver, which has three parts. *De Minimis* is intended to prevent restrictions on the procurement of materials and products that represent a small portion of an infrastructure project, specifically no more than 5% of the project costs up to a maximum of \$1,000,000, from hindering the overall project. *Small Grants* exempts projects below the Federal Simplified Acquisition Threshold of \$250,000 (the grant section also applies to small loans and loan guarantees). The *Minor Components* provision of the waiver exempts miscellaneous components of iron and steel that make up no more than 5% of the total cost of an iron or steel product used in a project.

12. **Electronic Funds Transfer**—All grant funds will be transferred to grantees via Electronic Funds Transfer/Automated Clearinghouse Systems (EFT/ACH). Normal transfers will be ACH, with money being placed in the grantees account two business days after the RD processing office approves the pay request. The applicant must submit the Electronic Funds Transfer Form containing the banking (ACH) information to the RD Servicing Office at least 45 days prior to the date of grant closing. Failure to do so could delay grant closing.

SECTION II. GRANT CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

1. **Disbursement of Grant Funds**—RD funds will be disbursed as they are needed in the amount(s) necessary to cover the RD proportionate share of obligation due and payable to the Grantee.
2. **Inspections**— A full-time resident inspector/project manager is required during construction unless a written exception is made by the Agency upon your written request. This service is to be provided by the consulting architect or other arrangements as approved by the Agency. Prior to the pre-construction conference, a resume of qualifications of the resident inspector(s) will be submitted to the owner and Agency for review and approval. The owner will provide a letter of acceptance for all proposed observers to the architect and Agency. The inspection reports must be available to RD for review at any time. These reports must be kept at the project site or borrower's office, if nearby. At a minimum, Guide 11, Daily Inspection Report, will be completed and will include pictures, number and classification of personnel working on the site, equipment being used to perform work, accounts of substantive discussions, instructions given to the contractors, directions received, all significant or unusual happenings involving the work, and delays, and daily work accomplished in accordance with 1942 – A, 1942.18 (o)(4). A similar format may be approved by the Agency prior to the Pre-Construction conference.
3. **Monthly Reporting**— The applicant must monitor and provide a monthly report to RD on actual performance for each project financed, or to be financed, in whole or in part with RD funds. For construction projects include Forms RD 1924-18, “Partial Payment Estimate”; RD 1924-7, “Contract Change Order”; SF-271, “Outlay Report and Request for Reimbursement for Construction Programs”; and RD 1942-A, Guide 11 (or similar) Project Daily Inspection Reports.
4. **Monthly Payment Applications**

For construction projects, the pay application submitted to the Agency will include:

- a. The SF-271, “Outlay Report and Request for Reimbursement for Construction Programs” and will track all projects costs and sources of funds and will be signed by the owner.
- b. Form RD 1924-18, “Partial Payment Estimate” will be fully executed by all required parties (contractor, architect, and owner) before sending to the Agency. The contractor may supplement Form RD 1924-18, “Partial Payment Estimate” with the AIA G702 and G703 documents.
- c. c. All required supporting documentation, including but not limited to, invoices, proof of payment, conditional and unconditional lien releases, etc. must be provided with the pay application. The complete pay application will be submitted to the Agency

last, meaning after all applicable parties have reviewed and certified with their signature the payment application to be true and correct.

For non-construction projects, the pay application submitted to the Agency will include:

- a. The SF-270, "Request for Advance or Reimbursement" and will track all project costs and sources of funds and will be signed by the owner.
- b. All required backup to support the pay application request including but not limited to, invoices, proof of payment, etc. must be provided with the pay application.

A pay application may only request payment on a change order that has been approved by the Agency using Form RD 1924-7, "Contract Change Order" or other Agency approved format. Meaning all signatures, including the Agency's, must be on the form prior to the owner requesting reimbursement for that change order. If payment on a change order is prematurely requested, the entire pay application will be returned.

If interim financing is involved, the interim lender is required to review and approve all pay applications typically prior to the owner submitting the pay application to the Agency for approval.

5. **Final Inspection**—A final inspection will be made by RD on the component RD is financing before final payment is made.
6. **Excess Funds**—Any remaining funds must be utilized for approved purposes within 60 days following the final inspection or the funds will be canceled without further notification from RD.

SECTION III. GRANT CONDITIONS TO BE SATISFIED AFTER PROJECT COMPLETION

1. **Financial Statements**—To be submitted on an annual basis in accordance with the following:
 - a. 2 CFR Part 200, Subpart F establishes audit requirements that borrowers and grantees must follow. Borrowers and grantees who expend \$1,000,000 or more in Federal awards in their fiscal year, have CF loan balances totaling \$1,000,000 or more, or a combination of the two must submit an audit in accordance with 2 CFR 200, Subpart F.

Federal funds expended during a borrowers fiscal year: 2 CFR Part 200, Subpart F requires a borrower that expends \$1,000,000 or more in Federal awards in their fiscal year to submit a single or program-specific audit. A CF direct loan, guaranteed loan, and/or grant, or any combination thereof, are considered Federal awards.

Grantees: Grantees that expend \$1,000,000 or more in a year in Federal awards must have an audit conducted in accordance with 2 CFR Part 200, Subpart F except when the grantee elects to have a program specific audit conducted.

Prior loan and loan guarantees: 2 CFR Part 200, §200.502(b) establishes the basis for including loan and loan guarantees (loans) on the Schedule of Expenditures of Federal Awards (SEFA). The value of new loans made or received during the audit period plus the beginning of the audit period balance of loans from previous years for which the Federal Government imposes continuing compliance requirements must be reported on the SEFA. CF Program loans require its borrowers to meet continuing compliance requirements. Continuing compliance requirements that CF borrowers must meet include, but are not limited to, funding reserves, maintaining insurance, deposit funds in Federally insured banks, meet financial covenants, maintain sufficient debt service ratios, comply with civil rights requirements, and comply with additional requirements established as part of the loan approval process.

Borrowers and grantees must submit audits within nine months from the end of the borrower's fiscal year or 30 days after receipt from the auditor, whichever is earlier. The audited financial statements must be submitted to the Federal Audit Clearinghouse.

- b. All borrowers exempt from the audit requirements cited in 1(a) above, and who do not otherwise have annual audits, will within 60 days following the end of the borrower's fiscal year furnish RD with annual financial statements, consisting of a verification of the organizations, balance sheet and statement of income and expenses.

Grantees exempt from the audit requirements cited in 1(a) above, and who do not otherwise have annual audits, will within 60 days following the end of the fiscal year

in which any grant funds were expended furnish RD with annual financial statements consisting of a verification of the organizations, balance sheet and statement of income and expenses.

The grantee may use Forms RD 442-2 “Statement of Budget, Income and Equity” and 442-3 “Balance Sheet”, or similar format to provide the financial information.

2. **Audit agreement**—If you are required to obtain the services of a licensed Certified Public Accountant (CPA), you must enter into a written audit agreement with the auditor. The audit agreement may include terms and conditions that you and auditor deem appropriate.