



MEMORANDUM

AGENDA ITEM #III.E

DATE: MAY 19, 2025

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: SFRPC REVOLVING LOAN FUND PLAN 2025 - 2030 / RESOLUTION 25-02

Please find herewith the SFRPC Revolving Loan Fund Plan for 2025 – 2030 (RLF Plan) and Resolution 25-02. The RLF Plan addresses the SFRPC Revolving Loan Fund Strategy and Operational Procedures.

Council staff requests the adoption of Resolution 25-02 approving the RLF Plan for final submittal to the U.S. Economic Development Administration (EDA). The RLF Plan has been reviewed and pre-approved by the EDA.

Recommendation

Adopt Resolution 25-02 confirming adoption of the SFRPC Revolving Loan Fund Plan for 2025 – 2030.



South Florida Regional Planning Council
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RESOLUTION 25-02

A RESOLUTION OF THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL REPRESENTING THE LOCAL GOVERNMENTS OF MONROE, MIAMI-DADE, AND BROWARD COUNTIES; ADOPTING THE UPDATED ECONOMIC DEVELOPMENT ADMINISTRATION REVOLVING LOAN FUND 5-YEAR PLAN FOR 2025 – 2030 DATED MAY 19, 2025; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the South Florida Regional Planning Council's three-county region is comprised of Monroe, Miami-Dade, and Broward counties, 67 municipalities contained therein, with more than 4.3 million residents; and

WHEREAS, the Council is a multi-purpose regional governmental entity with policy responsibilities including the areas of economic development, affordable housing, emergency preparedness, military installation readiness, data research and analysis, intergovernmental coordination and collaboration, and regional transportation; and

WHEREAS, the U.S. Economic Development Administration requires the Council to adopt a Revolving Loan Fund Plan every five years.

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL THAT:

Section 1. The South Florida Regional Planning Council has reviewed and adopted the U.S. Economic Development Administration Revolving Loan Fund Plan for 2025 – 2030 (Grant Award # 04-79-07544).

Section 2. This resolution shall take effect immediately upon adoption.

DULY ADOPTED by the South Florida Regional Planning Council this 19th day of May 2025.

The Honorable Michelle Lincoln
Chair

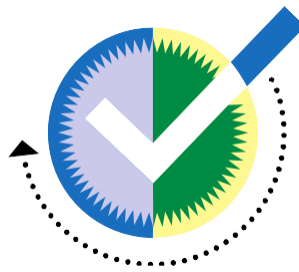
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South Florida Regional Planning Council



ECONOMIC DEVELOPMENT

ADMINISTRATION REVOLVING LOAN FUND

Revolving Loan Fund Plan

May 19, 2025

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SECTION 1: REVOLVING LOAN FUND STRATEGY

Name of Organization.

South Florida Regional Planning Council (SFRPC)

website address: www.sfregionalcouncil.org

List of Counties Comprising the Lending Territory:

Palm Beach, Broward, Miami-Dade and Monroe Counties.

Executive Summary of South Florida's Comprehensive Economic Development Strategy 2024 Annual Progress Report - (2022-2027)

The South Florida Regional Planning Council (SFRPC) is the U.S. Department of Commerce Economic Development Administration's designated Economic Development District (EDD) for South Florida. The Economic Development District service area is Monroe, Miami-Dade, and Broward counties where the Council helps lead a locally based, regionally driven economic development process. The Council works with local government, public, private, non-profit, and philanthropic partners to provide information, technical assistance, and support and lead regional economic development efforts.

The 2024 Annual Update Report for the South Florida Comprehensive Economic Development Strategy (CEDS) provides a detailed assessment of the region's economic recovery, emerging challenges, and the ongoing pursuit of long-term goals, particularly in the context of economic resilience and equity. South Florida's economy has made significant progress since the 2022 CEDS adoption, but there remain critical areas requiring attention, including infrastructure, housing affordability, and workforce training.

Key Economic Highlights:

1. **Employment Growth:** South Florida has outperformed both state and national averages in job creation, with major gains in Leisure and Hospitality (adding over 40,000 jobs) and Professional and Business Services (17,000 jobs). Unemployment rates have decreased significantly across the region, with Miami-Dade showing the strongest recovery, dropping by 2.5 percentage points to 5.6%.
2. **Sector-Specific Trends:** The information, Professional Services, and Manufacturing sectors have seen robust growth, reflecting post-pandemic recovery and labor demand. Meanwhile, the Education and Health Services sectors continue to lag behind, with under 1% growth across the region in 2022.
3. **Workforce Challenges:** A tightening labor market has increased pressure on employers to offer better wages and benefits, but labor force participation rates remain below pre-pandemic levels. The region is also facing a skills gap, particularly in high-demand industries such as information technology and healthcare, which presents an ongoing challenge.

4. **Housing and Infrastructure:** Housing affordability is a critical issue, with Monroe County seeing median home prices exceeding \$1.3 million, and similar upward trends in Palm Beach, Miami-Dade, and Broward counties. Additionally, transportation inefficiencies- exemplified by the Miami metropolitan area's high traffic congestion- are costing the region approximately \$3.1 billion annually. These challenges underscore the need for strategic investment in both housing and transit infrastructure.
5. **Population Dynamics:** South Florida's population growth has shown signs of recovery following pandemic-related declines. However, Miami-Dade's reliance on international migration has slowed its population rebound compared to Broward and Palm Beach counties, which have benefited from domestic in-migration. Monroe County's population growth has been stronger, driven by its tourism-dependent economy.

Key Correlations:

- **Employment and Infrastructure:** There is a notable correlation between job growth and the region's infrastructure challenges. As employment increases, so does the strain on the region's transportation networks, amplifying traffic congestion and economic losses.
- **Housing and Economic Inequality:** The rise in housing prices, particularly in Monroe County, correlates with increasing economic inequality in the region. Lower-income and middle-class residents are increasingly priced out of homeownership, particularly in high-demand areas.
- **Sector Growth and Workforce Training:** Strong sector-specific growth in Professional Services, Information, and Manufacturing has revealed a widening skills gap. The labor force has not been able to keep pace with demand in these industries, highlighting the need for improved workforce development programs.

Forecast for South Florida Economic Conditions (2024-2026):

Over the next two years, South Florida is likely to experience continued economic growth, but the pace may slow due to several structural challenges:

1. **Labor Market:** South Florida will likely continue to face workforce shortages, especially in high-skill sectors. Efforts to address the skills gap through training and education will be critical for sustaining job growth.
2. **Housing Market:** Housing affordability will remain a significant issue, particularly in Monroe County and Miami-Dade. Without substantial interventions, rising home prices will contribute to ongoing displacement and exacerbate inequality.
3. **Infrastructure Development:** While employment and business activity will continue to grow, transportation inefficiencies and congestion could act as a brake on economic growth. Investment in transit infrastructure will be essential to support the region's expansion.
4. **Sector Outlook:** The Leisure and Hospitality sector is expected to remain a pillar of job growth, but other sectors like information, Professional Services, and Manufacturing will likely see stronger gains as the economy diversifies. However, lingering supply chain

disruptions and workforce constraints may temper the speed of recovery in industries such as construction and retail.

Evaluation of Progress on Action Plan and Goals:

South Florida's economy and its many economic development stakeholders made progress in meeting the Goals of the South Florida Economic Development District CEDS.

- **Priority Goal 1:** Cultivate a competitive economy and foster economic mobility
- **Priority Goal 2:** Create vibrant and connected places to increase the overall quality of life
- **Priority Goal 3:** Design, Construct and Maintain resilient infrastructure to support sustainable business and population growth

Minority-Owned Small Business Lending Needs Analysis

Small business lending in South Florida topped the \$2.55 billion mark for the fiscal year 2024, according to the Small Business Administration. The office, which serves 24 counties south of Orlando, led the country's 68 SBA districts for the second year in a row in both the volume of loans approved and the dollar amount disbursed. Loans range from \$5,000 to \$5 million under the SBA's flagship programs – the 7(a), 504 and microloan programs. The South Florida office reported a 25% increase in loan approvals from fiscal year 2023, when 3,866 loans were granted. It also posted 26% growth in overall loan amounts.

