[INSERT GRANTEE LOGO]

[NOTE: Numbers and any fictional names are used for illustrative purposes]

REQUEST for PROPOSALS (RFP)
for Residential Energy Efficiency Loan Facilities:
[ ] City

Proposal Due Date:	**September X, 2010 at XX:00 a.m.**
Send Proposals to:	**City of [ ]** **Office of Sustainability** **789 Main St** **[City], [State] 19890**

If you have questions about this RFP, please contact:

Lead Contact for RFP Questions & Communications:	Cary S. Ford, Projects Manager 800-123-4567, CFord@City.gov

1. Request for Proposals ("RFP")

Based on a grant from the [ ] State Energy Fund ("SEF"), the City of [ ] (the "City") is seeking a financial institution (FI) partner to participate in its city-wide energy efficiency initiative ("Program"). We are requesting proposals from FIs to provide the following services:

- assist in final structuring of the energy efficiency loan program, in collaboration with the City and its financial advisor, Energy Finance Corp. ("EFC");
- originate and provide energy efficiency ("EE") loans ("Loans") to residential energy users (and, possibly in the future, small commercial and non-profit energy users);
- manage a loan loss reserve fund ("LRF"), or other credit enhancement mechanism (see Section 5), funding for which shall be provided by the City to enhance the credit structure of the Loan portfolio;
- provide related Loan administration services, e.g., billing and collections; and
- provide reports on the Loan portfolio and LRF.

This RFP provides:

- Program background (Section 2);
- Proposed structure and terms of the proposed Loans (Section 3);
- Proposed structure of the LRF (Section 4);
- Prescribed format and content for FI proposals in response to this RFP (Section 5); and a
- Description of the RFP process that will lead to selection of FI partner and execution of implementing agreements for the LRF and for operating and marketing the Loan facilities (Section 6).

The proposer is asked to discuss all financial variables in its response to this RFP; and, for instance, where this document sets out an example percentage, ratio, or dollar figure, the proposer is asked to select an appropriate figure in its response. The bulk of these issues are addressed in Section 5.4.3 and discussed in greater detail in Sections 2, 3, and 4. The proposer may also choose to submit multiple options to reconcile trade-offs in its final response to the RFP. Selection of the FI will be a selection for negotiation—that is, the City and the FI will further refine the elements of the proposal to arrive at final agreements.

The RFP process will identify the FI(s) that can offer the lowest rates, longest tenors, broadest access to finance, the greatest marketing and geographical capacity, as well as the FI(s) with sufficient assets to meet the lending demand created by the City marketing and campaign efforts. The lender FI will be selected for negotiations, at which time the final structure of the loan loss reserve fund and, if applicable, the interest rate buydown budget will be solidified. The terms of the loans and credit enhancement budgets will be laid out in a Loan Loss Reserve Agreement between the City and the lender.

The LRF will be expected to have the following impact on loan underwriting guidelines:

- *Increase size of unsecured loans.* Unsecured loan sizes between $3,000 - $20,000 are expected, potentially utilizing a fixture filing (UCC-1) on installed equipment that will assure the lender's claim will be settled on a property sale, transfer, or refinancing event. Lenders may also choose to file a deed of trust on the property being improved but are not expected to include loan-to-value as an underwriting criterion.

- *Extend tenors.* Loan tenors are expected to be extended. For example a loan tenor of 5 years could be extended to 10 – 15 years, allowing for the monthly loan payment to closely match the energy savings.

- *Lower minimum credit score.* Credit score requirements could be as low as 600 to 650 or have no minimum, just adjusted rates. Alternative and holistic approaches to credit will be encouraged by FIs, some of whom have already demonstrated great interest in this approach. The assumption here is that although the potential borrower may have poor credit history, the willingness to improve their homes demonstrates willingness to pay and a higher personal investment in the project and the loan.

2. Background on the Energy Efficiency Program

2.1. The Program: The City, in conjunction with its partners, targets the development, financing, and implementation of energy efficiency projects in the residential sector. An essential part of the Program is to arrange financing solutions for participants, allowing them to overcome the first-cost barrier and pay for EE improvements over time, matching energy cost savings with Loan payments. EFC is serving as financial advisor to develop the financing component of the Program, evaluate and interview FI potential partners, and prepare the LRF implementing agreements. [A Local non-profit or community action agency Partner] ("Non-Profit") will be working with residential energy users to prepare energy efficiency projects that meet the requirements of the Program and the Grantors. Preparation of projects will include conducting facility energy audits, developing a customized energy action plan, assisting with available rebates, and lining up contractors and bids.

The City will devote up to $1,000,000 from its Credit Enhancement ("CE") grant, received from the SEF to provide loan loss reserves and/or other credit enhancements, including interest rate buydowns, to support energy efficiency financing. The partner FI will provide energy efficiency Loans to customers. The LRF structure takes a "portfolio approach" to the credit structure of the EE loan program. The FI will be making a large number of relatively small EE loans. The LRF will support the whole EE loan portfolio and can be sized at a margin higher than the portfolio's estimated loan losses.

The use of interest rate buydowns is also an acceptable use of SEF CE grant funds. Interest rate buydowns may be used to help stimulate target markets and increase the uptake of energy efficiency services offered by the City.

2.2. Target Markets & Projects. Initial target markets for the Loans are residential buildings in the City. Eligible FI proposers need to have the capacity to serve the City's residential housing community.

Target buildings will be identified by energy efficiency audits coordinated by the City and conducted in conjunction with utilities and other partners. Marketing partnerships are being established with equipment vendors and installers, project developers, and contractors. The Program will generate a flow of EE projects and market the selected FIs' financial products to customers.

Note: For further phases of the Program, the City is interested in an FI's capacity for financing energy efficiency projects in the small commercial and small non-profits sectors.

The typical sizes of single-family residential EE projects are expected to be in the range of $3-20,000 with an average Loan size of $6,600 estimated (after rebates and incentives). The Program targets up to $20 million in total lending over two years. Further description of target EE lending amounts is provided in Section 2.4.

2.3. Energy Efficiency Equipment. Many types of energy efficiency measures will be financed.

Typical Residential Energy Efficiency Measures include but are not limited to:

- Air duct sealing
- Appliance replacement
- air sealing building envelope
- insulation
- lighting
- hot water heater and piping insulation
- new central heating systems
- Double-paned windows

A complete definition of "eligible energy efficiency projects" will be developed based on energy savings and other qualitative and economic criteria developed by the City in consultation with equipment suppliers, consulting engineers, and utilities. Technical studies confirming that projects meet these criteria can be shared with partner FIs as part of Loan origination and appraisal.

In some cases, building owners will need to make non-EE repairs on the buildings in order to facilitate installation of the EE measures. For example, before attic insulation can be installed, it may be necessary to repair a faulty roof. Non-EE projects necessary to facilitate EE measures can be included in the Loans, up to a maximum percentage of 20% at the discretion of the City.

The City will make the final determination on project eligibility.

2.4. Target Lending Amounts. The City has prepared estimates of EE lending targets, summarized in the table below. Average utility rebates and incentives are estimated at 20% of the total project cost. The lending amounts are geared to a loan loss reserve fund of 5%, resulting in a target lending amount of approximately $20 million. Actual projects will vary significantly in cost. These budgets are based on the City's current staff and partner capacity, and a 40% rate of loan uptake versus self-finance, and are subject both to final negotiations with the partner FIs and to further adjustment and reprogramming during operations based on the experience and market response.

Loan Budget for 2010-2012

Average Project Size	$8,000
Average Rebates and Incentives	$1,600
Average Loan Size	$6,400
Total # of Loans	1,000
Total Lending through 2012	**$6,400,000**

Incentives and Rebates are estimated to pay for 20% to the total project costs.

2.5. <u>Roles of the Program Partners.</u> Main and suggested roles of the several Program partners are described below. Proposer is free to suggest other/additional roles as appropriate.

The City will provide:

- *Program Coordination.* Lead role to coordinate project implementation among all partners and parties.
- *CE Funding.* Up to $1,000,000 will be used for credit enhancement for energy efficiency Loans from the partner FI. The credit enhancement will be in the form of a 'loan loss reserve,' according to a formula to be negotiated, and/or other credit enhancements, including interest rate buydowns, to support energy efficiency financing. Based on a 5-10% leverage percentage, this amount can serve as an LRF for $10,000,000 - $20,000,000 in EE loans.

Sustainability for All will provide:

- *Program Design.* Lead Program design and assist the City, EFC, and the FI with initial financial structuring.
- *Reporting and Monitoring.* Contract with FI to collect, prepare, and submit Program reports to SEF as per agency requirements. Provide required reporting for SEF grant.
- *Marketing.* Organize & conduct marketing campaign for all sectors, coordinating with other partners. Conduct community-based neighborhood campaigns. This includes marketing the FI's Loan products.
- *Project Vetting*. [Non-Profit] will verify that projects meet EE and other germane standards before Loans can be approved.
- *Project Engineering & Development.* Coordinate delivery of engineering and project development services to interested customers. Develop and implement residential sector projects, organize audits, and evaluate and work with qualifying EE sub-contractors to implement projects.
- *Workforce Training.* Develop and implement the workforce training program.

[Non-Profit] is a mission-driven, not-for-profit organization. Its program costs are being paid by SEF funds, foundation grants, and utility sponsorship of its programs.

The FI will provide:

- *Creative Collaboration in Program Design.* Develop creative options to enhance and improve the Program.
- *Energy efficiency Loans.* Offer Loans according to the agreed range of terms and subject to FIs' credit approval.
- *Marketing.* Originate Loans and service the Program in cooperation with other Program partners. Marketing can be done through multiple channels (e.g., mailers to current mortgage holders, business account holders, and personal account holders).
- *Customer credit pre-screening services.* Focus Project development efforts with creditworthy customers to achieve high levels of access to Loans for customers.
- *Loan collections and administration.* Collect Loan payments and develop agreement to repossess energy efficiency equipment in event of Loan default, subject to Loan agreement terms with customers. Banks must follow their normal collection procedures and must outline these in their response to this RFP.

- *Reporting.* Information and coordination on success of Loans, collections activity in default situations, and other matters (subject to customer privacy policies).

Utilities will provide:

- *Energy efficiency audits.* Utilities will provide nominal incentives toward audits.
- *Financial incentives.* Provision of financial incentives (rebates) typically for 15-25% of EE project costs, according to the utility cost-effectiveness criteria.
- *Marketing.* Some marketing and education to customer base, along with providing some utility data.
- *Oversight.* Utilities will provide random inspections to serve as quality control for contractors.

Program Implementing Agreements. The selected FI would undertake two key agreements to implement this Program. First is a Loan Loss Reserve Agreement (LRF Agreement) between the FI and the City. Expected terms for the LRF Agreement are discussed in Section 4.3, below.

Second, an Energy Efficiency Loan Program Agreement among the FI, the City, and [Non-Profit], where the City acts as a Program coordinator, will be executed to define the respective roles of the parties in Program marketing and delivery, Loan origination, and reporting.

FIs will use their own form Loan agreements with borrowers, which form shall be subject to review by the City.

2.6. Loan Marketing. A common challenge to implementing EE measures is lack of financing, so the availability of the Loan can overcome this barrier and motivate participation. Further, the FI should have a goal to structure projects so that the dollar amounts of the estimated energy cost savings offset the amount of the monthly Loan payments to generate immediate positive cash flow. Thus, the Loan offer is integral to marketing.

Loan marketing will be integrated with the overall Program marketing. In addition, the following Loan marketing strategies and alliances are recommended and should be further explored and developed:

- *FI's Existing Customers*. The selected FI will market the Program to its existing portfolio of residential customers. The FI will identify customers, make contact, present the Program and bring them to the City or [Non-Profit] for project development services. These customers could be pre-screened for Loan eligibility. Even FIs that are not participating in the LRF mechanism can engage with the Program in this way.

- *Mortgage Refinancing.* There is an opportunity to piggyback EE investments with mortgage refinancing and incorporate the EE project investment into the new first mortgage principal, provided the project can be developed within the refinancing time frame.

- *Other Market Aggregators*. The Program and Loan offers can be marketed to entities that reach and manage multiple properties and property owners. These deserve special sales initiative and offer the opportunity for one high-level sale to result in an aggregated set of projects.

3. EE Loans

The goal of the Program is to offer EE Loans on attractive terms and longer tenors and broaden access to financing for EE projects in the City, initially. Only single family, residential Loans will be offered. While it is anticipated that unsecured Loans will be the primary form, more than one financial product may be offered for residential customers—both a secured (second or third mortgage lien) and an unsecured Loan product. The following list summarizes typical terms of the Loan products. These details will be finalized with the selected partner FI. Preliminary Loan product term sheets should be included in the RFP response.

- *Eligible borrowers*. Residential homeowners will be eligible to borrow under the Program. FIs should consider setting specific lending criteria that broaden access to credit for energy efficiency projects, based upon the credit enhancement provided by the LRF.

- *Eligible Projects*. All types of residential energy efficiency projects and equipment (see table in section 2.3 above) located in the City. The City will be responsible for applying State and utility standards to determine whether a project is eligible. Home repairs that enable EE investments will also be considered and can equate to 20% of the overall Loan.

- *Loan application*. Standard loan application materials will be provided by the FI. The City and other partners will collect information from property owners in the application process, coordinating with the FI. The Loan application will include an EE project investment plan and feasibility study specifying the intended measures to be implemented, their costs, estimated energy and cost savings, sources of financing, and contractor plan for implementing the works.

- *Loan terms*. For Residential, 7-15 year terms are planned, with 10 years being typical.

- *Interest rate*. Our starting assumption is that interest rates will be market-based for the type of loan product, or below, factoring-in the extra security offered by the loan loss reserve. Rates will be fixed for each Loan at the time of Loan application approval. FI will be asked to provide a published interest rate index as a benchmark for Loan pricing. However, the FI may include a proposal to use a portion of the funds as interest rate buy-downs, if this is perceived to increase participation in the lending program.

- *Payment schedule*. Monthly payments in arrears are anticipated, with Loans amortized “mortgage style,” that is, level payments of interest and principal.

- *Loan size: minimum & maximum*. The City anticipates completing a total of 2500 projects over the next two years, enabled by $6,400,000 in lending (1000 loans, assuming a 40% rate of loan uptake versus self-finance). Milestones for lending will be agreed upon and set forth in the LRF Agreement.

The actual parameters for the minimum and maximum loan size will be determined in the LRF Agreement between the City and the FI partner; however, a $3,000 minimum Loan size is anticipated. The average project cost is expected to be ~$8,000, with, an average of approximately $1,600 of which is expected to be paid through rebates and incentives, leaving an average Loan amount of $6,400.

Total Projects	2010-2011	1000
	2011-2012	1500
		2500
Percent of Projects Getting Loan		40%
Total # of Loans		1000
Average Size of Loan – Net rebates & incentives		$6,400
Total Residential Lending		$6,400,000

- *Loan underwriting guidelines and security*. To be proposed by FI. Both secured and unsecured Loan products may be offered. For residential secured Loans, second and third mortgages are expected to be required with maximum loan-to-value ratios of up to 100% anticipated. Borrower contribution, if needed, can be paid by personal contribution, utility rebates or incentives, or other rebates and incentives. A prudent portion of estimated energy cost-savings can be included in this calculation. The FI can also file a UCC-1 on the installed equipment.

- *Loan disbursement & flow of funds during project construction*. To be developed with FI. The simplest method is a single loan disbursement to contractor, authorized by borrower, following completion and acceptance of the project. Methods for construction advances for larger projects will be investigated. Multiple projects may be grouped for implementation.

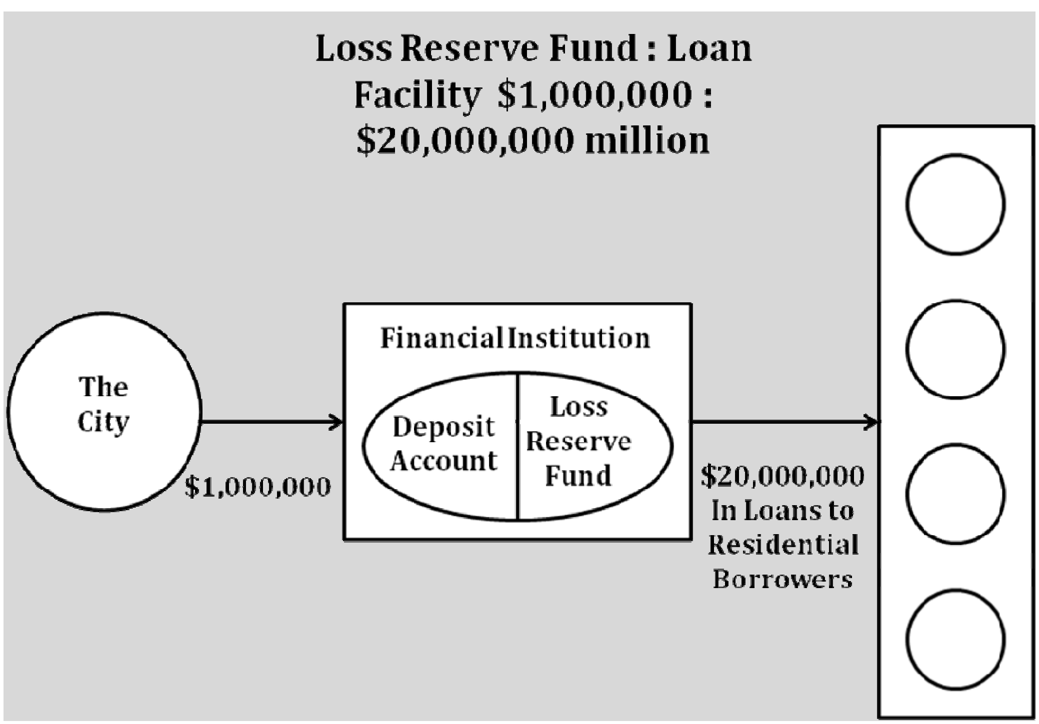
- *Prepayment option*. Option to prepay the outstanding Loans in whole without penalty will be sought. Partial prepayment option is not anticipated.