TD Bank led the South Florida region in SBA 7(a) loan funding approval, with 628 loans totaling \$87 million and a median loan size of \$55,000 this fiscal year. Newtek Bank followed with 400 loans, but with a higher total loan value of \$205.3 million and a median financing of \$225,000. Florida Business Development Corp. funded the most SBA 504 loans in South Florida, with 233 approvals totaling \$224.4 million and a median loan size of \$608,000. It was followed by Florida First Capital Finance Corp. which financed 197 loans totaling \$254.7 million with a median credit size of \$763,000. Ascendus was the SBA's top Microloan lender in South Florida with 46 loans, totaling \$1.6 million.

However, small minority-owned businesses continue to face considerable challenges accessing small business loans in South Florida. Economic headwinds have made it more difficult for small minority-owned businesses to secure credit in 2024. Many small businesses are facing constrained access to capital due to rising interest rates and tightening credit markets. The FDIC's Small Business Lending Survey found that "nearly 70% of traditional banks reported a decline in minority-owned small business loan demand in the first half of 2024," attributing the decrease to higher borrowing costs and concerns about the economic outlook. Inflation and economic uncertainty have also impacted lending activity with broadly tightening credit conditions leading traditional banks to implement more caution lending strategies. As a result, small businesses are seeking alternative sources of financing or delaying capital investments altogether, creating a ripple effect throughout the broader economy. According to Forbes, six in ten small minority-owned businesses found it difficult to find affordable financing and overall 77% were concerned about access to capital. The challenge is not simply access to credit, it's access to affordable

credit. One of the many long-standing frustrations for minorities is that their vital role in the U.S. economy hasn't made it much easier for them to obtain the means for success. Between 2007 and 2018, minority-owned small businesses grew by 79 percent, about 10 times faster than the overall growth rate for U.S. small businesses during the same time frame. This equates the number of minority-owned businesses at approximately \$11.1 million, reflecting a trend for the U.S. to become a minority-majority country between 2040 and 2050.

But, despite leading a significant portion of the nation's businesses, minority-owned firms are still having a harder time accessing small business loans. Minority-owned firms are less likely to be approved for small business loans than non-minority owned firms. And, even if they do get approved, minority-owned firms are more likely to receive lower amounts and higher interest rates. According to findings from the U.S. Department of Commerce Minority Business Development Agency, these discrepancies have made minority business owners more likely to not apply for small business loans, usually out of fear of rejection. A few reasons why it's particularly difficult for minority business owners to obtain small business funding is due to lower net worth, business location, and poor or little credit history.

It seems that the most common reason minority-owned firms are rejected for small business loans is a lower net worth and/or lack of assets. Wealth levels for Latinos, African Americans and Native Americans are reportedly 11 to 16 times lower than for non-minorities. Data recorded in 2023 found that non-minority business owners start their businesses with an average of \$107,000 in working capital compared to average minority-owned businesses, which are started with an average of \$35,000. Banks are traditionally biased against applicants with less money to spare, partially because such applicants probably cannot offer collateral. The lower net worth of minority business owners suggests that they are less likely to own homes or other expensive assets the bank can sell if the applicant cannot pay off the debt. A lack of collateral or higher net worth often makes the bank worried about being paid back. The banks are only willing to distribute small business loans that must be paid back as quickly and are therefore insufficient for fostering significant growth.

Another major factor in the approval rating of small business loans for minorities is the location of the business. A great deal of minority-owned businesses are in poorer, urbanized communities. Research from the Small Business Administration suggests that the location of a business plays a bigger role in the approval of a loan than the ethnicity of the business owner. Poorer communities need small businesses to bolster their economies, but big banks do not typically craft their business funding programs with long-term goals in mind.

The average small minority business owner has a credit score of about 700 which is approximately 15 points lower than the average small business owner in the U.S. A nearly perfect credit score is basically mandatory for the most advantageous bank loans, even though there are numerous plausible explanations as to why an otherwise responsible and dedicated business owner would have poor or very little credit history. Still, credit score is arguably just as important as the business' performance record when it comes to securing a bank loan.

Thankfully, alternative programs such as the South Florida Regional Planning Council's Revolving Loan Fund are available. They not only look at credit but also look at the time in business, industry, location, cash flow, daily and monthly ending bank balances in the business accounts, number of staff, leases and receivables in order to maximize the opportunities for all small business owners to access capital.

Business Development Objectives

The goal of the SFRPC ("The Recipient") EDA Revolving Loan Fund ("The RLF") Program is to support economic activities which result in the creation or retention of jobs, additional wealth, higher wages, and a better quality of life in the region. Presented in no particular order, these business development objectives include, but are not limited to:

1. Small business development, including the start-up or expansion of locally owned businesses to encourage entrepreneurship and innovation;
2. Development of businesses owned and operated by minorities, women, and members of other disadvantaged groups;
3. Assist in the completion and/or successful operation of qualified projects; and
4. Provide financing to businesses for which credit or favorable loan terms are not otherwise available.

Some project examples that support these objectives are as follows:

- a. Retention of existing commercial, manufacturing, agriculture and service industry jobs;
- b. Re-development of blighted land and vacant facilities for productive use;
- c. Modernization and rehabilitation of existing industrial or manufacturing facilities;
- d. Support for the use of new technologies and growth industries;
- e. Support for public and private projects that promote economic development and job creation/retention;
- f. Projects that enhance local and regional economic development;
- g. Rehabilitation of older structures;
- h. Construction of new facilities that accommodate industry;
- i. Projects that encourage and support satellite industries necessary for major industry location or expansion; and
- j. Projects that provide quality employment in order to increase per capita income.

RLF Financing Strategy

Any business owner, regardless of ethnic or racial background, can apply for a small/medium size business loan commercially operating in the SFRPC lending region. Additionally, the RLF financing strategy also seeks to provide capital assistance support to qualified operating businesses that target underserved markets in the region.

The SFRPC actively promotes and markets its program through a collaboration of existing

coalition partners that serves the region. These partners are the Treasure Coast Regional Planning Council (TCRPC), Greater For Lauderdale Alliance, Miami-Dade Beacon Council, the Business Development Board of Palm Beach County, the Greater Marathon Chamber of Commerce, and the Florida Small Business Development Center (SBDC). The coalition assists with outreach to identify small/medium size businesses that support the comprehensive economic development strategy. A highlight of such industries and activities include local businesses in the medical field, home health care, food suppliers, manufacturers, contractors, laundry facilities, education, professional services, housing services, and transportation operators. Initial small business assessments will be able to be completed by any coalition partner assisted by the SFRPC to determine and access financial, resiliency and target market needs. As RLF funding is focused on helping sustain integral small businesses long-term in the region. The SFRPC's administrative team help assess and incorporate a long-term financial strategy for small businesses to help achieve long term operational sustainability to support the region. The SFRPC's administrative team adheres to existing RLF plan underwriting guidelines to determine applicable loan amounts and parameters for long-term operational success of small businesses that serve our markets.

The RLF financing strategy also includes financial assessments of vital and essential South Florida small businesses to evaluate financial and resiliency capacity with the focus on maintaining ongoing operations. Once assessed, the SFRPC along with its applicable coalition partners will determine an applicable loan program to meet the financial needs of the small business in order to maintain its vital operations. This RLF strategy is to help support critical small business operations for the long-term within industries that are in line with the comprehensive economic development strategy.

As a result of this innovative and collaborative approach, the SFRPC seeks to implement a model program that can serve as inspiration and guidance for other entities or collaborations seeking positive regional impacts. This initiative has three goals: 1. Identify industries in South Florida that are essential for growth and are inline with the CEDS. 2. Identify and assess small businesses in the South Florida region for financial support and resiliency planning and 3. Construct a financial package through the RLF program to support the ongoing and long-term operational needs of the business. Through a combined initiative, the greater coalition focuses on identifying small businesses seeking financial assistance with the goals of initially helping identify sources of funding and thereafter helping guide small businesses toward a long-term resiliency and financial plan to ensure long-term operational success. This approach allows the greater coalition serving our region the ability to identify and engage a larger pool of potential small businesses that are essential in their respective markets in South Florida.

The RLF will provide financing for the following business purposes:

1. Machinery and equipment purchases;
2. Inventory purchases;
3. Working capital needs;
4. Land and building purchases/renovations; and
5. Leasehold improvements.

The RLF will offer loans that range from \$25,000 to \$500,000. The maximum amount to be loaned to one borrowing entity is \$500,000.

SFRPC RLF Program Lending Criteria – Interest Rates

The RLF program determines interest rates for all small business loans, inclusive of working capital and real property loans, through consideration of several factors, primarily including the borrower's creditworthiness, business financial health, loan amount, loan term and the current market conditions, with the base rate often being tied to the 5, 7, 10 or 20 year US Treasury which can fluctuate depending on economic factors plus a risk premium of 250 bps to arrive at the final interest rate. The RLF program utilizes solely a fixed rate lending structure inclusive of working capital and real property loans for all loan amounts within the lending guidelines. The RLF board reviews current program interest rates on a semi-annual basis through comparisons to traditional and non-traditional lending sources in the marketplace.

Interest Rates. (13 CFR § 307.15(b))

- a) Recipient may make loans to eligible borrowers at interest rates and under conditions determined by Recipient to be appropriate in achieving the goals of the RLF, subject to the minimum interest rate requirement in Subsection b), below.*
- b) The minimum interest rate that Recipient may charge is four (4) percentage points below the lesser of the current money center prime rate quoted in the Wall Street Journal or the maximum interest rate allowed under State law. In no event shall an interest rate be less than the lower of four (4) percent or 75 percent of the prime interest rate listed in the Wall Street Journal, or the maximum interest rate allowed under State law. However, should the prime interest rate listed in the Wall Street Journal exceed fourteen (14) percent, the minimum RLF interest rate is not required to be raised above ten (10) percent if doing so compromises the ability of Recipient to implement its financing strategy.*

SFRPC RLF Program Lending Criteria - Underwriting

A loan origination fee of up to 2 percent of the loan amount will be charged at closing for RLF loans. This fee will be included in total program income. No pre-payment penalty will be charged on RLF loans that are paid in full prior to the maturity date.

A minimum equity contribution by the business owner in the amount of 10 percent of the total project cost must be provided by the borrower. The preferable contribution is in the form of cash; however, other assets such as equipment/machinery or accounts receivables of the business may be acceptable. All equity contributions into a business shall be made within 12 months of loan closing.

Sufficient collateral will be required and determined on a loan-by-loan basis. The RLF will subordinate to a senior lien holder, if necessary. No unsecured loans will be made.

The business owners will be required to personally guarantee each loan and sole proprietorships may need to provide a life insurance policy assignment in an amount no less than the loan amount.

Minimum credit score of 550; scores below are to be accompanied with mitigating factors and detailed explanations.

The business has not declared bankruptcy nor foreclosure proceedings in the past 24 months.

The business and/or the principals must generate sufficient cash flow to repay the loan; mitigating factors related to seasonality will be considered.

Business startups must have less than \$3,000 in past due debt, present two most recent paystubs, have a business plan with a 12-month cash flow projection and have a partner referral such as SCORE or SBDC.

All borrowers are required to complete and submit a loan application along with applicable supporting along with a minimum of three years business tax returns and/or personal tax returns as well as a personal financial statement of the principal(s)/guarantor(s).

The RLF loan parameters/guidelines are as follows:

1. Maximum 7-year amortization on working capital loans;
2. Maximum 10-year amortization on non-real estate fixed asset loans (i.e., machinery, equipment, furniture, fixtures);
3. Maximum 20-year amortization on real estate loans with a case-by-case consideration given to increasing to a 30-year amortization;
4. Up to 12-month interest only on loans with a construction draw period that automatically convert to permanent payments. Consideration as to an interest-only period prior to automatic conversion to permanent payments may be given in other cases not involving a construction period. Recipient must adhere to Davis-Bacon wage regulations and are encouraged to purchase American-made equipment and products.

Purpose of Loans and Use of RLF Cash Available for Lending. (13 CFR § 307.17(c))

- a) Recipient shall not use RLF Award funds to:*
- (i) Acquire an equity position in a private business.*
 - (ii) Subsidize interest payments on an existing RLF loan.*
 - (iii) Provide a loan to a borrower for the purpose of meeting the requirements of equity contributions under another Federal agency's loan program.*

- (iv) *Enable a borrower to acquire an interest in a business either through the purchase of stock or through the acquisition of assets, unless sufficient justification is provided in the loan documentation. Sufficient justification may include acquiring a business to save it from imminent closure or to acquire a business to facilitate a significant expansion or increase in investment with a significant increase in jobs. The potential economic benefits must be clearly consistent with the strategic objectives of the RLF. The RLF board will require a business plan detailing operational restructuring along with economic and financial impacts in the local community for assessment. Additionally, the RLF program will only focus on small businesses in essential industries and activities as defined by the State of Florida, Office of the Governor, whom are seeking financial and resiliency support that are impacted by health, climate or disaster occurrences. A highlight of such essential industries and activities include local businesses in the medical field, home health care, food suppliers, fuel suppliers, safety contractors, laundry facilities, logistics, affordable housing managers and local transportation companies.*
 - (v) *Provide funds to a borrower for the purpose of investing in interest-bearing accounts, certificates of deposit, or any investment unrelated to the RLF.*
 - (vi) *Refinance existing debt, unless recipient sufficiently demonstrates in the loan documentation a “sound economic justification” for the refinancing (e.g., the refinancing will support additional capital investment intended to increase business activities). For this purpose, reducing the risk of loss to an existing lender(s) or lowering the cost of financing to a borrower shall not, without other indicia, constitute a sound economic justification. Sufficient justification may include an improved business credit score leading to better terms or changing loan structure to better align with cash flow needs such as seasonality or taking advantage of new market opportunities to secure more favorable conditions to expand and increase business opportunities that result in saving and/or increasing jobs. The RLF board will require a financial plan detailing economic and financial impacts of the business in the local community for assessment.*
 - (vii) *Serve as collateral to obtain credit or any other type of financing without EDA’s prior written approval (e.g., loan guarantees).*
 - (viii) *Support operations or administration of the RLF Recipient.*
 - (ix) *Undertake any activity that would violate EDA Property regulations found at 13 CFR part 314.*
 - (x) *Violates Davis-Bacon or Contract Work Hours and Safety Standards Act.*
- b) (i) *Non-relocation. Recipient must not use RLF Award funds to induce the relocation of existing jobs within the U.S. that are located outside of Recipient’s jurisdiction to within its jurisdiction in competition with other U.S. jurisdictions for those same jobs. In the event that EDA determines that RLF Award funds were used for such purposes, EDA may pursue appropriate enforcement action, including suspension of disbursements and termination of the RLF Award, which may include the establishment of a debt requiring the Recipient to reimburse EDA.*

- (ii) *RLF funds will finance the purchase of the rights of a prior lien holder during a foreclosure action which is necessary to preclude a significant loss on an RLF loan. RLF funds may be used for this purpose only if there is a high probability of receiving compensation from the sale of assets sufficient to cover an RLF's costs plus a reasonable portion of the outstanding RLF loan within a reasonable time frame approved by EDA following the date of refinancing.*
 - (iii) *Finance gambling activity, pyramid schemes, performances or products of a prurient sexual nature, or any illegal activity, including the cultivation, distribution, or sale of marijuana that is illegal under Federal law.*
- c) *Each loan agreement must clearly and in detail state the purpose of each loan.*

Credit Not Otherwise Available.