4. Use of CE Grant Funds

4.1 Loan Loss Reserve Fund. The City will devote an estimated $1,000,000 in CE funds from the grant the City received from SEF for credit enhancements to support the partner FI to make EE project Loans throughout the City. The LRF is intended to enable the FI to offer longer terms, lower interest rates, and broader access to finance. With $1,000,000 in LRF funds, we anticipate that the FI will to be able to lend from $10,000,000 up to $20,000,000 million, based on leverage ratios of between 10:1 and 20:1. This leverage ratio may be higher or lower, depending on the risk assessment by the FI respondent to this RFP. The LRF will support the whole EE Loan portfolio and is intended to be sized at a margin probably higher than the portfolio's estimated Loan losses.

SEF CE grant monies will be deposited with the partner FI pursuant to an LRF Agreement between the City and the FI. The LRF Agreement will create three accounts: an escrow account ("Escrow Account"), a reserve account ("Reserve Account"), and an account to house funds that are retired from the Reserve Account after Loans have been fully paid ("Reflow Account"), all specifically defined in the LRF Agreement. Monies ($1,000,000 of SEF CE grant funds) will first be placed in the Escrow Account at the participant FI. Then, for example, on a quarterly basis (the timing of the transfer is another variable that should be determined by proposer), as the FI makes eligible EE Loans, the agreed amount of funds for the loss reserve will be transferred from the Escrow Account to the Reserve Account. Once funds are transferred to the Reserve Account, they are available for the FI to draw on in the defined event of loss. The LRF structure takes a "portfolio approach" to the credit structure of the EE Loan program. The FI will be making a large number (up to 3000 in the next few years) of relatively small EE Loans. The goal of the credit enhancement is to create sufficient loss reserves—from LRF funds and the FI's own loss provisioning—to cover the estimated level of losses. With such reserves in place, in the event of a Loan default the lender will remain whole, at least to recover principal, at loss levels at or below the planned level.

The structure of the LRF is illustrated below:



4.2 Risk-Sharing Formula. The risk-sharing formula will have two main parameters:

The first parameter is the ratio of the LRF funds to the total original principal amount of Loans in the EE Loan portfolio. Presently, we are thinking this will be in the range of 5-10%, which is the same as a leverage ratio of 20:1 to 10:1.

- *Trade-offs among the leverage ratio, Loan security, and access to finance*. A lower leverage ratio means less lending per a given amount of LRF funds. This implies greater risk protection for the lender, which can result in relaxed underwriting requirements and approval of more Loans. Thus, there is a trade-off between the public goal of high leverage ratio versus the equally, or perhaps even more, important goal of creating broad access to finance. These trade-offs should be evaluated by the proposer and reflected in its final proposal. Proposals could offer up to three options on this point (e.g., one that maximizes interest rate and loan tenor, one that maximizes access to finance, and one that balances the two).

The second parameter in the risk-sharing formula is the share of losses that the LRF will pay. We anticipate this will be considerably less than 100%, which implies that a portion of the loss will be borne by the FI and covered from its normal loss-provisioning. Because all losses after the LRF is exhausted will be borne by the FI, FI incentives for good Loan origination, administration, and recoveries will be maintained. Both of these parameters are to be proposed by the FI and will be defined in the final agreements between the lender and the City.

4.3 LRF Agreement. To implement the finance program with the selected FI, an LRF Agreement will be executed by and between the FI and the City (depending on the proposal and the final terms of the LRF Agreement, the Program may also include a portion of funds used for interest rate buydowns). Key terms of the LRF Agreement include the following:

- *Definition of the Escrow Account.* The “Escrow Account” will house the original SEF CE grant monies deposited by the City with the partner FI. Funds in this account, and their transfer into the Reserve Account, will be controlled by an Escrow Agreement executed by and between the FI and the City.

- *Definition of the Reserve Account.* The “Reserve Account” is available to the FI to cover legitimate principle losses due to default that are otherwise unrecoverable using the FI’s standard default recovery mechanism (see next bullet).

- *Definition of Loss & Event of Loss*. “Loss” will be defined as principal only on the Loan. “Event of Loss” will be tied to the definition of Loan default and acceleration under the FI’s Loan Agreement with its borrower and will occur when the FI gives its acceleration notice to its defaulted borrower demanding all payments due under the Loan Agreement between FI and borrowers. A certain number of days after this event, *e.g.*, 30 days, then the FI can disburse funds from the Reserve Account to cover the agreed loss share, without obtaining further approval from the City. Any Reserve Account monies paid back to the FI to cover loan losses may be audited by a third party at the request and expense of the City.

- *Interest on Accounts***.** Interest shall accrue to the City on all accounts. Federal regulations state that all interest accrued must be used for eligible program purposes, and this includes "topping off" the LRF to enhance its sustainability over time.

- *Responsibility for and Distribution of Recoveries*. The FI will be responsible for recovery actions on defaulted Loans. Recovered monies, net of reasonable collections costs, will be distributed back to the Reserve Account in proportion to the FI's share of losses.

- *Underwriting criteria*. The parties will agree in advance on underwriting guidelines for the Loans. FI will be able to protect Loans through the Reserve Account that meet the underwriting criteria. Underwriting criteria can be adjusted during the course of the Program as a mutually re-negotiated and written amendment to the LRF Agreement. The terms of the Loans will be enumerated, including eligible borrowers, eligible projects, minimum and maximum Loan size, Loan tenors, etc.

- *Reporting & Monitoring*. The FI will provide regular monthly reports on the EE Loan portfolio, including the number and amount of outstanding Loans, payment performance, and collections, on all activities on the Escrow, Reserve, and Reflow Accounts. In each monthly report, the FI will also indicate any inchoate losses or acceleration notices.

- *Availability Period*. The timeframe for adding Loans to the portfolio and shifting funds from the Escrow Account to the Reserve Account will be defined and tied to the SEF CE grant requirements.

- *Disposition of Loan Loss Reserve Funds at end of Loan Period*. Funds will remain in the Reserve Account, the amount of which, in a fully subscribed portfolio, will be equal to the leverage ratio percentage times the amount of outstanding loans. When the amount of the loans in the Reserve Account drops below that reserve percentage, the amount in excess will be transferred to the Reflow Account for additional eligible uses under the DOE/SEF requirements. At this time, it is anticipated that funds transferred to the Reflow Account will be designated to support further EE lending or otherwise enhance credit for EE loans, unless otherwise determined by the City per the LRF Agreement (see bullet below on *Reprogramming Funds in the Escrow Account*). Distribution of funds from the Reserve Account to the Reflow Account will occur on the same schedule as funds are transferred under the availability period determined under the above bullet (presumptively monthly or quarterly—FIs should make a recommendation on this point in their response). When the EE Loan portfolio is fully retired (the conditions for this eventuality will also be spelled out in the LRF Agreement), all re-flow Reserve Account funds will be transferred back to the Reflow Account, and, from there the future use of the funds can be redirected by the City in accordance with SEF and federal DOE requirements. But at this time, the City anticipates that the monies in this Reflow Account will be on-lent for the purposes of EE energy projects.

    - Please consider whether, upon a lower-than-expected rate of default on the portfolio, the ratios in the LRF could be reduced.

- *Program Fees*. Under the Program, the partner FI will pay a 1% fee of the principal amount of all Loans added to the Loan portfolio. These fees can be added to the Loan and paid by the borrower and will be used by the City to pay Program development and operations costs. These fees also represent another source of income to make the Program sustainable and scaleable, and fees not used directly to cover development and operations costs will be added to the principle in the Reflow Account to increase the amount of LRF funds available for future EE lending.

- *Reprogramming Funds in the Escrow Account and the Reflow Account*. Funds in the Escrow Account and the Reflow Account belong to the City. As part of the negotiating process between the City and the FI, reasonable lending targets will be established. The City will have the option to re-allocate the funds in the Escrow Account, if the targets are not met, to a different credit enhancement. The Agreement will indicate the ability of the City to reprogram uses of these funds, as needed, to adapt to Program operating experience. Funds could be used for interest rate buy-downs and other incentives to increase marketability and uptake of Loans. <u>FIs are asked to give other creative ideas on how to use SEF CE grant monies in ways that will support financing and Program goals.</u> Please discuss these options, along with figures, if any, on the cost of buying down interest rates.

- *Accommodating the portfolio "ramp-up" period*. Before the portfolio builds up, a single loan loss can be a large percentage of the outstanding total Loan principal. Thus, in the beginning, a larger contribution to the Reserve Account may be negotiated to give the FI the necessary level of risk-sharing during the portfolio ramp-up period. The FI is asked to consider this in its response.

The LRF mechanism is not a loan guarantee; it uses the SEF CE grant funds to mobilize commercial lending by sharing risk with the partner FI, but it does not eliminate risk for the lender. There is no guarantor in this mechanism. The liability of the City is limited to the SEF CE grant funding provided only. The FI is at risk for the repayment of all Loan amounts in the EE Loan portfolio in excess of the loan loss reserves provided. Therefore, prudent lending origination and administration must be maintained. The Reserve Account must and will stay in place until the Loan portfolio is retired, at which point any remaining funds will be designated to support further EE lending or another use determined by the City.

- *Number of Participating FIs*. We expect to select one financial institution to serve the City's Program.

- *Alternative Uses of Funds – Interest Rate Buy-Downs.* It is intended that the CE grant monies will be used as loan loss reserves, but, based on program and residential market experience, grant funds may be used for interest rate buy-downs. In addition to the LRF, interest rate buy-downs have the ability to further reduce interest rates, improving the implementation of EE projects and the uptake of EE loans. This strategy may be necessary to improve the value proposition to the borrowers in this economic climate, ensuring that the CE grant supported loan facility is fully subscribed. An interest rate buy-down of 1% on 10-15 year loans could be considered for this purpose. The market response must be tested, and the existence of and the amount of the rate buy-down can be adjusted based on market experience. The cost of interest rate buy-downs are a function of the loan term and also will be priced to reflect assumptions on early loan prepayment. A price of 4.75% of loan principal to buy-down the interest rate by 1% on a 15 year loan is estimated. Interest rate buy-downs, if any, will be addressed in the LRF Agreement between the City and the partner FI. The agreed budget for interest rate buy-downs will be deposited with the FI. These funds would be drawn down by the FI as the loans are made to reduce the rate. The present value of the interest rate buy-downs are paid to the FI as the loans are originated. If funds are used as interest rate buy-downs, a separate Escrow Account will be opened for these funds for reporting and tracking purposes. This practice will be maintained for each credit enhancement mechanism.

The City aims to leverage the CE grant funds to the greatest extent possible, recognizing that interest rate buy-downs result in one-off spending of ARRA funds. However, if the customers of the City do not respond to the terms and rates offered by the selected FI, then a portion of the funds will be used as interest rate buy-downs or other credit enhancements, to ensure that projects are implemented.

- *Flexibility to Reprogram Funds*. SustainableWorks maintains the flexibility to reprogram all funds in order to further the program goals and to enable more EE projects. The City will continuously evaluate the Program's success in each community and region, gauging the effectiveness of the initial designated uses of funds. The City will retain the ability to shift funds from one designated use to another (e.g. LRF to interest rate buy-down or vice versa) or from one FI to another, provided the funds have not been tied directly to a Loan that supports an EE project.

The LRF Agreements will include a provision that will allow the City to retain this control over all funds (the Escrow Account and Reflow Account funds and interest rate buy-down funds). Until funds are moved from the Escrow Account to the Reserve Account, funds in the Escrow Account can be reprogrammed by the City. The LRF Agreement will also include a similar provision for interest rate buy-down funds.

5. RFP Process

5.1. RFP Schedule. [Designated personnel], of the City, will manage this process. Key steps and schedule for the RFP process are as follows:

RFP issued by the City	[Date]
Pre-bid Conference among financial institutions, representatives from the City, and the various other partners in the Program. This meeting is optional.	[Date]
Proposals due	[Date]
FI selected by the City for negotiations	[Date]
Target date to complete LRF Agreement and Program Agreement	[Date]

These dates are subject to change by the City. The City will notify all FIs that have submitted a notice of intent to propose of any changes.

5.2. *Question and Answer Procedures and Addenda*. Questions and answers will generally be handled in writing and distributed the responders. Any written questions shall be submitted to the City at the address specified for the receipt of proposals or to the following email: [xxx@City.gov]. Faxed questions or inquiries will be accepted. The City may modify this RFP prior to the date fixed for submission of proposal by issuance of an addendum to all proposers. Addenda will be numbered consecutively, the first being A-1.

5.3. Proposals will be due no later than [Date]. Proposals shall be addressed and delivered to the City of [ ], Office of Sustainability, 789 Main St., [City], [State] 19890. The City is not responsible for lost or misdirected proposals.

Verbal communications with the City are encouraged but shall not be binding on the City and shall in no way modify this RFP or excuse proposers from the requirements set forth in the RFP. Such modifications shall only be made in writing through RFP addenda as indicated above.

An optional "pre-bid" conference will be held at [Date] in **[**Address**]**. This conference is an opportunity for proposers to learn more about the Program and ask questions. The City, EFC, Non-Profit, and other relevant Program Partners will be in attendance.

The City's selection of a FI pursuant to this RFP process does not mean that the City accepts all aspects of the FI's proposal, modifications to which may be requested and agreed to during contract negotiations. Costs for preparing proposals are entirely the responsibility of each proposer and shall not be chargeable to the City. If the City is unable to reach an agreement with the FI originally selected, it will select the next highest-ranking respondent from the original list, without the need to go out for another RFP.

5.4. Form of Proposals.

5.4.1 *Instructions and Proposal Outline*. These instructions prescribe the formal and general content for proposals. Proposers are required to submit **electronic** copies of the following components:

- Cover letter
- Proposal: addressing energy efficiency Loan terms, LRF terms, credit underwriting, Loan marketing and FI staffing according to the Proposal Outline described below.
- Term Sheets for Loan Products

The City seeks to reduce waste in all our activities. Submittals shall be as PDF attachments to emails only.

5.4.2 *Cover Letter*. The cover letter transmitting the proposal must be executed by a responsible authorized official of the FI.

5.4.3 *Proposal Outline*. Proposals must address the following points:

Note: This is a competitive process. Proposers are asked to be creative in their proposals, addressing and suggesting trade-offs, submitting multiple options where reasonable, suggesting ranges, etc.—all aimed at achieving the fundamental goals of the Program and the SEF CE grants: to reduce energy usage through energy efficiency measures, to create green jobs, and to get FIs lending again, by offering the best loan terms (e.g., where possible the monthly loan payment amounts are offset by the energy cost savings) and broader access to loans (as practical, lowering barriers to lending so that more borrowers can utilize this Program).

a) *Loan Terms*. Please provide a summary description of energy efficiency Loan terms the FI can offer. We are interested to see the FI's ability and willingness to provide two types of loans: secured and unsecured. We are also interested to see the FI's willingness to consider different interest rates for different size loans in each of the sectors. For example, perhaps the FI would consider a lower interest rate for a larger loan. Please provide Loan Term Sheet(s) for this purpose. (See Annex 1 for example Loan Term Sheet).

b) *LRF Terms*. Please respond to the proposed LRF structure and terms, including FI's proposed LRF risk-sharing formula. Please identify and discuss briefly the FI's position on key points in the LRF Agreement, working off the terms described in Section 4.3, above, including:
   - Parameters of the risk-sharing formula
   - Separation and definitions of the Escrow and Reserve Accounts
   - Definition of Loss and Event of Loss
   - Disposition of funds at the end of the Loan period
   - the City Program fees
   - Portfolio ramp-up period
   - Reprogramming of funds in the Escrow Account and ideas for alternative uses of these funds to promote the Loans
   - Ideas on interest rate buy-downs

c) *Approach to Credit and Underwriting Guidelines*. Please provide a summary description of the FI's approach to (i) credit analysis of borrowers, (ii) underwriting guidelines and criteria for the energy efficiency Loan program, distinguished by customer market segment, and (iii) credit screening. Please address the Program goal of broadening access to finance and how the LRF can support this goal.

d) *Loan marketing, origination, and administration*. Please provide description of the FI's approach to Loan marketing, working jointly with the City and other Program partners. Describe the preferred roles of the FI in Loan marketing and origination. Further, please provide (i) a form Loan Application, (ii) a Loan origination procedures checklist, and (iii) a draft form Equipment/Energy Efficiency Project Loan Agreement.

e) *Qualifications & Experience, Officers and Staffing*. Please summarize your institution's qualifications and experience to undertake this Program, including current client base (market share) that can be targeted for marketing purposes. Please indicate names of officers who will play the following roles:

- Program Manager, headquarters, lead loan officer responsible for this Program who will provide the lead and primary point of contact for Loan origination;
- Senior FI Officer(s), who will negotiate and execute documents on behalf of the FI, be available if and as needed to discuss policy matters, and provide program leadership;
- Other staff, e.g., legal counsel, risk manager, assistants to the Program Manager within headquarters; and
- Indicate the number of branch officers who will be responsible for local Loan origination.