Recipient must explicitly determine and demonstrate in the loan underwriting for each RLF loan that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed. Such documentation justifying credit is not otherwise available on terms and conditions that permit completion or successful operation of the activity being financed could be substantiated in the form of a declination letter from a conventional lending source or counter terms from the conventional lender proposing terms and conditions that prohibit successful satisfaction and repayment of the proposed terms and conditions. Such prohibited terms and conditions could be in the form of loan amount, maturity, amortization, interest rate, collateral and principal guarantors.

EDA Evaluation and Oversight of the RLF Award.

Allowable Cash Percentage. (13 CFR § 307.17(b))

- a) *In General. EDA will notify Recipient on an annual basis of the Allowable Cash Percentage that is applicable to lending during Recipient's ensuing fiscal year. During the Revolving Phase, Recipient must manage its loan repayment and lending schedule in order to avoid exceeding the Allowable Cash Percentage. The RLF administration team monitors the fund's cash percentage on a monthly basis to determine if the marketing plan is effectively meeting its goals. Additionally, loan administration compares the loan fund's cash position to the allowable cash position to ensure compliance to the RLF financial report. The loan administration team presents the status of the loan fund's cash percentage to the board at a minimum of annually.*
- b) *Noncompliance. Recipient must not hold RLF Cash Available for Lending so that it is 50 percent or more of the RLF Capital Base for 24 months without an EDA-approved extension request based on other EDA risk analysis factors or extenuating circumstances.*

Accounting Principles. (13 CFR § 307.15(a))

- a) *Recipient must operate the RLF in accordance with generally accepted accounting principles (GAAP) as in effect in the United States and the provisions outlined in the*

audit requirements set out as subpart F to 2 CFR part 200 and the Compliance Supplement, which is appendix XI to 2 CFR part 200, as applicable.

- b) In accordance with GAAP, a loan loss reserve may be recorded in Recipient's financial statements to show the fair market value of the RLF's loan portfolio, provided this loan loss reserve is non-funded and represented by a non-cash entry. However, a loan loss reserve may not be used to reduce the value of the RLF in the Schedule of Expenditures of Federal Awards (SEFA) required as part of Recipient's audit requirements under 2 CFR part 200 or in reporting to EDA in the RLF Financial Report. The RLF loan program does have a non-funded/non-cash entry loan loss reserve recorded on its financial statements.*

RLF FINANCING POLICIES

Environmental Impact. (13 CFR § 307.10(a))

Recipient must adopt and the RLF Plan must include procedures for compliance with applicable environmental laws and regulations, including to review the impacts of prospective loan proposals on the physical environment. Recipient must also comply with, and ensure that potential borrowers comply with, applicable environmental laws and regulations. See the DOC Standard Terms and Conditions, Section G., National Policy Requirements, Subsection .04, Environmental Requirements (incorporated into these RLF Standard Terms and Conditions in Part III), for additional information related to environmental requirements. The RLF program requires all loans secured by commercial real property to have completed an environmental questionnaire and disclosure statement which is reviewed by the loan officer. Outstanding environmental concerns or conditions are addressed prior to closing through a third party environmental consultant. Additionally a Hazardous Substance Certificate and Indemnification Agreement is executed by borrower at closing. All loan closing documents are prepared by lender's legal counsel and reviewed by borrower prior to closing.

Protection of RLF Assets. (13 CFR § 307.10(b))

Recipient must ensure that prospective borrowers, consultants, and contractors are aware of and comply with the Federal, State, and local statutory and regulatory requirements that apply to activities carried out with RLF loans. RLF loan agreements must include applicable Federal, State, and local requirements to ensure compliance, and Recipient must adopt procedures to diligently correct instances of non-compliance, including loan call stipulations. The RLF program requires a security agreement and loan agreement to be reviewed and executed by the borrower that ensures the borrower complies with all Federal, State and local statutory and regulatory requirements that apply to borrower's use of loan proceeds. All loan closing documents are prepared by lender's counsel and reviewed by borrower prior to closing.

Hold Harmless Provision. (13 CFR § 307.10(c))

All RLF loan documents and procedures must protect and hold the Federal Government harmless from and against all liabilities that the Federal Government may incur as a result

of providing an award to assist (directly or indirectly) in site preparation or construction, as well as the direct or indirect renovation or repair of any facility or site. These protections apply to the extent that the Federal Government may become potentially liable as a result of ground water, surface, soil or other natural or man-made conditions on the property caused by operations of Recipient or any of its borrowers, predecessors or successors. As part of the RLF loan program, a Hazardous Substance Certificate and Indemnification Agreement is executed by borrower at closing. All loan closing documents are prepared by lender's legal counsel and reviewed by borrower prior to closing.

Requirements Relating to RLF Loans Funding Construction.

- a) Davis-Bacon. In accordance with section 602 of PWEDA (42 U.S.C. § 3212), all laborers and mechanics employed by contractors or subcontractors on construction-related projects receiving investment assistance under PWEDA shall be paid wages not less than those prevailing on similar construction in the locality, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. See 13 CFR § 302.13. Therefore, Recipient must comply with, and must further ensure that any borrower, contractor, or subcontractor complies with Davis-Bacon prevailing wage rates where construction work is financed in whole or in part with RLF Award funds. Where the land facilitating construction is purchased in part or in whole with RLF Award funds, this requirement extends to construction work, including that which is not directly paid for with RLF Award funds.*
- b) The Contract Work Hours and Safety Standards Act. Recipient must ensure that any borrower, contractor, or subcontractor complies with the Contract Work Hours and Safety Standards Act (40 U.S.C. § 3701, et seq.), which provides work hour standards for every laborer and mechanic employed by a contractor or subcontractor in the performance of certain work financed at least in part with Federal funds.*

As part of the RLF loan program, all loans funding construction require a Loan Agreement to be executed by borrower at closing. Davis-Bacon along with The Contract Work Hours and Safety Standards Act and are discussed with the borrower. The loan officer performs annual onsite visits and reviews financial statements including payrolls to ensure compliance. All loan closing documents are prepared by lender's legal counsel and reviewed by borrower prior to closing.

Pre-Disbursement Requirements.

Accounting Certification. (13 CFR § 307.11(a)(1)(i))

Within 60 days before the initial disbursement of EDA funds, Recipient must provide in a form acceptable to EDA a certification signed by an authorized representative of Recipient certifying that Recipient's accounting system is adequate to identify, safeguard, and account for the entire RLF Capital Base, outstanding RLF loans, and other RLF operations. Recipient is required to maintain the adequacy of the RLF's accounting system,

appropriate standard loan documents and adequate fidelity bond coverage for the entire duration of the RLF's operation. As part of the RLF loan program, the finance department is required to have an independent third-party audit of the loan program and systems along with an in-place fidelity bond coverage that is reviewed annually.

Loan Document Certifications. (13 CFR § 307.11(a)(1)(ii))

Within 60 days before the initial disbursement of EDA funds, Recipient must provide in a form acceptable to EDA a certification signed by an authorized representative of Recipient that standard RLF loan documents reasonably necessary or advisable for lending are in place, and a certification from Recipient's legal counsel that the standard RLF loan documents are adequate and comply with the terms and conditions of the RLF Award, RLF Plan, and applicable State and local law. Recipient is required to maintain and appropriately update standard RLF loan documents at all times for the duration of the RLF's operation. The standard loan documents must include, at a minimum, the following:

- (i) Loan application;*
- (ii) Loan agreement;*
- (iii) Board of directors' meeting minutes approving the RLF loan;*
- (iv) Promissory note;*
- (v) Security agreement(s);*
- (vi) Deed of trust or mortgage (as applicable);*
- (vii) Agreement of prior lien holder (as applicable); and*
- (viii) Evidence demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed.*

As part of the RLF loan program, all loan documents are stored in both a password protected electronic format and hard paper version within a secured fireproof safe on premises.

Fidelity Bond Coverage. (13 CFR § 307.11(a)(1)(iii))

Within 60 days before the initial disbursement of EDA funds, Recipient must provide in a form acceptable to EDA evidence of fidelity bond coverage for persons authorized to handle funds under the RLF Award in an amount sufficient to protect the interests of EDA and the RLF. At a minimum, the amount of coverage must be the maximum loan amount allowed for in the EDA-approved RLF Plan. Recipient must maintain sufficient fidelity bond coverage as described in this Subsection for the duration of the RLF's operation. As part of the RLF loan program, an in-place fidelity bond coverage is reviewed annually by loan administration to ensure effective dates are accurate and includes such coverages as a fidelity bond (\$1,000,000 limit) employee dishonesty (\$1,000,000 limit), Errors and Omissions (\$1,500,000 limit).

RLF PORTFOLIO STANDARDS

RLF Leveraging. (13 CFR § 307.15(c))

- a) *Unless otherwise specified in the terms of the RLF Award, Recipient must leverage additional investment of at least two (2) dollars for every one (1) dollar of RLF loans. This leveraging requirement applies to the RLF portfolio as a whole rather than to individual loans and is effective for the duration of the RLF's operation. To be classified as leveraged, additional investment must be made within twelve months of approval of an RLF loan closing, as part of the same business development project, and may include:*
 - (i) *Capital invested by the borrower or others;*
 - (ii) *Financing from private entities;*
 - (iii) *The non-guaranteed portions and ninety (90) percent of the guaranteed portions of any Federal loan; or*
 - (iv) *Loans from other State and local lending programs.*
- b) *Accrued equity in a borrower's assets may not be included in the calculation of leveraged additional investment.*

The RLF lending program utilizes the combined funding sources of capital invested by the borrower plus additional funding sources derived from private funding and public funding options to determine the RLF leveraging for the borrower and overall portfolio. Sources of funding are reviewed and discussed with the borrower during loan underwriting to ensure contributions are received twelve months preceding or post loan closing. Sources of public funding can include local community grants, subsidies, contracts and loans. Additionally private funding sources can include investors, foundations, corporations and private equity. On an annual basis, loan administration reviews the RLF loan portfolio to ensure leverage accuracy through the efforts of annual borrower site visits and portfolio reviews.

Through the use of the EDA Semi-Annual and/or Annual Report, the RLF staff will measure the standards of the Program by reviewing the following:

1. Number of jobs created/retained against amount loaned (Must be at least 1 job for every \$30,000 loaned for the total RLF portfolio). The RLF loan administration obtains initial jobs and wage data along with minority positions during loan application and underwriting process. Thereafter on an annual basis, loan administration reviews and updates the loan portfolio data through borrower site visits and outreach.
2. Private and public leveraging requirements;
3. Adherence to the revised RLF regulations and risk analysis system (RAS) guidance; and
4. Diversification of the types of businesses assisted by measuring industrial/commercial vs. service businesses and business expansion/retention vs. business start-up.

Economic and social circumstances that can significantly affect a business and industry include inflation, interest rates, unemployment, economic growth, consumer spending, taxes, raw material costs, consumer confidence, health education and housing, all of which can impact factors like demand, production costs and overall profitability. The RLF program loan administration team along with its board, monitor economic and social circumstances annually that impact the region to help determine a fluid lending strategy to support the comprehensive economic development strategy of the region.

SECTION II: OPERATIONAL PROCEDURES

Organizational Structure and Administrative Procedures

The administrative support for the RLF will be provided by the SFRPC's Loan Program staff. These administrative duties include:

1. Assembling information on applicants for presentation to approving committee/board;
2. Administering individual loans and RLF portfolio;
3. Servicing individual loans and RLF portfolio;
4. Recording individual loan payments;
5. Requesting and receiving loan file maintenance information such as insurance documents, tax statements and financial information;
6. Conducting annual site visits;
7. Working with the SFRPC's legal counsel on loan closings and collection activity;
8. Maintaining legal and correspondence loan files;
9. Marketing of the RLF Program; and
10. Preparing (along with assistance from Finance staff) and submitting the EDA Semi-Annual Reports.
11. All payments received from loans made from this grant award deposited into a separate, interest bearing account held by the South Florida Regional Planning Council.

The RLF will be governed by a 5 to 7-member Revolving Loan Fund Board (RLF Board) which is appointed by the SFRPC's Board of Directors. The RLF Board is empowered by the SFRPC Board of Directors to authorize and approve RLF loans via a Board resolution. Approved loans are not subject to additional ratification by the SFRPC Board of Directors.

Criteria and make-up of the RLF Board consists of the following:

1. A voting member of the SFRPC Board of Directors;
2. The SFRPC Executive Director;

The remaining members of the RLF Board, appointed by the SFRPC Board of Directors, will include at least one representative from each of the following categories until 5 or 7 members are attained:

3. An individual currently employed in banking or finance;
4. A business owner;
5. A community-based representative;
6. An economic development professional; and
7. An at-large member. This member may be chosen from the previously enumerated

categories or from a category not previously mentioned.

All members of the RLF Board must either conduct commerce or be a resident within the SFRPC region of Broward, Miami- Dade, Monroe or Palm Beach counties.

Loan servicing responsibilities as approved by the SFRPC's Board of Directors are as follows:

1. Loan servicing includes the granting of partial releases of collateral, subordinations of lien positions, releases of personal liability may be approved by the Executive Director with input provided by the Loan Program Manager;
2. Loan treatment, including the placement of loans on non-accrual status, restructuring loans, re-amortization of loans and granting of deferrals or extensions of time for payment of installments, may be approved by the Executive Director with input provided by the Loan Program Manager;
3. Any loan servicing or loan treatment action resulting in new funds being disbursed or a significant increase in the SFRPC's exposure must be approved through the RLF Board;
4. Loan collection actions including initiating foreclosure activity, repossession activity, initiating suit, whether for deficiency or to recover directly on the note may be approved by the Loan Program Manager along with the direct involvement of the SFRPC's legal counsel;
5. Borrowers are considered delinquent after 30 days of non-payment and in default after 90 days of non-payment and
6. Charge-offs of defaulted loans must be authorized and approved by the RLF Board and the SFRPC's Board of Directors regardless of amount.
7. Loan collateral is properly documented, secured and recorded by legal counsel at closing. All real estate utilized as collateral is secured by a mortgage and all business assets and equipment and inventory are secured by a UCC. All UCC filings are reviewed annually by loan administration and legal counsel to ensure all applicable UCC's are in place. Furthermore, all real estate collateral to have effective in place insurance coverage reviewed annually by loan administration.

Standard Loan Application Procedures

1. RLF staff holds a pre-application conference with potential applicants to discuss economic benefits of a project, determine any unknown problem or conflicts, informs the applicants of the general application and project requirements, and makes a preliminary determination of project feasibility and eligibility. If the project is determined not eligible for RLF Funds, the potential applicant is so informed. If eligible, the RLF staff reviews the RLF guidelines with the potential borrower as they pertain to the potential loan request and presents an application package for completion by the potential borrower.
2. The following is a list of items required to be attached to the completed RLF application:
 - a. Three years of personal and business tax returns;
 - b. Business plan including three years financial projections;