Please provide a brief resume of the Program Manager and, if desired, please also provide resumes of other key FI officers to be involved in the Program. Overall, please describe the level of effort and services the FI will devote and the general management approach the FI will take to make this Program succeed.

f) *Technical Assistance & Training Needs*. Please describe the FI's ideas, needs, and priorities for technical assistance and training. These needs can be discussed with the City and EFC for possible technical assistance support.

g) *Additional Statements and Materials*. Please feel free to add additional statements, ideas, and materials that demonstrate the FI's understanding of the Program goals and how the FI could implement the Program.

5.4.4 *Selection Process & Steps to Complete Agreements*.

a) *Evaluation.* Proposals will be reviewed by the City staff for completeness and scored and ranked by an Evaluation Committee. The Evaluation Committee will consist of representatives from the City, EFC, and other Program partners.

b) *Evaluation Criteria*. the City will evaluate proposals qualitatively according to the following criteria:

- Attractiveness of the proposed Loan terms, including pricing, tenor, security requirements, prepayment options, etc.;
- Response to proposed loan loss reserve terms and ability to utilize this to meet the Program objectives and the objectives of the DOE and SEF;
- Clarity and suitability of proposed Loan underwriting criteria and ability to meet the Program goal to broaden access to credit;
- Simplicity and ease of administration of underwriting criteria and Loan origination procedures and coordination with Program partners;
- Skills of staff, services, and level of effort the FI will provide to make this Program successful (FI should consider matching staffing with estimated loan volumes in the chart in Section 2.4);

- Numbers of current bank customers (commercial and residential), current numbers of mortgages and building loans/home improvement loans; and
- Additional statements, ideas and materials that demonstrate the FI's understanding of the Program goals and how the FI could implement the Program.

An evaluation worksheet is attached. The City will select one FI with which to proceed to negotiations. Please note: selection of the FIs will be a selection for negotiation—that is, the City and the FI will further refine the elements of the proposal to arrive at final agreements. If the City is unable to reach an agreement with the FI originally selected, it will select the next highest-ranking respondent from the original list, without the need to go out for another RFP.

5.4.5 Steps to Complete the LRF Agreement. Following selection of the FI with which to negotiate, the City proposes to proceed to negotiate the LRF Agreement. The City will provide the form of this agreement to start. Annexes to the LRF Agreement will include: (a) Loan Application Form; (b) Loan Origination Procedures Checklist, and (c) form Loan Agreement, among others. All terms of the term sheets and proposed agreements are subject to negotiation and change.

5.4.6 Steps to Complete the FI, City, and Non-Profit Program Agreement. Following selection of the FI with which to negotiate, the City will also prepare a draft Program Agreement for review and discussion with FI.

RFP Annexes
Annex A - Energy Efficiency Loans, Commercial, Draft Term Sheet
Annex B - Proposal Evaluation Scoring Sheet

REQUEST for PROPOSALS for FINANCIAL INSTITUTION SERVICES

Annex A:
Draft Term Sheet for Energy Efficiency Loans, Residential

Borrowers: Eligible borrowers include owners of single-family residences in [the City].

Lender: FI, after having entered into LRF and Program Agreements with the City.

Use of Proceeds & Eligible Projects: Loans must fund investment in energy efficiency measures in buildings in [the City] that meet certain efficiency criteria (to be defined by the City), in energy efficiency projects, and/or in building repairs necessary to implement the energy efficiency improvements. Equipment engineering and installation costs will be eligible.

Sources of Funds: Borrower will contribute a minimum of __% [e.g., 20%] own funds toward total Project Costs. Energy efficiency grants can be considered as borrower equity.

Minimum Loan: $____ (FI requested to propose). A $3-5000 minimum Loan size is anticipated.

Maximum Loan: $____ (FI requested to propose).

Loan Term: FI requested to propose Loan term. Loan term will vary with the type of building (e.g. for residential, 7-15 year terms are planned, with 10 years being typical).

Payment Schedule: FI requested to propose payment schedule. Payment schedule suggested for consideration: interest-only grace period for up to six months (typical 3 months, estimated) matching the estimated construction period, followed by level monthly payments of principal and interest for the balance of the Loan term. Mortgage-style amortization would allow the payments to be level over the Loan term.

Interest Rate: FI requested to define range based on Loan size, borrower credit, security, the mitigated risk (loan loss reserve), and other criteria. Rates will be fixed for each Loan at the time of Loan application approval.

Prepayment Option: FI requested to propose borrower prepayment options.

Loan Disbursement: FI requested to propose disbursement terms. FI can propose disbursing the Loan in one or several installments. A simple method is a single Loan disbursement. The Loan may be disbursed into the account of contractor company(ies) performing the project works after the FI receipt of invoice for completed portion(s) of the project, which invoice shall be transferred and accepted for payment by borrower, after determination of completion by the City. Methods for construction advances for larger projects can be proposed. Loan disbursement on each project will be contingent upon approval by the City based upon sufficient verification of EE project completion and all reporting requirements. City may rely on Program partners to verify project completion.

Loan Repayment & Security: To be proposed by FI. Both secured and unsecured Loan products may be proposed by FI. Sources of security could include the following:

a) For residential secured Loans, a deed of trust may be required, with anticipated loan-to-value ratios of 80-85% and up to 100%. It is expected that a prudent portion of estimated energy cost-savings will be included in this calculation.

b) First security interest in installed equipment can be obtained, and FI may make a UCC-1 security filing.

c) LRF funds.

Underwriting Criteria: FI requested to propose underwriting criteria. Sample criteria are for the commercial borrowers are indicated below:

- No negative credit history; current on outstanding debts
- Current on utility bills
- Debt to income ratio of ____
- Ratio of debt to total assets of ________.
- Employment history - e.g. two years at current job
- Income verification
- Borrower's own funds contributing minimum ___% [e.g. 20%] of project capital costs

Loan Application: Borrower shall submit the following documents to the FI to apply for the Loan (to be determined by FI, examples follow):

1. Loan application (provided by FI and completed by borrower).
2. Taxes for last two years.
3. Other additional documents (to be defined by FI).

Loan Origination Procedures & Schedule: FI is requested to define Loan origination procedures and schedule, including FI response time for processing Loan applications, rendering credit decisions once complete information is received, and closing Loans on accepted applications.

Annex B – Proposal Evaluation Scoring Sheet

City Energy Efficiency Lending Program
Financial Institution Request For Proposal: Proposer Evaluation Worksheet

	Criteria	Point Value	Grade (0-100%)	Score
	FI Qualifications & Experience	**10**		
1	FI proposer experience & qualifications	5		
2	Skills of staff and proposed level of effort	5		
	Energy Efficiency Loan Terms & Underwriting	**30**		
4	Interest rate & fee pricing	10		
5	Loan tenors	10		
6	Underwriting guidelines and security requirements	10		
	Approach to Loan Loss Reserve	**25**		
7	Proposed risk-sharing formula	10		
8	Response on other LRF Agreement terms	5		
9	Broadening access to finance: ability to achieve	10		
	Approach to the Program & Marketing	**30**		
10	Loan marketing	10		
11	Number of accounts/members	15		
12	Loan origination procedures	5		
	Other	**5**		
12	Match of FI's proposal with Program goals:	5		
	Total Points	100		

Evaluator Name & Date: ____

Financial Institution Name: ____

Contact Name(s): ____

[Program Name]

Energy Efficiency Loan Program Agreement

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City/County of [ ],

and

[ ] Bank

[ ], 2010

ENERGY EFFICIENCY LOAN PROGRAM AGREEMENT

This Energy Efficiency Loan Program Agreement ("Agreement"), dated [ ], 2010 is undertaken by:

The City of [ ] (the “City”) incorporated under the laws of [ ] State; and

[ ] Bank, a subsidiary of [ ] Corporation, (“Bank”) a [ ] State chartered commercial bank, headquartered in [ ], [State].

Recitals

A. The City joined the [Program name] (the “Program”) together with [Partner 1], [Partner 2], [etc.], and others to target comprehensive, deep energy efficiency retrofits for residential structures;

B. Energy efficiency retrofits include, but are not limited to, lighting retrofits, insulation, air sealing, heating, ventilation, and air conditioning components and control systems, and appliances;

C. The Program accomplishes these energy retrofits by providing a suite of services to participants, including energy audits, access to qualified and pre-screened contractors, information to access utility rebates and tax incentives, project monitoring, and affordable financing;

D. The City received a $X,000,000 grant from the US Department of Energy (the “Grantor”), which is the source of capital for providing loan loss reserve security to facilitate energy efficiency loans from Bank to borrowers;

E. Bank, as lender, will provide loan financing directly to individual eligible residential customers (“Loans”) for energy efficiency (“EE”) measures and wishes to expand its EE finance activity in volume and wishes to obtain the financial support for its EE financing activities available from the City, as provided in this Agreement;

F. Bank will also serve as escrow agent (“Bank as Escrow Agent”) and will provide fiduciary services to manage the receipt, disbursement, and investment of the City’s funds as provided in this Agreement.

G. [Local non-profit or community action agency Partner] will be working with residential energy users to prepare energy efficiency projects that meet the requirements of the Program and the Grantors. Preparation of projects will include conducting facility energy audits, developing a customized energy action plan, assisting with available rebates, and lining up contractors and bids. A separate agreement between [Partner] and the Bank will formalize this relationship.

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Agreements

In consideration of the foregoing recitals and the mutual covenants set forth below, the parties agree as follows:

Article I

Definitions. The following terms shall have meanings as defined:

"[ ] Program Partner Agreement" means the agreement among Bank, [Partner 1], and [Partner 2], dated [ ], 2010, for the purpose of defining the respective roles of the parties in Program marketing, Loan origination, and reporting (the "Program Agreement").

"Defaulted Loans" shall be those Loans that are ninety (90) days or more past due and have triggered an acceleration of the Loan and written notice to the borrower of such, as evidenced by documents defined in Section 3.04.

"Escrow Account" has the meaning given in Article II.

"Eligible Projects" means residential EE projects that meet the procedural criteria defined in Annex C.

"Loan Agreement" means the agreement between the Bank and the borrower that lays out the terms and conditions of the Loan.

"Loan(s)" shall be loans made by Bank for the purposes of financing Eligible Projects, using a form Loan agreement developed by the Bank and approved by the City, and that meet the Terms, Conditions, and Underwriting Criteria in Annex B and the Project Eligibility Design Criteria in Annex C.

"Loss Amount" shall mean unpaid principal on a Defaulted Loan and shall not include any accrued interest.

"Loss Reserve Percentage" shall equal 10%.

"Loss Share Percentage" shall equal 90% (ninety percent) as applied in Section 3.04.

"Net Recovered Amount" shall have the meaning given in Section 3.04.

"Quarterly Report" means the report made by the Bank at the end date of each quarter (March, June, September and December) listing the new Loans originated during that quarter, Loan repayment, and Loan loss status as defined in Article III, below. A form Quarterly Report is attached as Annex A.

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“Reflow Escrow Account” means a separate Escrow Account designated to receive funds from the Reserve Account once the total amount in the Reserve Accounts exceeds 90% of the total new outstanding principal of all Residential Loans. See Section 2.07 *et seq*.

"Reserve Account" shall have the meaning given in Article III.

ARTICLE II
Escrow Accounts

Section 2.01: <u>Escrow Accounts</u>. The Bank as Escrow Agent hereby establishes the Escrow account, account number [ ] (the "Escrow Account") for the City. The Escrow Account will be a [ ] Bank checking account and will be funded and administered as provided in this Agreement. The escrow arrangement hereby established does not create a debtor-creditor relationship between the parties, and all monies, funds, or assets of the Escrow Account shall be insured with the Federal Deposit Insurance Corporation (FDIC). The signature cards for the Escrow Account shall be forwarded to the City for completion, and a signature shall be necessary for any withdrawal under Section 2.04(b) below.

Section 2.02: <u>Funding of the Escrow Account</u>.

(a) On or before [ ], the City shall make deposit into the Escrow Account in the amount of $X00,000.00, and the Bank as Escrow Agent shall acknowledge to the City receipt of such funds upon deposit.

(b) City may, at its option, make subsequent deposits to the Escrow Account.

Section 2.03: <u>Interest on Escrow Account</u>. Interest shall be earned on and accrue to the Escrow Account at [ ]% rate.

Section 2.04: <u>Disbursements from Escrow Account</u>. Disbursements from the Escrow Account shall be made by Bank as Escrow Agent as follows:

(a) to the Reserve Account, as provided for in Section 3.02, below; and

(b) to the City, as provided for in Sections 2.05 and 2.06, below.

(c) In no event, except as provided in Subsections (a) and (b) immediately above, shall funds to be disbursed or withdrawn from the Escrow Account.

(d) No portion of the proceeds of a Loan may be used for refinancing of debt on the books of the Bank or for any debts incurred prior to the date a Loan is executed.

Section 2.05: Reprogramming Funds in the Escrow Account. Funds in the Escrow Account belong to the City. Targets for lending are as follows:

(a) December, 2010: $X,000,000 in residential loans, among approximately Eligible Projects;

(b) June, 2011: $X,000,000 in residential loans, among approximately Eligible Projects; and

(c) December, 2011: $X,000,000 in residential loans, among approximately Eligible Projects.

If these targets are not met, the City has the option to re-allocate all or part of the funds remaining in the Escrow Account to a different credit enhancement option, such as an interest rate buy-down or to direct cash incentives. In addition, the City has the option to withdraw funds from the Escrow Account. To re-allocate and/or withdraw funds, City must submit in writing a showing that the targets set forth above, in this Section 2.05, have not been met and a request for release of the funds back to the City for the purpose of re-allocation.

Section 2.06: Termination of Escrow Account. The Escrow Account shall terminate on [ ], 20XX, at which time Bank as Escrow Agent shall notify the City of any remaining balance in the Escrow Account and remit such balance to the City at such bank as the City may instruct at that time. However, the City may extend the termination date by notifying Bank in writing prior to [ ], 20XX.

Section 2.07: Reflow Escrow Account. The Bank as Escrow Agent hereby establishes a segregated Escrow Account, account number [ ] (the "Reflow Escrow Account") for the City. The Reflow Escrow Account will be [ ] Bank Savings Account and will be funded and administered as provided in this Agreement. All monies, funds, or assets of the Reflow Escrow Account shall be insured with the Federal Deposit Insurance Corporation (FDIC). The signature cards for the Reflow Escrow Account shall be forwarded to the City for completion, and a signature shall be necessary for any withdrawal.

Section 2.08: Funding of the Reflow Escrow Account. If and when total funds in the Reserve Account exceed 90% of the total new outstanding principal of all Loans funded by Bank pursuant to this Agreement, then any such excess funds will be remitted to the Reflow Escrow Account for the City. Such transfers will occur quarterly following Bank submittal of the applicable Quarterly Report.

Section 2.09: Interest on Reflow Escrow Account. Interest shall be earned on or accrue to the Reflow Escrow Account per the Bank's current saving account rate. If the amount on deposit in an individual Reflow Escrow Account is greater than $X00,000, funds in that Reflow Escrow Account will earn interest at the Bank's money market account rate.

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Section 2.10: Disbursements from Reflow Escrow Account. Funds in the Reflow Escrow Account are property of the City. Disbursements, re-programming, or withdrawals from the Reflow Escrow Account are at the sole option and discretion of the City. However, it is the current intent of the City that monies deposited in the Reflow Escrow Account will be used to fund a sustainable energy efficiency improvement fund following the principles and terms laid out in this Agreement.

Section 2.11: Reporting. Bank will include the amount of principal and the interest rate for the Reflow Escrow Account in its Quarterly Report and a summary of all other activity with Reflow Escrow Account.

ARTICLE III
Reserve Account for Residential Loans

Section 3.01: Reserve Account for Residential Loans. The Bank as Escrow Agent hereby establishes a special loan loss reserve Account, account number [ ] (the "Reserve Account") for the City. This Reserve Account will be a [ ] Bank checking account and will be identified and described in a separate annex to this Agreement (Annex B1). This Reserve Account shall be funded and administered as provided in this Agreement.