- c. Most recent appraisal for land/real estate, if applicable;
 - d. Invoices or detailed list of business asset valuation, if applicable;
 - e. Personal Financial Statement;
 - f. Proof of equity injection;
 - g. Commitment letter from participating lender, if applicable;
 - h. Signed environmental questionnaire; and
 - i. Executed credit consent form by borrower.
3. Credit reports are required of all loan applicants. A credit consent form is requested of the applicant granting permission for the SFRPC to obtain the credit report. These executed forms are to be maintained for approved and denied loans. Credit will be only one factor weighed by the loan committee in making decisions regarding loan applications. Borrowers must show a positive and established credit history. While the minimum credit score is 550, scores below require mitigating factors and detailed explanations.
 4. Market valuations must be obtained in order to properly value collateral. Appraisals are the preferred method for valuing real estate collateral. On a case-by-case basis, tax valuations may be used if approved by the RLF Board. Invoices may be used for machinery, equipment, furniture and fixtures valuation.
 5. An environmental questionnaire is included in the loan application package and must be properly completed, for loans secured by commercial real estate, prior to the loan being considered for funding. All collateral properties must adhere to national policy environmental requirements and may be subject to additional environmental due diligence based upon current and previous utilization.
 6. Loan write-up – The RLF loan write-up consists of the following information:
 - a. Credit memorandum providing details of loan request including borrowing entity, business location, business/borrower history, owners/guarantors, loan terms, collateral description, funding source, personal credit/financial history of business owners/guarantors;
 - b. Credit review providing more detail as to the financial details of the loan request sources and uses, Debt Service Coverage calculations, collateral valuation;
 - c. Business plan including business owner resumes and income/expense and cash flow projections;
 - d. Historical income/expenses for existing businesses;
 - e. Verification of collateral – invoices, appraisal, etc.;
 - f. Credit report of owners/guarantors; and
 - g. Personal Financial Statement of owners/guarantors.
 7. Procedures for Loan Approvals – The potential borrower’s loan package is summarized through the use of the RLF Loan Write-up and presented to the RLF Board for approval. Upon approval, the borrower is notified of the approval through the issuance of a Commitment Letter executed by the SFRPC and the borrower. Through this letter and

through other communication, the borrower is asked to present all necessary documentation for the loan closing. Minutes of all approving bodies are maintained in the Legal loan files of the corresponding loans.

If a loan is denied, the borrower is notified verbally and is also provided a letter of denial with a full explanation of the reasons for denial.

SFRPC RLF Loan Closing and Disbursement Procedures

1. All loans are closed through the SFRPC's legal counsel. Upon approval and execution of the Commitment Letter, RLF staff submits an attorney instruction letter to legal counsel along with a copy of the executed commitment letter and any necessary documentation required for closing (i.e., warranty deed, insurance documentation, etc.). The closing is coordinated among the RLF staff, legal counsel and the borrower.
2. Loan closing documentation – the following is a checklist of items necessary for the loan closing:
 - a. Promissory note;
 - b. Personal guarantees of owners/guarantors;
 - c. Deed of trust;
 - d. Title insurance;
 - e. Life insurance assignment;
 - f. UCC Financing Statements on machinery, equipment, furniture, fixtures, inventory;
 - g. Commitment letter;
 - h. Loan agreement;
 - i. Security agreement; and
 - j. Any other documentation deemed pertinent by legal counsel.
3. All funds are disbursed through the SFRPC's legal counsel. The exception would be where the loan proceeds are disbursed in draws. In such cases, the initial draw will be disbursed through the SFRPC's legal counsel. Subsequent draws will be made directly by SFRPC.
4. RLF staff is responsible for entering and booking new loan information into the RLF loan tracking system and maintaining the legal and correspondence loan files.
5. The required documentation for a Loan Legal File after closing includes:
 - a. Loan agreement;
 - b. Commitment letter;
 - c. Promissory note;
 - d. Personal guaranty;
 - e. Security agreement;
 - f. Deed of trust;
 - g. RLF application (inclusive business plan documents and environmental questionnaire)
 - h. Copies of private lender loan documents;
 - i. Copies of property and liability insurance;
 - j. Copies of life insurance and assignment applicable to sole practitioners;
 - k. Amortization schedule;

- l. UCC Financing Statements;
 - m. Credit report;
 - n. Full RLF Board loan write-up used in approval presentation;
 - o. Copy of minutes from approving bodies; and
 - p. Any other closing documents from the SFRPC's legal counsel from loan closing.
6. RLF loan correspondence files will also be kept separate from the Loan Legal Files and will contain ongoing loan documents such as site visit forms, annual insurance declaration pages, annual financial statements and any other correspondence that is not required in the Loan Legal File.

Loan Servicing Procedures

1. Loan payments are submitted via mail, hand delivered, or Automatic Clearing House (ACH) via bank notification, to the SFRPC receptionist at which time the payments are logged denoting delivery.
2. SFRPC Finance staff receives the payments from the receptionist for entry into the RLF payment log and deposit processing.
3. RLF staff receives the payment log and enters payment into the RLF loan tracking system for each individual loan.
4. The RLF staff will make annual site visits to each borrower to verify that the borrower is in compliance with all terms of the loan.

Loan Write Off Policy

1. Borrowers whose loans become 60 days late will be contacted by the RLF staff to determine a plan of action to bring the loan payments current.
2. Once a loan reaches a status of being 90 days late, SFRPC's legal counsel will be notified by the RLF staff in order to write a collection letter.
3. Every effort will be made, within reason and while making sound credit decisions, to assist the borrower in bringing their loan current. These may include re-structuring or deferring loan payments which may be considered for borrowers encountering financial hardship as a result of social or economic challenges affecting the region. Any approved deferment may temporarily pause loan payments while keeping the borrower current. Interest may continue to accrue and can result in higher payments when deferment ends.
4. Loans that are deemed as unrecoverable by RLF staff and by the SFRPC's legal counsel will proceed through all of the necessary legal channels in an attempt to recover the outstanding debt. These include, but are not limited to foreclosure, judgment filing, and suing the personal guarantor/owner. The SFRPC does have the ability to garnish wages for non-payment by guarantors upon judgments being levied. The RLF loan program utilizes legal counsel to ensure compliance with all applicable laws and procedures when seizing and selling secured collateral. Key steps observed in seizing and selling secured collateral involve default determination, notice of intent to seize, repossession and safeguarding the collateral.

5. Once the RLF staff along with input from the SFRPC's legal counsel deem a loan unrecoverable, the loan is presented to the RLF Board for charge-off approval then submitted to the SFRPC's Board of Directors for final approval (as previously stated in this plan, the SFRPC's Board of Directors must approve all charge-offs regardless of the amount).
6. For loans on borrowers that have filed bankruptcy, the SFRPC's legal counsel is notified immediately upon receipt of bankruptcy notification and all matters are handled through legal counsel. The RLF program administration assists legal counsel by providing all relevant documentation regarding the debt owed, complete a proof of claim form detailing the debt amount and terms, and submitting to the bankruptcy court within the designated timeframe after the debtor files for bankruptcy; this usually involves providing details like the loan agreement, outstanding balance and any collateral involved.
7. For loans that have been charged-off and deemed uncollectable, an IRS form 1099C is prepared and sent to the borrower and filed with the IRS, with the exception of those loans for borrowers that have filed bankruptcy. Loans that are delinquent, defaulted and written off are reported to the credit bureau.

Conflicts of Interest.

1) Definitions. (13 CFR § 300.3)

An "Interested Party" is any officer, employee or member of the board of directors or other governing board of Recipient, including any other parties that advise, approve, recommend or otherwise participate in the business decisions of Recipient, such as agents, advisors, consultants, attorneys, accountants or shareholders. An Interested Party also includes such a person's "Immediate Family" (defined as a person's spouse, significant other or partner in a domestic relationship, parents, grandparents, siblings, children and grandchildren, but not distant relatives, such as cousins, unless the distant relative lives in the same household as the person) and other persons directly connected to that person by law or through a business arrangement.

2) Conflicts of Interest Generally. (13 CFR § 302.17(a))

- a) A conflict of interest generally exists when an Interested Party participates in a matter that has a direct and predictable effect on the Interested Party's personal or financial interests or there is an appearance that an Interested Party's objectivity in performing his or her responsibilities under the Project is impaired.*
- b) An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, an Interested Party is unable or potentially unable to render impartial assistance, services, or advice to the Recipient. It also could result from non-financial gain to an Interested Party, such as benefit to reputation or prestige in a professional field.*

All South Florida Regional Planning Council staff and members adhere to a personnel policy and procedures that includes conflict of interest policy requiring personnel to disclose such conflicts and often abstaining from decisions where a conflict exists, aiming

to maintain ethical decision making and prevent any appearance of impropriety.

3) Conflicts of Interest Rules Specific to RLFs. (13 CFR § 302.17(c))

Recipient must adhere to EDA conflicts of interest rules set forth at 13 CFR § 302.17, including the following rules specific to RLFs:

- a) An Interested Party of Recipient shall not receive, directly or indirectly, any personal or financial interest or benefit resulting from the disbursement of RLF loans. A financial interest or benefit may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward.*
- b) Recipient shall not lend RLF funds to an Interested Party.*
- c) Former board members of Recipient and members of their Immediate Family may not receive a loan from the RLF for a period of two years from the date that the board member last served on the board of directors.*

The South Florida Regional Planning Council has instituted a process that requires all Board Members and administrative staff, on an annual basis, to certify and attest via the related party's questionnaire that no conflicts of interest have occurred nor receipt of any prohibited direct or indirect financial or personal benefits.

Conflicts of Interest. It is the Revolving Loan Fund (RLF) policy to maintain the highest standards of conduct to prevent conflicts of interest in connection with the award of loan funds, investment assistance, or the use of funds for reimbursement or the procurement of goods and services. A conflict of interest generally exists when an Interested Party participates in a matter that has a direct and predictable effect on the Interested Party's personal or financial interests. A conflict may also exist where there is an appearance that an Interested Party's objectivity in performing his or her responsibilities to the RLF is impaired. Additionally, a conflict of interest may result from non-financial gain to an Interested Party, if it benefits their reputation or prestige in a professional field.

Prohibition on direct or indirect financial or personal benefits.

- 1) An Interested Party shall not receive any direct or indirect financial or personal benefits in connection with the award, the approval of loans, its use for payment or reimbursement of costs by or to the Recipient.
- 2) An Interested Party shall also not, directly or indirectly, solicit or accept any gift, gratuity, favor, entertainment or other benefit having monetary value, for himself or herself or for another person or entity, from any person or organization which has obtained or seeks to obtain loans or funding from the RLF.
- 3) Costs incurred in violation of any conflicts of interest rules contained in this chapter or in violation of any assurances by the RLF may be denied reimbursement.
- 4) An Interested Party of RLF shall not receive, directly or indirectly, any personal or financial benefits resulting from the disbursement of RLF loans. The RLF shall not lend to an Interested Party. Additionally, former Board Members of the RLF and/or members of his

or her Immediate Family shall not receive a loan from the RLF for a period of two (2) years from the date that the Board Member last served on the RLF's Board of Directors.

RLF INCOME

Financial Administration of the RLF.

1) General Requirements.

Recipient is responsible for the administrative costs associated with operating the RLF. Any future funding to recapitalize the RLF Award is dependent upon the successful management of the RLF Award from both a programmatic and financial perspective, future Congressional appropriations to support the program, and Recipient securing a competitive award of EDA funds.

2) RLF Cash Available for Lending. (13 CFR § 307.17(a))

- a) Defined. RLF Cash Available for Lending means the portion of the RLF Capital Base that is held as cash and available to make loans. RLF Cash Available for Lending does not include cash committed to loans that have been approved but have not yet been funded.*
- b) General Requirements. Recipient must deposit and hold all RLF Cash Available for Lending in an interest-bearing account. (RLF funds that have been disbursed by EDA to Recipient but that have not yet been disbursed to a borrower by Recipient must also be held in an interest-bearing account, as discussed further in Section C, Disbursement of RLF Funds). RLF Cash Available for Lending must be used only for the purpose of making RLF loans, or such other purpose as approved in writing by EDA.*

3) RLF Income. (13 CFR § 307.12(a))

- a) Defined. RLF Income means interest earned on outstanding loan principal and accounts holding RLF funds, all fees and charges received by the RLF, and other income generated from RLF operations.*
- b) Use of RLF Income. Recipient may use RLF Income to pay for RLF administrative costs, provided the RLF Income is earned and the administrative costs are accrued in the same fiscal year of Recipient. Recipient must add to the RLF Capital Base any RLF Income that is not used for administrative costs during the same fiscal year of Recipient that it was earned.*
- c) Administrative Costs Exceeding RLF Income. Recipient shall not use funds from the RLF Capital Base to pay for or reimburse administrative costs unless EDA has approved such use in writing. The RLF Program will not charge administrative or indirect costs that exceed RLF Income. Administrative costs include program personnel compensation, program legal services, program financial services, program loan software and program allocated indirect costs acknowledged and approved by the EDA annually.*

4) Cost Principles. (13 CFR § 307.12(b))

When charging costs against RLF Income, Recipient must comply with the cost principles of the OMB Uniform Guidance set forth at 2 CFR part 200 subpart E – Cost Principles.

5) Priority of Payments on Defaulted RLF Loans. (13 CFR § 307.12(c))

- a) When Recipient receives proceeds on a defaulted or written off RLF loan, Recipient must apply such proceeds in the following order of priority:*
- (i) First, towards any costs of collection;*
 - (ii) Second, towards outstanding penalties and fees;*
 - (iii) Third, towards any accrued interest to the extent due and payable; and*
 - (iv) Fourth, towards any outstanding principal balance.*

6) Voluntarily Contributed Capital. (13 CFR § 307.12(d))

If Recipient wishes to inject additional capital into the RLF Capital Base to augment the amount of resources available to lend, Recipient must submit a written request to EDA which specifies the source of the funds to be added. Once approved by EDA, any additional capital injected into the RLF becomes an irrevocable part of the RLF Capital Base and may not be subsequently withdrawn or separated from the RLF. Upon termination, the Federal Share will be calculated by applying the Investment Rate to the entire RLF Capital Base, including any such additional capital, unless otherwise approved by the EDA Grants Officer.

7) Accounting Principles. (13 CFR § 307.15(a))

- a) Recipient must operate the RLF in accordance with generally accepted accounting principles (GAAP) as in effect in the United States and the provisions outlined in the audit requirements set out as subpart F to 2 CFR part 200 and the Compliance Supplement, which is appendix XI to 2 CFR part 200, as applicable.*
- b) In accordance with GAAP, a loan loss reserve may be recorded in Recipient's financial statements to show the fair market value of the RLF's loan portfolio, provided this loan loss reserve is non-funded and represented by a non-cash entry. However, a loan loss reserve may not be used to reduce the value of the RLF in the Schedule of Expenditures of Federal Awards (SEFA) required as part of Recipient's audit requirements under 2 CFR part 200 or in reporting to EDA in the RLF Financial Report.*

8) Audits. (13 CFR § 307.12(b)(3))

- a) In General. Recipient must comply with the audit requirements set out as subpart F to 2 CFR part 200, which applies to audits of Recipient's fiscal years beginning on or after December 26, 2014. In addition, the Compliance Supplement, which is appendix XI to 2 CFR part 200, applies as appropriate. Generally, if Recipient expends \$750,000 or more in Federal awards during Recipient's fiscal year, Recipient must have a single or program-specific audit conducted for that fiscal year.*
- b) Audit Requirement if Recipient is under the \$750,000 Threshold.*
- (i) If Recipient was not otherwise required to arrange for a single or program-specific audit for the fiscal year preceding the effective date of these RLF Standard Terms and Conditions, either because Recipient expends less than*

\$750,000 in Federal awards annually or for any other reason, Recipient is hereby required to submit to EDA a program-specific independent audit that fulfills the requirements of 2 CFR 200.507 and adheres to the Compliance Supplement in appendix XI to 2 CFR part 200 for the fiscal year preceding the effective date of these RLF Standard Terms and Conditions, unless such requirement is waived by EDA. 200.507 and adheres to the Compliance Supplement in appendix XI to 2 CFR part 200 for the fiscal year preceding the effective date of these RLF Standard Terms and Conditions, unless such requirement is waived by EDA.