Section 3.02: Funding of Reserve Account. The Reserve Account will be funded by monies from the Escrow Account for Eligible Projects (see Annex F for Eligible Project determination). When the Bank funds a Loan, the Bank as Escrow Agent shall transfer funds from the Escrow Account to the Reserve Account in an amount equaling the product of the Loss Reserve Percentage multiplied times the original principal amount of the applicable Loan.

Section 3.03: Interest on Reserve Account. Interest shall be earned on and accrue to the Reserve Account at [ ]% rate.

Section 3.04: Declaration of a Defaulted Loan; Use and Disbursement of Funds from the Reserve Account. All funds in the Reserve Account shall be available to Bank to cover the agreed Loss Share Percentage of Loss Amounts on Defaulted Loans.

(a) A Loan will be deemed a Defaulted Loan if Loan payments are ninety (90) days or more past due and Bank has triggered an acceleration of the Loan as evidenced by one of the following documents:

(i) A copy of the expired demand letter sent to the Loan borrower, a sample of which is attached as Annex L; or

(ii) A copy of the borrower's Bankruptcy filing.[1]

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[1] In bankruptcy actions, the Bank is stayed from following normal collection procedures, so normally no

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(b) Five days after a Loan is deemed a Defaulted Loan, Bank as Escrow Agent will disburse funds from the Reserve Account to Bank for the applicable amount, which shall equal the Loss Share Percentage multiplied times the Loss Amount for the applicable Loan.

(c) The Reserve Account is **not** a loan guarantee. When and if the Reserve Account has zero balance (no funds remaining), City shall not be obligated to pay Bank for further losses on Defaulted Loans and all further losses on Defaulted Loans shall be fully to Bank's own account. The liability of City for Loss Amounts on Defaulted Loans is strictly limited to the balances in the Reserve Account, and no additional liability shall be incurred as a result of this Agreement.

(d) Recoveries on Defaulted Loans. In the event of recoveries on Defaulted Loans, the Bank will deposit back to the Reserve Account the Net Recovered Amount multiplied times the Loss Share Percentage. The Net Recovered Amount shall equal the gross amount of the recoveries less reasonable collections costs. The Bank shall retain documentation in its files evidencing any such reasonable collections costs, and upon request, present to the City.

Section 3.05: <u>Access to Account information</u>. Bank shall provide electronic email notification to the City upon any occurrence of balance change or other change of status to either an Escrow Account or a Reserve Account. In addition, Bank will provide the City password-protected, electronic, on-line access to review Escrow Account, Reserve Account and Reflow Escrow Account. However, disbursement of funds can only occur from an Escrow Account in accordance with Section 2.04 and from a Reserve Account in accordance with Section 3.04.

Section 3.06: <u>Termination of Reserve Account</u>. The Reserve Account shall terminate on the date when the Bank notifies the Bank as Escrow Agent that the last Loan under this Agreement has been fully paid. At such time, the Bank as Escrow Agent shall notify the City of any remaining balance (including interest) and remit such balance to the City at such bank as the City may instruct at that time.

ARTICLE IV
Reporting

Section 4.01: <u>Quarterly Reporting.</u>

(a) Bank will provide the three City the Quarterly Reports within two weeks of end date of each quarter (quarter end dates are 3/31, 6/30, 9/30, and 12/31), listing the Loan activity in that Quarter. The Quarterly Report shall, at a minimum, list all new EE Loans financed by Bank for the preceding quarter, assign each Loan a unique identification number, and indicate the original principal amount of each Loan. The

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demand letter is sent.

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Quarterly Report will indicate the payment performance on all outstanding Loans, collections if any, and on all other activities on the Escrow Account and Reserve Account. The Quarterly Report will also indicate any inchoate losses or acceleration notices. The Quarterly Report will include a section noting which Loans have been paid in full and any funds in the Reserve Account corresponding to those paid Loans that will be transferred to the Reflow Escrow Account. A form Quarterly Report is attached as Annex A.

(b) Within ten (10) business days of receipt by City of each Quarterly Report, if the City does not communicate its disapproval of the Quarterly Report, in whole or in part, the Quarterly Report is considered final.

(c) In the event Grantor requires the City to submit additional information or revised Quarterly Reports, Bank agrees to provide such data within 14 days of the City's written request.

(d) Each Quarterly Report will be appended to this Agreement.

Section 4.02: Resolution of Quarterly Reports. If the City disapproves in writing of a Quarterly Report within the ten-day period following its receipt of a Quarterly Report, then:

(a) the City shall immediately state to Bank its reasonable cause for such disapproval and request from Bank such additional information as needed to resolve the matter in question;

(b) Bank shall provide additional information as requested by the City to support and document its Quarterly Report; and

(c) Bank and City shall immediately use their best efforts to complete the mutually acceptable corrected Quarterly Report.

Section 4.03: Use of Quarterly Reports. City may use aggregated information, not specific individual loan information, contained in the Quarterly Reports to report on any aspect of the Energy Efficiency Loan Program.

ARTICLE V
Assignment & Assurances

Section 5.01: Negative Pledge. Neither the Bank, nor the Bank as Escrow Agent, shall grant, assign, or otherwise create, or permit to exist, any assignment, lien, encumbrance, security interest, pledge, charge, privilege, or priority of any kind in or to the Escrow Account or the Reserve Account or any of the funds at any time or from time-to-time Escrowed therein in favor of any person or entity other than City.

Section 5.02: Assignment by Bank. Notwithstanding the foregoing in Section 5.01,

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Bank may assign its rights under this Agreement with the prior written approval of the City. Bank assignment for the purposes of refinancing its EE Loan portfolio is contemplated, and the City will support and cooperate with this effort. In the event of such assignment, the City will direct Bank as Escrow Agent to effect and document such assignment and Bank as Escrow Agent will do so as directed by the City.

Section 5.03: Escrow Agent Notice. Neither the Bank nor the Bank as Escrow Agent has actual knowledge of any other assignment, lien, encumbrance, pledge, security interest, charge, privilege, or other priority of any kind related to the Escrow Account or the Reserve Account other than that created pursuant to this Agreement, and the Bank as Escrow Agent shall give the City prompt notice of any such interest other than that created pursuant to this Agreement of which a responsible officer of the Bank, or the Bank serving as Escrow Agent, obtains actual knowledge after the date hereof.

ARTICLE VI
Administration of Account

Section 6.01: Account Administration. The Bank shall administer the Escrow Account, the Reserve Account, and the Reflow Escrow Account and follow such procedures as it would in administering other accounts in its standard practices.

Section 6.02: Monthly Statements. The Bank shall provide to the City on a monthly basis, and from time-to-time upon request, a statement with respect to the Escrow Account, the Reserve Account, and the Reflow Escrow Account of (i) the balance of funds as of the beginning and the end of, and (ii) all deposits and all withdrawals made during, the month or period covered by such statement. Except in the case of manifest error, each such statement shall be deemed correct and final upon receipt by the City unless the Bank or the Bank as Escrow Agent is notified in writing to the contrary within thirty (30) days after the date of such statement. The City and the Bank shall make a good faith effort to resolve any disputes involving balances, the transfer of funds, or the monthly reports. In the event of a failure to resolve a dispute on their own, the parties will follow procedures in Section 9.02.

ARTICLE VII
Representations, Warranties, and Covenants

Section 7.01: Representations of the Bank and the Bank as Escrow Agent. The Bank, and the Bank as Escrow Agent, individually and jointly represent and warrant to the City as follows:

(a) Each has the requisite corporate power to own its assets, to conduct its business as presently conducted, and to enter into, and perform its obligations under, this Agreement.

(b) Neither the making of this Agreement nor the compliance with its terms will conflict with or result in a breach of any of the terms, conditions, or provisions of, or constitute a default or require any consent under, any indenture, lien, mortgage, pledge, charge, conditional assignment, hypothecation, security interest, title retention, preferential right, trust arrangement, privilege, or priority of any kind, agreement, or other instrument or arrangement to which either the Bank as Escrow Agent or the Bank is a party or by which it is bound, or violate any of the terms or provisions of either the Bank as Escrow Agent or the Bank's charter or any judgment, decree, or order or any statute, rule, or regulation applicable to either Bank or Bank as Escrow Agent.

(c) This Agreement has been duly authorized and executed by each of the Bank as Escrow Agent and the Bank and constitutes the valid and legally binding obligation of each, enforceable against each in accordance with its terms.

(d) There is not any consent, authorization, or approval of, or any registration or filing with, any government or governmental, administrative, fiscal, judicial, or government-owned body, department, commission, tribunal, agency, entity, or authority required under any law, regulation, order, decree, or judgment applicable to each of the Bank as Escrow Agent and the Bank in connection with the making and performance of this Agreement.

(e) The Escrow Account and all funds from time-to-time deposited therein are and shall be lawfully owned by the City, free and clear of any assignment, pledge, lien, charge, encumbrance, or security interest, other than those granted by the City in this Agreement for the purposes of transferring funds under Section 2.04.

(f) The Reserve Account and all funds from time-to-time deposited therein are and shall be lawfully owned by the City, free and clear of any assignment, pledge, lien, charge, encumbrance, or security interest, other than those granted in this Agreement.

Section 7.02: Indemnification. Bank, and the Bank as Escrow Agent, shall indemnify, hold and save harmless, and defend, at their own expense, the City, its officials, agents, and employees from and against all suits, claims, demands, and liability of any nature or kind, including its costs and expenses, arising out of acts or omissions of Bank's, and the Bank as Escrow Agent's, employees, officers, agents, or sub-contractors, in the execution and implementation of this Agreement.

The City shall indemnify, hold and save harmless, and defend, at its own expense, the Bank and the Bank as Escrow Agent, its officials, agents, and employees from and against all suits, claims, demands, and liability of any nature or kind, including its costs and expenses, arising out of acts or omissions of City's employees, officers, agents, or sub-contractors, in the execution and implementation of this Agreement and against all claims of non-compliance with the Davis Bacon Act, the Prevailing Wage Act, the National Environmental Policy Act and Section 106 of the National Historic Preservation Act.

The obligations under this Article do not lapse upon termination of this Agreement.

Section 7.03: Covenants of the City and Bank. City and the Bank shall each submit to the Bank as Escrow Agent a certification under oath by its corporate secretary or other equivalent officer attesting to the authority of the officer duly designated by each to issue instructions for purposes of this Agreement and setting forth their full names, their respective positions and specimen signatures. All orders, instructions, requests, or certifications of such duly designated officers shall be in writing, and the Bank as Escrow Agent may rely upon, and shall be fully protected and discharged from any responsibility or accountability in acting in accordance with such orders, instructions, requests, or certifications that the City and Bank hereby warrant to be valid, binding, and duly authorized by its respective governing body.

Pursuant to Section [ ] of the Charter of the City of [ ], the Mayor is authorized to execute this Agreement, which shall be approved as to form and legality by the City Attorney and attested to by the Finance Director.

Section 7.04: Notification of Material Changes. Each party shall notify the other party of any material changes in the mode of operation, change of premises, significant negative change in financial position, as well as any litigation or proceedings before any court or administrative agency that may adversely affect its ability to fulfill its contractual obligations under this Agreement.

ARTICLE VIII
The Escrow Agent

Section 8.01: General.

(a) The Bank as Escrow Agent shall not deal with the Escrow Account, the Reserve Account, the Interest Rate Buydown Account and the funds in each respective account, except in accordance with (i) this Agreement, (ii) written instructions given in conformity with this Agreement, or (iii) instructions agreed to in writing by the City. It is understood that this Agreement expressly sets forth all of the duties and obligations of the Bank as Escrow Agent with respect to the Escrow Account, the Reserve Account, and the Interest Rate Buydown Account, and the funds in each respective account. In the event that any of the terms and provisions of any other agreement between or among any of the parties conflict or are inconsistent with any of the terms and provisions hereof for purposes of determining the duties and obligations of the Bank as Escrow Agent under this Agreement, the terms and provisions of this Agreement shall govern and control in all respects.

(b) The Bank as Escrow Agent shall not have any liability with respect to any action taken by it arising out of or in connection with this Agreement except for its own negligence, fraud, or willful misconduct.

(c) This Agreement is for the exclusive benefit of the parties and their respective successors and permitted assigns and shall not be deemed to give, either express or implied, any legal or equitable right, remedy, or claim to any other entity or person whatsoever.

(d) If at any time the Bank as Escrow Agent is served with any judicial or administrative order, judgment, decree, writ, or other form of judicial or administrative process that in any way affects an Escrow Account, a Reserve Account, the Interest Rate Buydown Account, or any of the funds in those Accounts (including but not limited to order of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of any of the funds), the Bank as Escrow Agent is authorized to comply therewith in any manner as it or its legal counsel of its own choosing deems appropriate. If the Bank as Escrow Agent complies with any such judicial or administrative order, judgment, decree, writ, or other form of judicial or administrative process, the Bank as Escrow Agent (except in the case of the Bank as Escrow Agent's gross negligence, fraud, or willful misconduct) shall not be liable to any of the parties or to any other person or entity even though such order, judgment, decree, writ, or process may be subsequently modified or vacated or otherwise determined to have been without legal force or affect.

(e) In no event (except in the case of the Bank as Escrow Agent's negligence, fraud, or willful misconduct) shall the Bank as Escrow Agent be liable (i) for any consequential, punitive, or special damages, (ii) for the acts or omissions of its nominees, correspondents, designees, subagents, or sub-custodians, or (iii) for an amount in excess of the value of the funds.

(f) The Bank as Escrow Agent shall not be responsible in any respect for the form, execution, validity, value, or genuineness of documents or securities escrowed hereunder, or for any description therein, or for the identity, authority, or rights of persons executing or delivering or purporting to execute or deliver any such document, security, or endorsement.

(g) The Bank as Escrow Agent is authorized to comply with and rely upon any notices, instructions, or other communications believed by it to have been sent or given by a person or persons authorized by any other party.

Section 8.02: Escrow Agent Fees.

(a) Any fees for or associated with the Bank's services as Escrow Agent provided hereunder shall be included as part of and paid from the $100 origination fee the Bank charges each borrower for each approved loan.

Section 8.03: Replacement and Resignation. The Bank as Escrow Agent or any successor escrow agent hereunder may be replaced by the City at any time, or may resign upon giving at least sixty (60) days' prior written notice of resignation to the Bank and the City, and such resignation shall be effective from the date specified in such notice. If the office of the Bank as Escrow Agent shall be vacant for any reason, the City may, upon consultation with the Bank, appoint an escrow agent as successor escrow agent, in writing and delivered to the successor escrow agent, the retiring Bank as Escrow Agent, and the Bank, together with a copy of this Agreement. Upon written acceptance, the successor escrow agent shall succeed to all the rights and obligations of the retiring Bank as Escrow Agent as if this Agreement were originally executed by such successor escrow agent, and the retiring Bank as Escrow Agent shall duly transfer and deliver to such successor escrow agent the funds in the form held by it hereunder at such time.

ARTICLE IX
Miscellaneous

Section 9.01: Termination of Agreement.

(a) This Agreement shall terminate upon the payment in full of all Loans and when all funds, per Section 3.02 and approved by Bank as Escrow Agent, have been moved from the Reserve Account to the Reflow Escrow Account.

(b) In addition to the termination provisions provided in subsection (a) above, this Agreement shall terminate upon written agreement of all of the parties, regardless of cause.

(c) If the parties are in breach of any provision of this Agreement, the parties shall follow the procedures under Section 9.02. The initiation of arbitral proceedings in accordance with the herein prescribed procedure for Arbitration shall not be deemed a termination of this Agreement.

(d) Should Bank be adjudged bankrupt, or be liquidated, or become insolvent, or should Bank make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency, the City may, without prejudice to any other right or remedy it may have, terminate this Agreement forthwith. Bank shall immediately inform the City of the occurrence of any of the above events.

Section 9.02: Settlement of Disputes and Arbitration.

(a) Any dispute or controversy arising out of, in connection with, or relating to this Agreement that the parties are unable to resolve after making a good faith effort to do so on their own, shall be submitted to mediation conducted by a mutually acceptable mediator. If the parties are unable to agree on a mediator, or to otherwise resolve the dispute or controversy through mediation, then the parties shall submit the dispute or controversy to arbitration conducted by the American Arbitration Association, in [City], [State], pursuant to its then existing rules and regulations. Any decision so rendered in arbitration shall be binding and final on all parties.

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(b) During the dispute or arbitration, the performance of the obligations of the parties shall not be stopped or put on hold, except for such work as may be the subject matter of the dispute or arbitration or as is directly affected thereby.

Section 9.03: Use of City Name, Observance Other Laws

(a) Bank shall not use the name, emblem or official seal of the City without its express written permission.

(b) Bank shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Agreement. Bank shall submit any and all information the City requires to demonstrate compliance with such laws, ordinances, and codes within two weeks of City's request for such information.

(c) Nothing in this Agreement shall constitute a partnership among the parties nor constitute one party the agent of the other party or vice versa. Except as set out in this Agreement, no party shall have express or implied authority to bind or represent any other party for any purpose whatsoever unless expressly agreed in writing by the party concerned.

Section 9.04: Taxes. Bank shall not be exempted from the payment of taxes, if any, that they shall incur in the process of undertaking their respective obligations under this Agreement, such as, but not limited to, taxes due to the government on the gross income.

Section 9.05: Notices. All notices, instructions, and other communications shall be in writing and shall be delivered by registered mail or by confirmed email or fax to the parties at the following addresses:

For Bank:

____

____

____

Phone: _______________

Fax: _________________

Email: _______________

For Bank as Escrow Agent:

____

____

____

Phone: _______________

Fax: _________________

Email: _______________

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For City:

____
____
____
Phone: ______________
Fax: ________________
Email: ______________

All such notices and communications shall be deemed to have been delivered on the date of delivery, if delivered by certified mail, or on the date confirmation was sent if delivered by confirmed email or confirmed fax.

Section 9.06: Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties and the respective successors and assigns, but shall not be assignable by the Bank or the Bank as Escrow Agent without the prior written consent of the City. Any purported assignment in violation of this Section shall be void.

Section 9.07: Entire Agreement; Waiver and Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior agreements and undertakings, written or oral, with respect to the subject matter. Any waiver, amendment, or modification of the provisions shall not be effective unless in writing and signed by all the parties. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which given and shall not be construed to affect any other or future waiver or consent.

Section 9.08: Headings. Headings in this Agreement are for convenience or reference only and shall not be used in the interpretation or construction of this Agreement.

Section 9.09: Severability. If any one or more of the provisions of this Agreement shall be found to be invalid, illegal, or unenforceable in any respect or to any extent, such finding shall not affect the validity, legality, or enforceability of such provisions in any other jurisdiction, and the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected, impaired, or restricted.

Section 9.10: Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be a single agreement.

Section 9.11: No Waiver; Remedies. No failure on the part of the City, the Bank, or the Bank as Escrow Agent to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. The remedies provided herein are cumulative and not

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exclusive of any remedies provided by law.

Section 9.12: Governing Laws. This agreement shall be governed by and construed in accordance with the laws of the State of [ ]. In any legal action arising from this agreement, the substantially prevailing party shall be entitled to reasonable attorney's fees, including costs allocated for in-house counsel, other costs, and necessary disbursements incurred in connection with the action or proceeding as determined by a court.

Section 9.13: Nondiscrimination in client services. Bank shall not, on the grounds of race, color, sex, religion, national origin, creed, marital status, age, or disability, unlawfully:

(a) Deny a qualified individual any facilities, financial aid, services, or other benefits provided under this Agreement;

(b) Provide any service(s) or other benefits to a qualified individual that are different, or are provided in a different manner, from those provided to others under this Agreement or confer separate treatment in any manner related to the receipt of any service(s) or other benefits provided under this Agreement;

(c) Deny any qualified individual an opportunity to participate in any program provided by this Agreement through the provision of service(s) or otherwise, or any individual an opportunity to do so that is different from that afforded others under this Agreement.

Section 9.14: These funds will not be used to:

(a) Discriminate against any employee or applicant for employment on the basis of religion;

(b) Discriminate against any person applying for services on the basis of religion or limit such services or give preference to persons on the basis of religion; or

(c) Provide religious instruction or counseling, conduct religious worship or services, or exert other religious influence in the provision of services.

Section 9.15: In the event that funding is withdrawn, reduced, or limited in any way after the effective date of this Agreement due to City budgetary decisions or Grantor reduction or elimination in grant revenues, and prior to its normal completion, the City may summarily terminate the Agreement as to any funds withdrawn, reduced, or limited from the Escrow Account or the Reflow Escrow Account, notwithstanding any other termination provisions of this Agreement. Termination under this Section shall be effective upon receipt or written notice thereof.

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be duly executed as of the date first written above.

__________________________ (Bank)

____
By: _________________________
Title: _________________________

__________________ (Bank as Escrow Agent)

____
By: _____________________________
Title: _____________________________

___________________________ (City)

____
By: _________________________
Title: Mayor

Attest:

____
Finance Director

____
Department Head

Approved as to Form:

____
Office of the City Attorney

Signed in the Presence of:

____

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<u>List of Annexes</u>

A. Sample form for Quarterly Report

B. Terms, Conditions, and Underwriting Criteria - Loans

C. Project Eligibility Design Criteria – Loans

D. Project Eligibility Determination Procedure

E. Sample form Residential Project Eligibility Letter

F. Sample form Residential Project Quality Assurance Certificate

G. Sample form Bank Default Demand Letter

List of Schedules

1. [ ] Bank's Loan Underwriting Criteria [Bank to include updated Word or scanned copies of its underwriting criteria]

2. Quarterly Reports

[NOTE: All Annexes are intended as examples and sample documents and must be adapted to a Program's specific configuration and vetted with appropriate legal counsel.]

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Annex A
Page 1 of 2

Energy Efficiency Loan Program Agreement

ANNEX A
QUARTERLY REPORT to the City and Bank as Escrow Agent
Pursuant to Energy Efficiency Loan Program Agreement dated [ ], 20XX

Reporting Period: [ ], 2010 to [ ],2010

New Loans Added to Segment during Period

	Loan #	Borrower	Location	Project Description	Net Sales Price	Customer Downpayment	Loan Principal	Closing date	Maturity date
1									
2									
3									
4									
Example	00123	Stellar, Jane	[ ]	Roof insulation + roof	$20,000	$4,000	$16,000	Nov 15, 2010	Nov 15, 2015
etc.									
Total							$16,000		

Funds to be Transferred from Escrow Account to Reserve Account
for these new Loans as per Agreement Section 3.02 10.00% $1,600

Funds Transferred from Escrow Account to Reserve Account, per all prior Quarterly Reports	$200,000
Funds Transferred from Escrow Account to Reserve Account, with this Quarterly Report	$1,600
Total Funds transferred from Escrow Account to Reserve Account, as of this Quarterly Report	$201,600

Defaulted Loans During Period

	Loan #	Borrower	Location	Outstanding Loan Principal	Accrued Interest*	Loss Amount
1						
2						
3						
4						
Example	00012	Schmoe, Joe		$12,000	$240	$12,000
etc.						
Total						$12,000

*not greater than two months accrued interest

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Annex A
Page 2 of 2

Funds to be Disbursed to Bank from Reserve Account for total Net Loss Amount per this Quarterly Report, as per Agreement Section 3.04_____________		90.00%	$10,800
	Funds Disbursed to FI from Reserve Account, per all prior Quarterly Reports		$0
	Funds to be Disbursed to FI from Reserve Account, with this Quarterly Report		$10,800
	Total Funds Disbursed to FI from Reserve Account, as of this Quarterly Report		$10,800

Portfolio Data

1	Total Loans in Segment, prior Quarterly Report		
2	Total # New Loans Added, this Quarterly Report		
3	Total # Loans as of this Quarterly Report		
4	Total Original Loan Principal, all Loans in Segment, with prior Quarterly Report		
5	Total Original Principal, all New Loans, this Quarterly Report		
6	Total Original Principal, all Loans in Segment, this Quarterly Report		
7	Total Outstanding Principal, all Loans in Segment, as of	Mar 31, 2010	
8	# Loans current		
9	# Loans past due 30 days		
10	# Loans past due 60 days		
11	Total Outstanding Principal, all Loans in Segment past due 60 days		
12	Total outstanding principal of Loans in default		

	Fully Matured Loans
1	Total # Loans that were paid in full during Quarterly Report period
2	Total $ amount moved from Reserve Account to Reflow Escrow Account during Quarterly Report period

Prepared By: ______________________________

Approved By:

____
Manager
[ ] Bank

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Annex B
– Example Terms, Conditions, and Underwriting Criteria –
Residential Loans

Borrowers: Eligible borrowers include individuals residing in [City].

Lender: [ ] Bank

Use of Proceeds & Eligible Projects: Pursuant to the Program Agreement among [Partner], [City], and [ ] Bank, and this Energy Efficiency Loan Program Agreement, loans must fund energy efficiency measures approved by [Partner or City or its designee].

Multi-family residences qualify for Eligible Loans if and only if they are owner-occupied and comply with Grantor's requirements.

Sources of Funds: Borrowers are encouraged to contribute 20% of their own funds toward total project costs. Energy efficiency grants and utility rebates can be considered as borrower equity.

Minimum Loan: $3000

Maximum Loan: $20,000

Loan Term:	$3,000 to $4,999	5 year term
	$5,000 to $9,999	5 to 10 year term
	$10,000 to $20,000	10 to 15 year term

Payment Schedule: Payments will be fully amortized, fixed monthly amounts, beginning with the initial payment.

The Bank will not be offering initial interest only payments during the construction period for two reasons:

1) Significant monthly energy savings are seasonal, and may not immediately be generated.
2) Especially for lower income borrowers, the Bank believes that having one clear payment amount from the start will help the borrower to budget for the new payment amount.

Interest Rate: [ ] Bank will be applying the following interest rates to these loans and they will be underwritten as unsecured credits.

		Credit Score Range	
Loan Amount	800 & Up	725-799	<725
$10,000 & Up	4.25%	4.75%	6.5%
<$10,000	5.5%	5.25%	7.25%

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Loans include $100 origination fee, plus 1% fee to [City to be used for "topping off" the Escrow Account in the event of loss]. The borrower may finance these fees as an addition to the principal amount of the Loan.

The Bank offers a 0.25% discount for automatic payment from a [ ] Bank checking account.
Rates are subject to change. Any changes in rates will be communicated to City. Rates will be fixed for each loan at the time of loan application approval.

Prepayment Option: Interest on [ ] Bank's loans is calculated using the simple interest approach, and these loans will not include any penalties for pre-payment.

Loan Disbursement: Loans will be disbursed via Cashier's Check made payable to the contractor (when one exists). Each Loan disbursement on each project will be contingent upon prior written approval by borrower and [Partner, City, or City's designee], based upon sufficient verification of EE project completion and all reporting requirements

Loans under $10,000 will be disbursed in a single payment. Loans over $10,000 may be disbursed in two separate disbursements when agreed upon prior to loan documentation.

Borrowers will typically have turnkey contracts for construction of the projects with qualified contractors. A "Schedule of Values" may be included in the construction contracts and Loan agreement defining: construction milestones, construction costs to achieve each milestone, and independent inspection confirming achievement of milestones. Construction finance plan and Schedule of Values must be acceptable to all parties.

Loan Security: All loans will be secured by a UCC-1 filing, and otherwise these loans will be treated as unsecured loans from an underwriting perspective.

Loans will also be indirectly secured by the pledge of loan loss reserve funds.

Loan Repayment: Repayment will be expected to come from the borrower's monthly income. Borrowers will be fully obligated to repay the credit via the promissory note and any associated filing to perfect the Bank's interests.

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Should the borrower default on repayment, the Loss Reserve Account will be drawn upon to cover a portion of the loss.

Underwriting Criteria: See Schedule 1, [   ] Bank's Loan Criteria.

Loan Origination Procedures & Schedule:

- Loan applications must be submitted to one of [   ] Bank's branches located in [   ] County.
- Applications may be submitted in person, by fax, by email, or by mail. The application must note the street address of the subject property.
- Accompanying the application will be the following:
    - Statement of intended work from the [Partner], listing the work to be performed, the estimated cost, and the needed loan amount.
    - Income documentation: current pay stub or for self-employed applicants a full, signed copy of their last federal income tax return.
- [   ] Bank will underwrite the complete loan application and associated documentation, and will respond back to the applicant within 1 to 2 business days. At the same time that the applicant is notified, the City and [Partner] will also be notified of the credit decision. For declined applications, the reasons for decline will be disclosed only to the applicant.
- Loan documents will normally be available the following business day. Loan closing will occur in a [   ] Bank branch. Closing is subject to 3-day right of rescission. Funding projected for fourth business day.

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Annex C
– Example Project Eligibility Design Criteria –
Residential Loans

Borrowers: Eligible borrowers include individuals residing in [City].

Energy Efficiency: The project design includes measures designed to meet energy efficiency standards based on the [ ] State Weatherization Assistance Program and [Local Utility] standards. The project design does not dedicate more than 20% of the project's total budget toward any non-energy efficiency design measures that are necessary to install energy efficiency measures. Special consideration will be given to projects that budget more than 20% in non-energy efficient measures that, if completed would allow for energy efficiency upgrades. Approval from the [Partner or City's designee] residential manager is required for this exemption.

Acceptable Measures: Acceptable energy efficiency design measures are any measures identified by [Partner or City's designee] or its contractors during a qualifying home energy assessment and presented to the borrower during a home energy advisor consultation session. These measures include but are not limited to insulation, air sealing, duct sealing, furnace replacement, hot water tank replacement, window replacements, and solar photovoltaic energy systems.

Acceptable Projects: Acceptable projects must be completed by contractors qualified and trained by the [Partner or City's designee], must meet all program reporting requirements including paying [ ] State prevailing wage and Davis Bacon Act requirements and must submit to quality assurance inspection prior to job completion. [City] and [Bank] shall ensure that all borrowers, energy contractors, and any subcontractors hired as a result of this Agreement are in compliance with all federal and state laws, including compliance with all requirements of the American Recovery & Reinvestment Act. [City] and [Bank] shall ensure that the project complies with the National Environmental Policy Act and Section 106 of the National Historic Preservation Act.

Annex D
– Example Project Eligibility Determination Procedure –

1. All prospective residential projects must be evaluated by the Bank and [Partner or City's designee] ("[Partner]"). If the lead on a prospective project first originates with the Bank, the Bank will coordinate with [Partner or City's designee] to evaluate the project for eligibility. If the lead on a prospective project first originates with [Partner or City's designee], [Partner or City's designee] will coordinate with the Bank to evaluate the project for eligibility.

2. A prospective project will receive approval as an "Eligible Project" if it meets the following criteria:

   a. The prospective project meets Bank's underwriting criteria, as set forth in Annex B, and the Bank has issued a Loan, with disbursement of funds conditioned only upon the Bank receiving a Residential Project Quality Assurance Certificate (Annex F) at the completion of project; and

   b. The prospective project meets energy efficiency design criteria and other funder requirements, as set forth in Annex C and has received a Project Eligibility Letter (see Annex E).

3 As an Eligible Project, the project can proceed with construction funding provided by the building owner or the contractor.

4. Upon completion of construction, the contractor will apply to [Partner or City's designee] for assurance that the project has met all energy efficiency design criteria and other funder requirements, as set forth in Annex C. If [Partner or City's designee] determines that additional work is needed to meet the energy efficiency design criteria, [Partner or City's designee] will notify contractor in writing with a corrective order. When all energy efficiency design criteria have been met, [Partner or City's designee] will issue a certificate designating such ("Quality Assurance Certificate") and deliver a copy of the Quality Assurance Certificate for that project to the Bank (see Annex F).

5. When the Bank receives the Quality Assurance Certificate, it shall disburse Loan funds to contractor.

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Annex E
– Sample Form Residential Project Eligibility Letter –

[Date]

To: Les S. Moore
North Bay Retail Division Manager
[ ] Bank
123 Main St
Wilmington, DE 19890

From: John B. Goode
Energy and Policy Manager
Sustainability For All
456 Main St
Wilmington, DE 19890

Dear Mr. Moore,

Please accept this letter as evidence that the project outlined below is an eligible residential project that meets our energy efficiency requirements and other program requirements under agreement #XYZ. This project qualifies for protection under the loan loss reserve program. Please review Ms. Jane Stellar's application for a loan to complete the project and, with her approval, let me know if she has met your underwriting criteria and is approved for a loan. If approved, we will assign her project to a contractor. This project is considered eligible for three months from today's date.

All energy contractors, and any subcontractors hired as a result of this Agreement, have agreed to meet all program reporting requirements including paying [ ] State prevailing wage and Davis Bacon Act requirements and will submit to quality assurance inspection prior to job completion. This project and all energy contractors, and any subcontractors hired as a result of this Agreement, shall be in compliance with all federal and state laws, including compliance with all requirements of the American Recovery & Reinvestment Act. This project complies with the National Environmental Policy Act and Section 106 of the National Historic Preservation Act.

Project Details
Borrower: Ms. Jane Stellar
Project Address: 123 Second Street, Wilmington, DE 19890
Scope of Work: Tier 3 weatherization, a detailed scope of work is available upon request
Estimated Project Cost: $8,000
Loan Amount Requested: $9,200 (includes 15% change order

contingency)

Please let me know if there are any additional questions.

Sincerely,

John B. Goode

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Annex F
– Sample Form Residential Project Quality Assurance Certificate –

[Date]

To: Les S. Moore
North Bay Retail Division Manager
[ ] Bank
123 Main St
Wilmington, DE 19890

From: John B. Goode
Energy and Policy Manager
Sustainability For All
456 Main St
Wilmington, DE 19890

Dear Mr. Moore,

Please accept this letter as evidence that the energy efficiency project authorized for loan #123 has completed all necessary program requirements. Sustainability For All has reviewed the work and the reporting documentation. Please proceed to disburse funds as per agreement #XYZ.