- (ii) In lieu of the program-specific audit required under Subsection (i) of this Section, Recipient may submit an organization-wide independent audit to EDA. EDA will inform Recipient whether such audit fulfills Recipient's obligations under this Section. If EDA determines that Recipient's organization-wide audit is not an adequate substitute for the program-specific audit, Recipient must submit a program-specific audit that meets the requirements of Subsection (i) of this Section.*
- (iii) EDA may require a program-specific audit that meets the requirements of Subsection (i) of this Section as frequently as once per Recipient fiscal year, or less frequently as EDA determines appropriate.*
- (iv) Such program-specific audit or organization-wide audit must be submitted to EDA within the earlier of 30 days after receipt of the auditor's report, or nine months after the end of the audit period (i.e., Recipient's fiscal year).*
- (v) RLF Income may be used to pay for a program-specific audit required under Subsection (i) of this Section. If Recipient has insufficient RLF income to pay for such an audit, Recipient may seek EDA approval to use RLF Capital Base funds to cover such audit costs, and EDA approval will not be unreasonably withheld. DOC Standard Terms and Conditions. See the DOC Standard Terms and Conditions, Section D., Audits (incorporated into these RLF Standard Terms and Conditions in Part III), for additional information related to audit requirements.*

As part of the RLF program, loan administration performs a semi-annual analysis comparing federal expenditure calculations to the RLF financial reports. Analytical techniques like variance analysis and financial ratios analyze the notes to the financial statements helping identify variances and potential areas of concern per the Schedule of Findings. As part of the organization's required annual audit, loan administration ensures the EDA grant is included in the Schedule of Federal Awards as part of the audit review process. As part of the audit review process, all RLF loan files and financial data along with an Audit Compliance Supplement are provided to the engaged accounting firm completing the audit. Upon any discrepancies or findings, the auditor as well as the EDA are notified for revisions and acceptance.

ENVIRONMENTAL CONSIDERATIONS

As part of the RLF program, prudent lending practices require loan administration to consider environmental risks and comply with regulations, including due diligence on commercial properties,

requiring borrower indemnification and ensuring compliance with environmental laws as highlighted below.

NATIONAL POLICY ENVIRONMENTAL REQUIREMENTS

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under the following statutes and E.O.s and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

The South Florida Regional Planning Council has instituted a process that requires loan applicants to complete an environmental review questionnaire as part of the loan application conveying site description, project narrative and uses, plans for redevelopment of the site and any known causes or sources of contamination of the subject property.

a. The National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

b. The National Historic Preservation Act (16 U.S.C. §§ 470 et seq.)

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory

Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

Additionally, non-Federal entities are required to assist the DOC in assuring compliance with the Archeological and Historic Preservation Act of 1974 (54 U.S.C. § 312502 et seq., formerly 16 U.S.C. § 469a-1 et seq.); Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971); Executive Order 13006 (Locating Federal Facilities on Historic Properties in Our Nation's Central Cities, May 21, 1996); and Executive Order 13007 (Indian Sacred Sites, May 24, 1996).

c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to decide whether there is an alternative to minimize any potential harm.

d. Clean Air Act (42 U.S.C. §§ 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) (Clean Water Act), and Executive Order 11738 ("Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans")

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. § 7401 et seq.), Clean Water Act (33 U.S.C. §§ 1251 et seq.), and E.O. 11738 (38 FR 25161), and must not use a facility on the Environmental Protection Agency's (EPA) List of Violating Facilities (this list is incorporated into the Excluded Parties List System found at the System for Award Management (SAM) website located SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPA List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 et seq.)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, if it is reflected in the approved project budget.

f. The Endangered Species Act (16 U.S.C. §§ 1531 et seq.)

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 et seq.)

Funded projects must be consistent with a coastal State's approved management program for the coastal zone.

h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 et seq.)

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 et seq.)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f et seq.)

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 et seq.) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 note et seq.)

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting, and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

m. Executive Order 12898 ("Environmental Justice in Minority Populations and Low-Income Populations")

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency procedures previously established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

o. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

p. Rivers and Harbors Act (33 U.S.C. § 407)

A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.

q. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.), and Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds, January 10, 2001)

Many prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

r. Executive Order 13112 (Invasive Species, February 3, 1999)

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent

introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 et seq.)

During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S. Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are “proposed or authorized, permitted or licensed to be impounded, diverted or otherwise controlled or modified” by any agency under a Federal permit or license.

RLF SEMI-ANNUAL REPORTING

RLF Reports. (13 CFR § 307.14)

1) Frequency of Reports.

Recipient must complete and submit an RLF report, using Form ED-209, at a frequency as required by EDA. EDA may allow high-performing RLFs, as evaluated through the Risk Analysis System outlined in Section G, to report on an annual basis, with Form ED-209 generally due within 90 days of Recipient’s fiscal year end. Other RLFs will generally report on a semiannual basis, with Form ED-209 generally due within 30 days of Recipient’s fiscal year end and again six months later. As part of the RLF program, the semi-annual/annual financial report is compiled by loan administration and reviewed by the finance manager and authorized representative prior to submission. Upon any discrepancies or findings, the report is returned to loan administration to be revised accordingly prior to submission to the EDA.

2) Report Certification.

Recipient must certify to EDA as part of the RLF report that the information provided is complete and accurate, and that the RLF is operating in accordance with the applicable EDA-approved RLF Plan. This certification is included in the financial report.

3) Government Performance and Results Act Reporting.

Recipient must report to EDA on RLF performance for Government Performance and Results Act (GPRA) purposes as required by EDA. Recipient shall provide required data on a standardized form provided by EDA. Data used by Recipient in preparing such reports must be accurate and from independent sources whenever possible.

4) DOC Standard Terms and Conditions.

See the DOC Standard Terms and Conditions, Section A., Programmatic Requirements, Subsection .01, Reporting Requirements (incorporated into these RLF Standard Terms and Conditions in Part III), for additional information related to reporting requirements. In particular, note that the Federal Financial Report (Form SF-425) must be submitted

regularly during the Disbursement Phase of the RLF Award.

RECORDS AND RETENTION

Records and Retention. (13 CFR § 307.13)

1) Closed Loan Files and Related Documents. (13 CFR § 307.13(a))

Recipient must maintain closed loan files and all related documents, books of account, computer data files and other records over the term of the closed loan and for a three-year period from the date of final disposition of the closed loan. The date of final disposition of a closed loan is the date:

- a) Principal, interest, fees, penalties, and all other costs associated with the closed loan have been paid in full; or*
- b) Final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the closed loan have occurred.*

2) Administrative Records. (13 CFR § 307.13(b))

- a) Recipient must maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF income expended for eligible RLF administrative costs.*
- b) Recipient must retain records of administrative costs incurred for activities and equipment relating to the operation of the RLF for three years from the actual submission date of the report that covers the fiscal year in which such costs were claimed.*
- c) For the duration of RLF operations, Recipient must maintain records to demonstrate:*
 - (i) The adequacy of the RLF's accounting system to identify, safeguard, and account for the entire RLF Capital Base, outstanding RLF loans, and other RLF operations;*
 - (ii) That standard RLF loan documents reasonably necessary or advisable for lending are in place; and*
 - (iii) Evidence of fidelity bond coverage for persons authorized to handle funds under the RLF Award in an amount sufficient to protect the interests of EDA and the RLF. At a minimum, the amount of coverage shall be the maximum loan amount allowed for in the EDA-approved RLF Plan*
- d) Recipient must make retained records available for inspection to the parties set forth at 13 CFR § 302.14(b), including those retained for longer than the required period. Records must be made available in a timely and reasonable manner. See 2 CFR § 200.336. The record retention periods described in this Section are minimum periods and such prescription does not limit any other record retention obligation required by law or agreement. EDA will not question any claimed administrative costs that are more than three years old, unless fraud is at issue.*

The RLF program adheres to the records retention policies to ensure legal compliance, protection of data privacy, enhanced operational efficiency and safeguards against potential legal and financial repercussions by systematically managing and safely

disposing of records according to the established schedules. The RLF program maintains both electronic records and paper records in secured fireproof locations. Loan documents and administrative records on paper that have been reviewed by loan administration and are no longer meet the records retention policies are disposed in a systematic and controlled process. Both electronic documents and legal binders of closed loans and written off loans are maintained in a secured and fireproof location in perpetuity. Additionally, all closed loans that have been satisfied in full, the borrower receives a letter of satisfaction and/or UCC lien termination.

*Italicized sections are EDA regulations