This letter also certifies that the homeowner for this energy efficiency project, Jane Stellar, agrees that the contracted work under this project has been satisfactorily completed and authorizes [ ] Bank to disburse funds from their loan #123, and issue a check for $X,000.00 to Best Work Construction Firm.

Please let me know if there are any additional questions.

Sincerely,

John B. Goode

Home Owner Authorization:
I, Jane Stellar, certify that the work under this project has been satisfactorily completed and authorize [ ] Bank to disburse the funds from my loan #123 and issue a check for $X,000.00 to Best Work Construction Firm.

____
Jane Stellar, Home Owner

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Annex G
– Sample form Bank Default Demand Letter –

March 3, 2010

Joe Schmoe
789 First St
Wilmington, DE 19890

RE: Loan #XXXXXXXX

Dear Mr. Schmoe:

Because of your severe delinquency you are in default on this loan under a Promissory Note and Security Agreement you executed on November 1, 2010. At this time your loan is past due for the payments scheduled for January 1, 2011, February 1, 2011, and March 1, 2011 totaling $301.37. This includes late charges, and amounts only partially paid.

You have until March 13, 2011 to cure this default.

You may cure your default by paying us $301.37 in cash or by certified check. This amount includes the full amount past due and owing. You must pay this amount to us at our office located at [branch location] no later than 5:00 pm on March 13, 2011.

If you do not cure the default and reinstate the loan as provided above, then we may exercise our rights under the law by accelerating the sums due and owing under our Promissory Note and UCC-1 filing. Such actions may include foreclosing upon the collateral securing this loan and selling it.

Please contact our office as soon as possible. If you cannot make the payment now, contact me at **1-800-123-4567**, so that arrangements can be made to bring your account current. My office hours are Monday through Friday, 8:00am to 5:00pm (EST). Another alternative is you can contact me by email at HMcHugh@Bank.com .

Sincerely,

Honor McHugh
Consumer Collection Counselor

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Schedule 1
– [ ] Bank's Loan Underwriting Criteria –

[To be supplied by the Bank]

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Schedule 2
– Quarterly Reports –

[It is intended that each Quarterly Report be annexed to and become part of this Agreement]

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[Program Name]

Program Agreement

[   ] City,

[Local non-profit or community action agency Partner],

and

[   ] Bank

[   ] [   ], 20XX

ENERGY EFFICIENCY PROGRAM AGREEMENT

This Program Agreement ("Agreement") is made this [ ] day of [ ], 2010 by and among [ ] Bank, having its principal place of business at 123 Main St., [City], [State] 19890 ("Bank"); [A Local non-profit or community action agency partner], having its principal place of business at 456 Main St., [City], [State] 19890 ("Non-Profit"); and City of [ ], having its principal place of business at 789 Main St., [City], [State] 19890 (individually a "Party," collectively the "Parties")(the Non-Profit and the City collectively are the (Organizers").

Recitals

A. The Organizers will be working with commercial and residential energy users in the [City] to prepare energy efficiency ("EE") projects ("Projects") that meet the requirements of the [State or USDOE] grant that has funded this Energy Efficiency Program (the "Program").

B. The Organizers intend to market the Program, develop customized energy efficiency investment plans for energy users, arrange for EE audits and recommend accredited contractors, confirm eligibility of proposed Projects, assist with available rebates, assist with the loan application process, and verify quality of completed Projects.

C. The Bank is in the business of providing loans, subject to credit approval of individual customers and transactions, which loans can be used by customers to fund Projects.

D. Bank will provide loan financing, based on agreed-upon underwriting criteria, directly to individual eligible residential and commercial customers for EE measures ("Loans") and wishes to expand its EE finance activity in volume.

E. Bank and the Organizers wish to establish terms, conditions, and procedures for their cooperation in marketing and originating Loans, with the support of grant funding and loan loss reserve protection.

Agreements

In consideration of the foregoing recitals and the mutual covenants set forth below, the Parties agree as follows:

1. Loans. Bank will provide and administer Loans to customers desiring to finance a Project ("Customers" or "Borrowers"). All estimated Loan terms and Bank duties regarding the Loans are defined in a separate agreement between the Bank and the City. This Energy Efficiency Loan Program Agreement is attached for reference as Annex A.

2. Program Management. Each of the Parties to this Agreement will designate a point person to manage the Program. See Section 12(e) for contact information.

(a) Point person for Non-Profit is [Name].

(b) Point person for the Bank is [Name].

(c) The Bank shall ensure that a contact at each of its branches in [the City] is familiar with the Program and conversant with the terms of this Agreement. Contact information for branch point personnel is listed in Annex B.

(d) Bank shall issue policy and operating guidelines supporting the Program and distribute to its branch offices. Organizers shall have an opportunity to review and comment.

3. Training. All Parties will train their personnel on the Program.

(a) Bank will create training materials covering its role in the Program. Bank personnel will use these materials to provide training on the Bank's procedures to both the Organizers and to the Bank's own branch personnel located throughout the City. Follow-up training will be available as needed.

(b) Non-Profit will develop training materials for the Bank to familiarize Bank personnel with Non-Profit's "one-stop-shop" procedure and Main Street storefront operations.

- The one-stop-shop service will coordinate:
    - Technical services to test, diagnose, and develop an individualized energy-savings plan for a particular building;
    - Assistance with finding appropriate financing options, based on projected savings identified in the plan;
    - Referrals for qualified and competent contractors who can perform the identified work; and
    - A quality assurance inspection that ensures, through post-work testing and inspection, that the work was done as required.

(c) Non-Profit will develop training materials and train their own personnel on staffing for the "one-stop-shop" procedure and on staffing the Main Street storefront. This training will include ensuring familiarity with all Loan materials and Bank's credit determination procedure.

(a) Each of the Parties will assist the others, as needed, in the development of training materials and ensure that all relevant staff are well-trained on the Program.

4. Organizers' Roles in Loan Marketing. Parties will develop collaboratively Loan marketing materials, including loan applications. Non-Profit shall develop and ensure effective distribution of marketing materials. Its roles and responsibilities include the following:

(a) Non-Profit agrees to notify its current and past membership of the availability of Loans under the Program and to use best efforts to "sell" them on the Program.

(b) Non-Profit agrees to notify homeowners in the City of the availability of Loans under the Program and to use best efforts to "sell" them on the Program.

(c) Non-Profit will work to develop an advertising campaign to target newspapers, radio, etc.

(d) Non-Profit will work to prepare marketing materials for distribution to potential Customers. Expenses for marketing materials will be borne by ______.

(e) Non-Profit will maintain a storefront presence at 456 Main Street to serve as the physical presence for the "one-stop shop."

(f) Organizers will educate Customers on Bank financial services and Loan terms and conditions, using information approved by the Bank.

(g) The Organizers shall obtain Bank's prior and specific approval for all mention of the Bank in marketing materials, media ads, and/or other public outreach.

(h) Records of its marketing efforts shall be kept by the Organizers and shared with the Bank.

(i) Etc.

5. Bank's Role in Project and Loan Marketing. Bank will identify existing Bank customers in the target market sectors throughout the City.

(a) Bank will review its list of current customers to determine which may have potential for participation in the Program and facilitate an introduction between the Organizers and those potential Customers.

(b) Bank will develop marketing literature to include in monthly statements and to display prominently at branches.

(c) Bank agrees to announce the Program and its benefits in certain of the Bank's media ads.

(d) Bank agrees to display signage at certain of its branches announcing the Program and its benefits.

(e) Records of its marketing efforts shall be kept by the Bank and shared with the Organizers.

(f) Costs of Bank marketing materials and distribution will be borne by Bank.

(g) Etc.

6. Target Loan Volumes. For target loan volumes, see Section 2.05 of the Energy Efficiency Loan Program Agreement (attached as to this Agreement as Annex A).

7. Project Eligibility. All prospective residential projects must be evaluated by the Bank and the Non-Profit because of the need to ensure eligibility both in terms of financial and energy efficiency objectives.

(a) If the lead on a prospective project first originates with the Bank, the Bank shall coordinate with Non-Profit so it can evaluate whether the project meets energy efficiency design criteria. If the lead on a prospective project first originates with Non-Profit, it shall coordinate with the Bank so it can begin the Loan application process, as set forth in Section 9 below.

(b) A prospective project shall receive approval as an "Eligible Project" only if it meets the following criteria:

(i) The prospective project meets energy efficiency design criteria and receives a Project Eligibility Letter; and

(ii) The project receives Loan credit approval, as set forth in Section 9 below.

(c) Non-Profit shall evaluate the prospective project to determine whether it meets energy efficiency design criteria and other Grantor requirements, (as set forth in Annex C of the Energy Efficiency Loan Program Agreement) and if it does, issue a Project Eligibility Letter (see Annex E of the Energy Efficiency Loan Program Agreement), and provide the Bank with a copy of the Project Eligibility Letter.

9. Loan Credit Approval. Once Non-Profit issues a Project Eligibility Letter, the borrower must satisfy the Bank's credit underwriting criteria. Bank and Organizers will work together in the Loan origination and approval process.

(a) Customer will make formal application to the Bank for a Loan. The Non-Profit may provide the Loan application through its "one-stop-shop process." The Non-Profit will assist Customer to complete the Loan Application, a form for which is Annex C. Loan Application will include description of the Project and cost estimates.

(b) Organizers will assist Bank to gather further information as needed from Customer and about the Project to support Bank process of evaluating a Loan Application. Bank will consult with the Organizers to seek ways to make the Project creditworthy for Bank lending.

(c) Bank shall evaluate the Loan Application. Loans will be evaluated at the Bank's headquarters to ensure consistency.

(d) The Bank will provide its credit approval or rejection of the Loan application within ___ days of receiving a complete Loan Application for a residential Loan.

(e) The approved Loan amount shall include a cost overrun contingency of 10% of the cost estimate.

(g) Once a Loan application has been approved, the Bank will provide Loan documents to the borrower for review and execution. Borrower and Bank shall execute a Loan agreement, with disbursement of funds conditioned only upon the Bank receiving a Residential Project Quality Assurance Certificate (Annex F of the Energy Efficiency Loan Program Agreement) at the completion of project, signed by both the Non-Profit and by Borrower, indicating borrower's acceptance of the completed Eligible Project and authorizing Bank to disburse Loan proceeds to the contractor.

(h) After the Bank and borrower have executed the Loan agreement , the project can proceed with construction funding provided by the building owner or the contractor.

10. Loan Closing and Disbursement.

(a) Upon completion of construction, the contractor will apply to Non-Profit for assurance that the project has met all energy efficiency design criteria and other Grantor requirements (as set forth in Annex C of the Energy Efficiency Loan Program Agreement). If Non-Profit determines that additional work is needed to meet the energy efficiency design criteria, Non-Profit will notify contractor in writing with a corrective order. When all energy efficiency design criteria have been met, Non-Profit will issue and deliver a copy of the Residential Project Quality Assurance Certificate for that project to the Bank (Annex F of the Energy Efficiency Loan Program Agreement). The Residential Project Quality Assurance Certificate will verify the final costs of the project and Loan amount, within previously approved Loan amount.

(b) Borrower will execute an Acceptance Certificate and Disbursement Authorization, authorizing disbursement of Loan proceeds to contractor (see Annex F of the Energy Efficiency Loan Program Agreement).

(c) When the Bank receives the Residential Project Quality Assurance Certificate, it shall disburse Loan funds to contractor within _____ days of receipt of the Residential Project Quality Assurance Certificate, including the Acceptance Certificate and Disbursement Authorization from the Borrower. Final Loan amount will be adjusted based on final costs.

11. Fees. Bank shall charge each Customer a fee of 1% of the principal amount of each Loan for services and work performed pursuant to this Agreement. The Bank will aggregate these fees and pay them to Non-Profit on a quarterly basis. The Borrower may finance these fees as an addition to the principal amount of the Loan.

12. Reporting. The Parties will maintain a Loan Prospect & Origination Report, updated monthly, which tracks each Loan prospect and its status within the process of Loan origination and level of advancement in the process. An initial form of this Report is provided as Annex D.

13. Miscellaneous

(a) Definitions. Any undefined, capitalized terms refer to defined terms in the Energy Efficiency Loan Program Agreement (attached to this Agreement as Annex A).

(b) Termination of Agreement. This Agreement shall terminate upon the payment in full of all Loans and when all funds, per Section 3.04 of the Energy Efficiency Loan Program Agreement, have been moved from the Reserve Accounts to the Reflow Accounts.

(i) In addition to the termination provisions provided in subsection (b) above, this Agreement shall terminate upon written agreement of all of the Parties regardless of cause.

(ii) If the Parties are in breach of any provision of this Agreement, the Parties will follow the procedures under Section 13(c). The initiation of arbitral proceedings in accordance with the herein prescribed procedure for Arbitration shall not be deemed a termination of this Agreement.

(iii) Should Bank be adjudged bankrupt, or be liquidated, or become insolvent, or should Bank make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency, the City may, without prejudice to any other right or remedy it may have, terminate this Agreement forthwith. Bank shall immediately inform the City of the occurrence of any of the above events.

(c) Settlement of Disputes and Arbitration.

(i) Any dispute or controversy arising out of, in connection with, or relating to this Agreement that the Parties are unable to resolve after making a good faith effort to do so on their own, shall be submitted to mediation conducted by a mutually acceptable mediator. If the Parties are unable to agree on a mediator, or otherwise to resolve the dispute or controversy through mediation, then the Parties shall submit the dispute or controversy to arbitration conducted by the American Arbitration Association, in [City], [State], pursuant to its then existing rules and regulations. Any decision so rendered in arbitration shall be binding and final on all Parties.

(ii) During the dispute or arbitration, the performance of the obligations of the Parties shall not be stopped or put on hold, except for such work as may be the subject matter of the dispute or arbitration or as is directly affected thereby.

(d) Observance Other Laws. All Parties shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Agreement. Any party shall submit any and all information required by another party to demonstrate compliance with such laws, ordinances, and codes within two weeks of that party's request for such information.

(e) Agency. Nothing in this Agreement shall constitute a partnership among the Parties nor constitute one party the agent of the other party and vice versa. Except as set out in this Agreement, no party shall have express or implied authority to bind or represent any other party for any purpose whatsoever unless expressly agreed in writing by the party concerned.

(f) Notices. All notices, instructions, and other communications shall be in writing and shall be delivered by registered mail or by confirmed email or fax to the Parties at the following addresses:

For Bank:

____
____
____
Phone: _____________
Fax: ________________
Email: _____________

For Non-Profit:

____
____
____
Phone: _____________
Fax: ________________
Email: _____________

For City:

____
____
____
Phone: _____________
Fax: ________________
Email: _____________

All such notices and communications shall be deemed to have been delivered on the date of delivery, if delivered by certified mail, or on the date confirmation was sent if delivered by confirmed email or confirmed fax.

(g) Successors and Assigns. This Agreement shall bind and inure to the benefit of the Parties and the respective successors and assigns and shall not be assignable without the prior written consent of all Parties. Any purported assignment in violation of this Section shall be void.

(g) Entire Agreement; Waiver; and Modification. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter hereof and supersedes any and all prior agreements and undertakings, written or oral, with respect to the subject matter. Any waiver, amendment, or modification of the provisions shall not be effective unless in writing and signed by all the Parties. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which given, and shall not be construed to affect any other or future waiver or consent.

(h) Headings. Headings in this Agreement are for convenience or reference only and shall not be used in the interpretation or construction of this Agreement.

(i) Severability. If any one or more of the provisions of this Agreement shall be found to be invalid, illegal, or unenforceable in any respect or to any extent, such finding shall not affect the validity, legality, or enforceability of such provisions in any other jurisdiction, and the validity, legality, and enforce-ability of the remaining provisions of this Agreement shall not in any way be affected, impaired, or restricted.

(j) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be a single agreement.

(k) No Waiver; Remedies. No failure on the part of any party to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

(l) Governing Laws. This agreement shall be governed by and construed in accordance with the laws of the State of [State]. In any legal action arising from this agreement, the substantially prevailing party shall be entitled to reasonable attorney's fees, including costs allocated for in-house counsel, other costs, and necessary disbursements incurred in connection with the action or proceeding as determined by a court.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto subscribe their names to this Agreement on the date below.

Non-Profit

BY: ______________________________

NAME: ____________________________

TITLE: ____________________________

DATE: ____________________________

The City of [City]

BY: ______________________________

NAME: ____________________________

TITLE: ____________________________

DATE: ____________________________

Bank of [Bank]

BY: ______________________________

NAME: ____________________________

TITLE: ____________________________

DATE: ____________________________

List of Annexes

A. Energy Efficiency Loan Program Agreement

List of Annexes to Energy Efficiency Loan Program Agreement

A. Sample form for Quarterly Report
B. Terms, Conditions, and Underwriting Criteria - Loans
C. Project Eligibility Design Criteria – Loans
D. Project Eligibility Determination Procedure
E. Sample form Residential Project Eligibility Letter
F. Sample form Residential Project Quality Assurance Certificate
G. Sample form Banner Bank Default Demand Letter

List of Schedules to Energy Efficiency Loan Program Agreement

1. [ ] Bank's Loan Underwriting Criteria
2. Quarterly Reports

B. Contact Information for Bank Branch Point Personnel
C. Loan Application Form – Residential
D. Loan Prospect and Origination Report
E. Acceptance Certificate and Disbursement Authorization

Annex A
– Energy Efficiency Loan Program Agreement –

Annex B
– Contact Information for Bank Branch Point Personnel –

Annex C
– Loan Application Form –
Residential Loans

[Bank to supply]

Annex D
– Loan Prospect and Origination Report –

Annex E
– Acceptance Certificate and Disbursement Authorization –

REQUEST FOR PROPOSAL

CITY OF INDEPENDENCE, MISSOURI
PURCHASING DIVISION
111 E. MAPLE, PO BOX 1019
INDEPENDENCE, MO 64051-0519
(816) 325-7087
(816) 325-7088 FAX

Independence Home Energy Loan Program Administration

Date: May 11, 2010 Request for Proposal: **P-10-305**

Response Deadline Date and Time: **June 1, 2010, at 2:00 p.m., Local Time**

Questions regarding this RFP should be submitted, **via e-mail**, to both:

Mickey Churchill, E-Mail: mchurchill@indepmo.org
and
Rob Buell, Email: rbuell@indepmo.org

A non-mandatory pre-proposal conference will be held at 2:00 p.m., May 18, 2010, in Conference Room D, City Hall, 111 E. Maple, Independence, MO 64050.

The City of Independence Purchasing Division and Onvia (DemandStar) are the only authorized sources of proposal forms. Proposal forms obtained from any other source may be incomplete. Offerors using a proposal form not obtained from the City of Independence Purchasing Division or Onvia risk not receiving any necessary addenda, eliminating their bid from consideration. Proposals must be received in the Purchasing Manager's Office by the date and time indicated, with opening immediately following in Purchasing Division, Ground Floor, City Hall. Submittal envelope must indicate proposal number and response deadline.

(ATTENTION BIDDER – COMPLETE AND RETURN WITH BID)

Bidder's Name: ______________________________ Phone No.: ______________
(Please print or type company name)

Internet E-Mail Address: ______________________________ FAX No.: ______________

Address ______________________ City __________ State ______ Zip __________

By: ______________________________ Title: ______________________
(Name of Authorized Agent)

Signature: ______________________________ Date: ______________________

☐ Offeror **makes firm offer** and is not revocable within one-hundred-twenty (120) days after response deadline.

☐ Offeror **does not make an offer** in response to this invitation. Why did you not bid? ______________________

____

NOTE: ALL PROPOSALS ARE SUBJECT TO THE TERMS AND CONDITIONS HEREIN.

REQUEST FOR PROPOSAL SUMMARY SHEET
Independence Home Energy Loan Program Administration

The City of Independence (City) invites interested firms to submit a **signed and sealed** proposal for services as described herein.

Proposals must be received by the Purchasing Manager, 111 East Maple, P.O. Box 1019, Independence, Missouri, 64050, marked, "**Independence Home Energy Loan Program**, **Proposal P-10-305**" no later than: **2:00 p.m., local time** on **June 1, 2010.**

Structure of the RFP

For the convenience of the offeror, this RFP is structured as follows:

Obtaining the Request for Proposal

Offeror may download bid documents from Onvia (DemandStar), via the City's website, **www.independencemo.org**. Click *Businesses*, then *Bid Opportunities*. Bids may also be obtained by contacting the purchasing official identified on the Cover Page of this RFP.

Pre-Proposal Conference

A pre-proposal conference will held at 2:00 p.m. on May 18, 2010, in Conference Room D, City Hall, 111 E. Maple, Independence, MO 64050**.** Attendance is not mandatory, but all interested firms should attend as the services will be discussed in detail.

1. SUMMARY OF REQUEST

A. Background

The City of Independence (City) was notified on September 21, 2009, that an Energy Efficiency and Conservation Block Grant (EECBG) award of $1,014,100.00 was issued to the City from the U.S. Department of Energy for implementing energy efficiency projects with funding under the federal American Recovery and Reinvestment Act of 2009 (ARRA). A total of $250,000 from this grant award is being used to fund a loan program for residential energy efficiency improvements for existing homes in Independence.

The City of Independence Power & Light Department (IPL) is the lead City Department for the development and implementation of the loan program to be known as Independence Home Energy Loan Program (Program). As part of the development of this program, IPL has determined that it is necessary to have one partner financial institution (FI) administer the lending aspects of the program, as well as a partner contractor administrator to manage the recruitment, screening and training of home improvement contractors, HVAC contractors, and energy auditors approved to participate in the Program.

This Request for Proposal has two distinct scopes of services: 1) a FI partner scope of services and 2) a contractor management services scope of services. A qualified organization may bid on one or both of these scopes of services. The scopes of services are described in Section 2 of this Request for Proposals. A separate Agreement shall be entered into for each scope of services.

B. Description of the Program

The $250,000 in federal funds allocated for the Home Energy Loan Program (Program) will be used as a loan loss reserve fund to be distributed to one FI partner for the purpose of credit enhancement in providing loans for qualifying energy efficiency improvements for existing owner occupied homes in Independence. The FI partner is expected to provide up to $5 million in loan capital for energy efficiency loans ranging from $1,000 to $15,000 to qualified loan applicants to fund qualified home improvement projects. In addition, IPL will buy-down the interest rates for qualified energy efficiency investments to a low level to be determined though an agreement between City and the FI.

IPL will establish qualifying energy efficiency projects for the Program. There is no maximum household income requirement. Loan terms are subject to negotiation in the Agreement between the City and the FI partner, however it is expected that residents will have up to 10 years to repay loans in excess of $5,000 and up to 3 years to repay loans less than $5,000. The interest rate is expected to be between 1.99% and 8.99%. The program will be marketed through a network of approved certified contractors. The Program is anticipated to commence on or around July 15, 2010. A full description of the Program can be found in Appendix 3.

2. SCOPE OF SERVICES

The overall tasks of the Offeror(s) is to provide Program Administration services in order to assure an effective loan program. This includes two main areas of emphasis: 1) financial services including loan origination and related services, and 2) contractor management services. The Offeror(s) may respond to *one or both* of the services below (i.e., 2.1 or 2.2):

2.1 Financial services, including loan capital designation, loan origination, loan servicing and related services

A loan loss reserve in the amount of $250,000 in funds from ARRA will be on deposit with the partner FI which is to be used to provide a 75% loan loss reserve of a single loan default to the participating FI in making loans under the Program. The financial related services requested for this loan program are:

i. Loan Capital: The Financial Institution (FI) or institutions will provide capital for a loan pool of *up to* $5 million, or an amount to be negotiated between the FI and IPL.

ii. Loan Origination Responsibilities: A simple and fast loan application and decision process is key to the success of this program. The Offeror will provide the following services related to loan origination responsibilities:

1. Loan underwriting criteria, based on consumer credit scores and/or other relevant measures of consumer ability to pay.
2. Develop a Program loan application.
3. A toll free phone number and web site for easy processing of loan documentation and to serve as an informational resource for borrowers and contractors.
4. Verify that contractor performing the work being financed by the loan is Program certified. A list of certified contractors will be made available to the FI.
5. Obtain consent from borrowers to disclose to IPL relevant customer-specific information about the improvements made, financing provided, and pre-and post-installation energy savings estimates.
6. Communicate loan decision to IPL immediately upon approval/disapproval of the loan application.

iii. *Loan servicing responsibilities:*

1. Servicing of all loans through the full life of such loans or to make arrangements for other qualified parties to service such loans;
2. Making payments directly to contractors and homeowners;
3. Collections;
4. Management, tracking and reporting of financial transactions to IPL using a standardized format to which IPL has previously agreed. These reports will also need to be easily transferable into yearly reports to be presented to IPL. See *2.1 vii.* for detailed reporting requirements.

iv. *Establishing a fixed interest rate*

1. The Offeror will work with IPL to establish fixed interest rates or sets of rates. It is anticipated the rates will vary at two levels based on the level of the customer's participation with the lowest interest rate offered for investing in whole-house energy

improvements versus a higher interest rate for a project that includes only an air conditioner or heat pump changeout.

v. Minimum Requirements:

The FI must be easily accessible to Independence residents through a branch location, online access, a designated phone number or a combination thereof. The FI must be able to service Program loans to residents throughout the City of Independence.

vi. RFP Submission Requirements

Please submit a proposal that includes:

1. Background on your company, including length of time in business, financial performance, core competencies, and relevant policies/procedures (e.g. training policies, loan collection procedures and identify theft detection and prevention policies/procedures);
2. Your understanding of the services sought in this RFP and the approach you propose for undertaking activities described in sections i. through v. above;
3. Your organization's relevant past work, capacity, and the expertise of proposed staff in carrying out home improvement loans between $1,000 and $15,000;
4. Contact information for three clients/references;
5. Resumes of key staff with a description of their role in the Program;
6. A timeline and budget (including any fees, if applicable) for the scope of work proposed;
7. A description of how the $250,000 put on deposit at the FI for loan loss reserve fund will be administered and used, and an estimated maximum dollar amount of loans generated;
8. A description of proposed interest rates, required security (if applicable) and administrative charges to IPL (if applicable). It is anticipated that there will be one set of fixed interest rates for projects with only one energy conservation measure involved at a cost of $10,000 (more or less), and there will be a lower interest rate for multiple projects improving energy efficiency for the whole house where the cost is about $10,000-$15,000. It is anticipated that loans less than $10,000 would be unsecured, and that loans over $10,000 may be secured or unsecured. Proposed administrative charges by the FI to IPL for costs associated with reporting, administration, etc. are allowed, but not required, to be include in the proposal;
9. A description of how the loans will be processed, including length of time for loan processing and ability of customers to contact FI to request loan; and
10. Clearly state how the loan loss reserve will impact any or all of the following compared to a home improvement loan made without the loan loss reserve fund:
    a) Affect on determination of credit worthiness of loan applicant;
    b) Decision to make secured or unsecured loans for varying amounts and types of loans (describe type of security to be required);
    c) Loan terms (specify terms based on the amount of the loan);
    d) Interest rates;
    e) Required customer capital contribution;
    f) Loan funds distributed to homeowner or contractor (s). It is preferred that loan funds go directly to contactor but this is not a requirement;
    g) Any other loan features

Please review the evaluation criteria in Section 6 of this RFP for the elements which need to be included in the submitted proposal.

vii. Reporting Requirements:

Awarded offeror shall prepare, develop and deliver a detailed accounting of the status of the program in monthly, quarterly and annual reports with the following information:

1. Number and principal amount of loans closed during that period and in total since the beginning of the contract. Include loan recipient name and address and name of contractor performing services for each loan and approved energy efficiency activities funded through each loan.
2. Total amount of outstanding principal and interest of loans closed during that period and in total since the beginning of the contract.
3. Total number and principal and interest of any uncollectible loans written off during that period and in total since the beginning of the contract.
4. Status of the loan loss reserve fund during that period and since the beginning of the contract.
5. Any issues that the Offeror has encountered in implementation of this effort.
6. On July 30 of each year, the partner financial institution submit an annual report for the year ending June 30 on cumulative program successes, obstacles to program success and recommendations to improve the program.
7. Number of hours that each employee has worked on this program (to be used for job creation reporting for the federal government).

Any and all information gathered from IPL customers is for the sole purpose and use of IPL and the customer from which it is gathered. Information gathered during the implementation of the Program is not to be used by the Offeror for any other purpose without the express written permission of IPL.

Federal EECBG funds used for a loan loss reserve may only be used for the stated purposes of the Program. IPL shall have the right to review and monitor loans provided by a partner FI to ensure that loans are being made to support eligible activities. The City has no legal or financial obligation beyond the funds committed to the reserve and is not subject to further recourse in the event losses exceed the amount of the reserve.

Upon selection of a partner FI through this RFP, an Agreement between the City and partner FI will be made to enact loans through the Program. The Agreement, based on input from the Offeror, may result in changes to the Program as presented in this RFP. Should an Agreement not be reached with the FI, either the next highest rated FI will be selected as a FI partner, the City may reissue the RFP, or the City may cancel the entire project.

2.2 Contractor Management Services

A private or non-profit organization is needed to work with area Heating, Ventilation and Air Conditioning (HVAC) contractors and home improvement contractors to make sure contractors are aware of the Program and certify contractors for participation in the Program. Below are the services requested through this RFP. Please submit a proposal addressing experience of the Offeror in providing the services described below and how these services would be provided under the Program. Please review evaluation criteria in Section 6 of this RFP for elements which need to be included in the proposal.

i. *Approved Contractor, Certified Contractor and Certified Auditor recruitment and screening responsibilities*: The Offeror shall identify a network of contractors and auditors who are skilled in providing energy efficiency or renewable energy products and services to residential homeowners. Contractors shall be specifically certified and approved to participate in the Program and to offer the loan product to IPL residential customers for approved energy efficiency measures. It is not expected that all contractors will have expertise in all areas of energy efficiency services, and the Offeror may choose to focus efforts on a subset of products and services. For instance, the Offeror may choose to identify the sub-markets of insulation or heating, ventilation and air conditioning contractors as a key target market. The Offeror shall recruit an appropriate number of certified contractors to perform across all identified measures.

ii. It is expected that the Offeror shall screen and certify a minimum number of approved contractors, certified contractors and certified auditors to ensure sufficient contractor participation to serve the Program and IPL customer market. The Offeror will maintain a Contractor and Auditor Database, which is a database of certified contractors. Contractor and Auditor certification shall include criteria agreed upon by the successful Offeror and IPL. *Approved Contractor, Certified Contractor and Certified Auditor training responsibilities:* The Offeror shall provide education to certified contractors to inform them about:
    1. Strategies, opportunities and requirements for contractors to participate in this program.
    2. The loan application process for borrowers.
    3. The relevant program details including but not limited to: qualifying measures; program interest rates and terms.
    4. Business practices ass*ociated with being a certified contractor/auditor in the program.*
    5. *Methods to market and se*ll the measures identified to customers (see Attachment 3).
    6. Resources available to assist contractors in identifying and understanding incentives available to customers, including tax credits and utility rebates.
    7. Other relevant programs available to customers including but not limited to energy efficiency programs offered through the State of Missouri and federal government, including weatherization programs available to income qualified citizens and energy audit and equipment rebate programs.

It is expected that the Offeror will provide a series of not less than three training sessions per year to contractors in order to ensure a minimum number of training sessions are offered in the city each year. Each session is expected to last 3 hours. IPL will work with Offeror to set up a schedule of training sessions. IPL expects all approved contractors to have participated in at least one such session within 4 months of becoming an approved contractor. IPL is not establishing a specific numeric target for certified contractors recruited and trained. It is, however, expected that the Offeror will develop a network of participating contractors and auditors that is appropriate to produce a loan volume sufficient to provide for full use of the loan fund.

iv. Reporting Requirements:

Awarded offeror should prepare, develop and deliver the following deliverables each month:

a) A description of contractor and energy auditor training and outreach activities conducted, including names of contractors and auditors and all attendance sheets and description of training provided.
b) Any issues that the Offeror has encountered in implementation of this effort.

c) A monthly updated list of approved contractors, certified contractors, and certified auditors by work type (HVAC, insulation, etc.).
d) Number of hours that each employee has worked on this program (to be used for job creation reporting for the federal government).

3. COMPENSATION

Financial Services: The Financial Institution (FI) may or may not request compensation for the scope of work outlined in Section 2. All proposed administrative charges by the FI to the City for costs associated with reporting, administration, etc. must be listed on the pricing page of the RFP. The FI will be compensated, if applicable, based on the Agreement between the City and the chosen FI and the fees specified on the pricing page.

Contract Management Services: The Contractor will be paid for the services provided per the firm, fixed pricies submitted on the pricing page.

4. PROPOSAL SUBMISSION REQUIREMENTS

Sealed proposals must be received no later than 2:00 p.m. local time, on **June 1, 2010** at the Purchasing Division, 111 East Maple, P.O. Box 1019, Independence, MO 64051-0519. The sealed proposal must be marked **"Independence Home Energy Loan Program"**. The Offeror shall submit the following information/documents as part of the proposal:

A. One original and (4) copies of the proposal
B. Bid Affidavit
C. Cover Sheet, completed and signed
D. Information on the evaluation criteria
E. Four originals of the Professional Services Contract, completed and signed, or a list of exceptions to be negotiated for Contract Management Services only.
F. Any proposed agreement that requires a signature for the Financial Services only.

Note: Proposals will not be accepted after the deadline for submission, regardless of the reason for such lateness. Proposals that are received after the submission deadline will be returned to the offeror unopened. Any exceptions to the scope of services and/or contract contained herein must be submitted as part of the proposal. Firms selected for award will be required to provide proof of insurance, as stipulated herein.

5. EVALUATION CRITERIA

A. Proposals for the ***Financial Administration Services*** will be evaluated in accordance with the criteria below. Respondents who respond to both sections of this RFP will be evaluated separately on each section.

1. Overview/Experience - The ability of the Offeror to present a clear understanding of the overall Scope of Service (s) to be undertaken will be considered in the evaluation process. Emphasis will be placed on knowledge and experience with home loan programs. The Offeror should list the number of years providing these services under the current business name and a list of references, including contact person and phone number (up to 20 points).

2. Scope of Services/Schedule – The Offeror's plan to meet the requirements described in Section 2.1 of this RFP in the time frame specified shall be considered

in the evaluation process. Special attention will be given to the Offeror's detail in proposal addressing Items 2 and 10 under "Submission Requirements" of this RFP (up to 40 points).

3 <u>Experience, Qualifications, Technical Expertise, Roles and Responsibilities of the Individuals to Perform the Work</u> - Please include resumes, references, and any other relevant information, of the individuals to be assigned to this project, specifically the services outlined in Section 2.1. In addition, the roles/titles and responsibilities of all key individuals for the services specified in Section 2.1 should be identified (up to 20 points).

4. <u>Cost</u> – Any cost to the City will be considered in the evaluation process. Therefore, the Offeror must submit any firm, fixed fees for loan administration, reporting or any other service that will be charged to the City. Cost points will be calculated by multiplying the unit costs by an estimated number of services to be determined by the City. The lowest cost to the City will receive the maximum number of points in this category (up to 20 points).

B. Proposals for the ***Contractor Management services*** will be evaluated in accordance with the criteria below. Respondents who respond to both sections of this RFP will be evaluated separately on each section.

1. <u>Overview/Experience</u> - The ability of the Offeror to present a clear understanding of the overall Scope of Service (s) to be undertaken will be considered in the evaluation process. Emphasis will be placed on knowledge and experience with home energy efficiency improvement projects and contractors/auditors in the home improvement and HVAC market. The Offeror should list the number of years providing these services under the current business name and a list of 3-5 references, including contact person and phone number (up to 20 points).

2. <u>Scope of Services/Schedule</u> – The Offeror's plan to meet the requirements in the time frame specified shall be considered in the evaluation process. In addition to the plan to meet the requirements/timelines, the Offeror should submit documentation of past successes in meeting project deadlines and past successful efforts in cost savings, containment, and program administration. (up to 20 points).

3. <u>Experience, Qualifications, Technical Expertise, Roles and Responsibilities of the Individuals to Perform the Work</u> - Please include resumes, references and any other relevant information, of the individuals to be assigned to this project, specifically the services outlined in Section 2.2. In addition, the roles/titles and responsibilities of all key individuals for the services specified in Section 2.2 should be identified (up to 20 points).

4. <u>Substantial Compliance</u> - Any exceptions taken to the Scope of Work and/or Professional Services Agreement will be taken into consideration in the evaluation process. The offeror with the fewest number of exceptions will receive the highest number of points in this category (up to 10 points).

5. Cost – Not-to-exceed costs in addition to firm, fixed prices for workshops shall determine the points assigned in this category – see pricing page (up to 30 points).

6. EVALUATION PROCESS

The City will consider a proposal nonresponsive when critical information is lacking, or the submission represents a major deviation from the requirements of this RFP. Minor omissions or informalities may be waived at the sole option and discretion of the City. The City also reserves the right to reject any and all proposals, make no award or multiple awards as result of this solicitation. Responsive proposals will be evaluated in the following manner:

A. An Evaluation Committee will review and rank all proposals individually on their technical merits and according to the criteria established in Section 6 of this RFP. The Committee may contact offerors if any clarification is needed on the proposal.

B. Offerors whose proposals are ranked the highest by the Evaluation Committee may be asked to participate in an interview process to ensure a mutual understanding of both the City's requirements and the offeror's proposal. Interviews may be conducted either in person or by telephone. However, the Committee may decide that interviews are not necessary and make recommendations for award based on the information provided in the proposal.

C. The firm that provides the City with the most reliable and cost effective services based on the established evaluation criteria will be recommended to the City Council for approval.

Note: In accordance with federal, state and local laws, the bid documents will be available for public review following: rejection of all bids; posting of the Notice of Intent to Award; execution of the contract and/or purchase order.

7. RIGHT OF PROTEST

A Notice of Intent to Award will be posted on the Internet at www.demandstar.com (Onvia). Any protest must be filed within five (5) business days of the date of posting of the Notice. Neither the City nor Onvia shall be responsible for directly notifying bidders of the Notice of Intent to Award. Protests must be received in the office of the Purchasing Manager and must contain the company name, address, phone number and signature of the authorized representative; solicitation number; a detailed statement describing the grounds for the protest; and supporting evidence or documents to substantiate the claim. The Director of Finance will review the information provided and issue a written decision within five (5) business days of receipt of the protest. This decision shall be final.

8. PROPOSED TIME SCHEDULE

RFP Issue Date	May 10, 2010
Pre-proposal Conference	May 18, 2010, at 2:00 PM
Deadline for Questions	May 27, 2010
RFP Close Date	June 1, 2010
RFP Evaluation	June 7-11, 2010
Recommendation to Council	June 21, 2010
Final Ordinance	July 6, 2010
Notice of Award	July 7, 2010

CONTRACTOR MANAGEMENT SERVICES
PRICING PAGE
RFP P-10-305

The Offeror agrees to provide the materials, personnel and all other resources required to complete the requirements outlined in the Scope of Services. An hourly rate of all disciplines, as related to these services, should accompany the proposal.

Contractor Management Services

a) Contractor/Auditor screening $__________/screening

b) Contractor/Auditor database maintenance $__________/per month

c) Approved Contractor training, Certified Contractor training, and Certified Auditor training (include preparation time, materials, and training) $__________/session

Company: ____

Authorized Representative: ____

Title: ____

FINANCIAL ADMINISTRATION SERVICES
PRICING PAGE
RFP P-10-305

The Offeror agrees to provide the materials, personnel and all other resources required to complete the requirements outlined in the Scope of Services.

Financial Administration Services

a) Loan Administration Services $__________/loan

b) Reporting Services $__________/monthly report

c) Other (specify below with firm, fixed unit prices for each service)

____

____

____

____

____

Company: ____

Authorized Representative: ____

Title: ____

AFFIDAVIT

STATE OF _______________)
) SS.
COUNTY OF ______________)

____________________________________ of the City of ____

__________________________ , County of _______________ , State of ___________________________ ,

being duly sworn on her or his oath, deposes and says:

1. That I am the ____ (Title of Affiliant) of

   ____ (Name of Bidder) and

   have been authorized by said Bidder to make this affidavit on the Bidder's behalf;

2. No Councilmember, nor the City Manager, the Director of Finance or the City Purchasing Manager is financially interested in what the Bidder is offering to sell to the City pursuant to this invitation, nor is the Bidder a City employee or board member whose bid creates a conflict of interest. A conflict of interest would arise if a City employee or board member is in a position to affect either the decision to solicit bids or the selection of the successful bidder;

3. Bidder has not participated in collusion or committed any act in restraint of trade, directly or indirectly, which bears upon anyone's response or lack of response to this Invitation; and

4. The authorized signer of this document certifies that the organization and each of its principals are not suspended or debarred by the City of Independence, State of Missouri or Federal government.

___________________________________ (Name of Bidder)

By: ________________________________ (Signature of Affiant)

____________________________________ (Title of Affiant)

Subscribed and sworn to before me this ______ day of __________________, 2010.

____

(SEAL)

NOTARY PUBLIC in and for the County of __________________

State of ____

My commission expires:

CITY OF INDEPENDENCE
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made by and between the City of Independence, Missouri (hereinafter called CITY) and

_____________________________________ a __________ Corporation (hereinafter called CONTRACTOR).

W I T N E S E T H:
WHEREAS, CITY requires services for Contractor Management Services for the Independence Home Energy Loan Program and,

WHEREAS, CONTRACTOR is prepared to provide said professional services and shall give consultation and advice to CITY during the performance of said services;

NOW THEREFORE, CITY and CONTRACTOR in consideration of the mutual covenants contained in this Agreement, agree as follows:

ARTICLE 1 – TERM OF THE AGREEMENT

The term of this AGREEMENT shall be 36 months from Notice of Award.

ARTICLE 2 – SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR shall perform the services set forth in the Scope of Services of RFP P-10-305.

ARTICLE 3 – PRECEDENCE OF DOCUMENTS

The CITY'S Request for Proposal and the CONTRACTOR'S Proposal are attached and incorporated by reference into this AGREEMENT. In the event of inconsistency or conflict between or among the provisions of this AGREEMENT and the provisions of the exhibits or attachments to this AGREEMENT, the provisions of this AGREEMENT shall take precedence over the exhibits and attachments, the exhibits shall take precedence over the attachments and the CITY'S Request for Proposal shall take precedence over the CONTRACTOR'S Proposal.

ARTICLE 4 – COMPENSATION

The CITY shall compensate the CONTRACTOR per the not-to-exceed fee schedule attached. The CITY'S payment terms are net 30 days from receipt of an accurate invoice.

The CITY is exempt from State of Missouri sales and use taxes on purchases made directly for the CITY. CONTRACTOR shall not include any sales or use taxes on transactions between the CONTRACTOR and CITY.

ARTICLE 5 – PERMITS AND LICENSES

The CONTRACTOR shall procure all necessary local permits and licenses, unless exempt under state law.

CONTRACTOR will abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this contract is performed, and will require the same of all subcontractors.

The CONTRACTOR must furnish and maintain certification of authority to conduct business in the State of Missouri.

ARTICLE 6 – OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by CONTRACTOR as part of the services shall become the property of CITY.

ARTICLE 7 – CHANGES, DELETIONS, OR ADDITIONS TO AGREEMENT

Either party may request changes within the general scope of this AGREEMENT. If a requested change causes an increase or decrease in the cost or time required to perform this AGREEMENT, CITY and CONTRACTOR will agree to an equitable adjustment of the AGREEMENT price, period of service, or both, and will reflect such adjustment in a formal modification or amendment.

ARTICLE 8 – STANDARD OF CARE

CONTRACTOR shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a planning professional under similar circumstances.

ARTICLE 9 – LIABILITY AND INDEMNIFICATION

Having considered the potential liabilities that may exist during the performance of this AGREEMENT and the CONTRACTOR'S fee, and in consideration of the mutual covenants contained in the AGREEMENT, CITY and CONTRACTOR agree to allocate and limit such liabilities in accordance with this Article.

CONTRACTOR agrees to defend, indemnify, and hold harmless CITY, from and against legal liability for all claims, losses, damages, and expenses resulting from death or bodily injury to any person and damage or destruction to property to the extent such claims, losses, damages or expenses are caused by its negligent acts, errors, or omissions. In the event such claims, losses, damages or expenses are caused by the joint or concurrent negligence of the CONTRACTOR and CITY, they shall be borne by each party in proportion to its own negligence.

CONTRACTOR shall indemnify CITY against legal liability for damages arising out of claims by CONTRACTOR'S employees.

ARTICLE 10– INSURANCE

Unless otherwise stated in the specifications, the CONTRACTOR shall procure and maintain insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the materials, equipment or supplies provided to the CITY. The insurer(s) must be licensed for business in the State of Missouri and maintain an A.M.Best rating of no less than A: VII; or an insurer approved by the CITY. Each policy requires a minimum cancellation notification of at least 30 days' advance written notice to the CITY.

(1) General Liability Insurance, with bodily injury and property damage limits of $1,000,000 for each occurrence with a $2,000,000 general aggregate and $2,000,000 products and completed operations aggregate.

(2) Automobile liability Insurance for any owned, hired and non-owned vehicles, with bodily injury limits of $1,000,000 for each person and $1,000,000 for each accident, and with property damage limits of $1,000,000 for each accident; OR $1,000,000 Combined Single Limits, including bodily injury and property damage.

The above limits are the minimum acceptable and do not infer or place a limit on the liability of the CONTRACTOR. The CITY is to be named as an additional insured as the CITY's interest may appear in regards to the materials, equipment or supplies provided the CITY. The CONTRACTOR's insurance shall be primary and any insurance or self-insurance maintained by the CITY shall be excess for the CITY and not contribute with the coverage maintained by the Supplier.

The CITY shall not obtain worker's compensation insurance on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR shall comply with the worker's compensation law concerning its business and its employees.

ARTICLE 11 – TERMINATION

CITY may terminate or suspend performance of this Agreement for CITY'S convenience upon written notice to CONTRACTOR. CONTRACTOR shall terminate or suspend performance of the services on a schedule acceptable to CITY. If termination or suspension is for CITY'S convenience, CITY shall pay CONTRACTOR for all the services performed till the date of the termination by the CITY or suspension expenses. Upon restart, and equitable adjustment shall be made to CONTRACTOR'S compensation.

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this AGREEMENT. The non-performing party shall have fifteen calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

In the event that funding for the contract is discontinued, CITY shall have the right to terminate this contract immediately upon written notice to CONTRACTOR.

ARTICLE 12 – WAIVER

A waiver by either CITY or CONTRACTOR of any breach of this AGREEMENT shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 13 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this AGREEMENT or the occurrence of any event rendering any portion or provision of this AGREEMENT void shall in no way affect the validity or enforceability of any other portion or provision of this AGREEMENT. Any void provision shall be deemed severed from this AGREEMENT, and the balance of this AGREEMENT shall be construed and enforced as if this AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to amend this AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire AGREEMENT from being void should a provision which is of the essence of this AGREEMENT be determined void.

ARTICLE 14 – SUCCESSORS AND ASSIGNS

CITY and CONTRACTOR each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to the AGREEMENT and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this AGREEMENT.

ARTICLE 15 – ASSIGNMENT

Neither CITY nor CONTRACTOR shall assign any rights or duties under this AGREEMENT without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this AGREEMENT.

ARTICLE 16 – THIRD PARTY RIGHTS

Nothing in this AGREEMENT shall be construed to give any rights or benefits to anyone other than CITY and CONTRACTOR.

ARTICLE 17 – INDEPENDENT CONTRACTORS

Each party shall perform its activities and duties hereunder only as an independent contractor. The parties and their personnel shall not be considered to be employees or agents of the other party. Nothing in this AGREEMENT shall be interpreted as granting either party the right or authority to make commitments of any kind for the other. This AGREEMENT shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

ARTICLE 18 – AUDIT

CONTRACTOR agrees that the CITY, or a duly authorized representative, shall, until the expiration of three (3) years after final payment under this AGREEMENT have access to and the right to examine and copy any pertinent books, documents, papers and records of the CONTRACTOR involving transactions related to this AGREEMENT.

ARTICLE 19 – RENEWAL OPTIONS

If specified in the original bid document, the City may exercise its option to renew the contract/agreement. The City will provide the contractor with a written renewal notice sixty (60) days prior to the expiration date of the contract period. Pricing shall be in accordance with the fees submitted on the original bid/proposal. All terms and conditions shall remain in effect during the subsequent renewal periods.

ARTICLE 20 – MODIFICATIONS/AMENDMENTS

The CITY may at any time, by written modification or amendment, make changes or additions within the general scope of this contract. If any such change causes an increase or decrease in the cost of or in the time required for performance of this contract or purchase order, the CONTRACTOR shall notify the Purchasing Manager in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of the contract. Any claim by the CONTRACTOR for such adjustment must be asserted within thirty (30) days or such other period as may be agreed upon in writing by the parties after the CONTRACTOR'S receipt of notice of the modification. Nothing herein contained shall excuse the CONTRACT from proceeding with the AGREEMENT as changed.

ARTICLE 21 – EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this AGREEMENT, the organization agrees as follows:

The organization will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin or any other legally protected category. The organization will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, age, color, religion, sex, or national origin. Such action shall include, but not to be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The organization agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The organization will, in all solicitations or advertisements for employees placed by or on behalf of the organization, state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, sex, or national origin.

The organization will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the organization's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The organization will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The organization will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his or her books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the organization's noncompliance with the non-discrimination clauses of this agreement/contract or purchase order with any of the said rules, regulations, or orders, this agreement/contract or purchase order may be canceled, terminated, or suspended in whole or in part, and the organization may be declared ineligible for any further government agreement/contracts or purchase order or federally assisted agreements/contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The organization will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The organization will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions of noncompliance; provided, however, that in the event an organization becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Department, the organization may request the United States to enter into such litigation to protect the interest of the United States."

ARTICLE 22 – GOVERNING LAW

This AREEMENT shall be governed by the laws of the state of Missouri.

ARTICLE 23 – COMMUNICATIONS

Any communication required by this AGREEMENT shall be made in writing to the address specified below:

CONTRACTOR:

____

FIRM NAME, CONTACT PERSON AND ADDRESS

CITY:

City Clerk, 111 E. Maple, Independence, MO 64050 ____

CONTACT PERSON AND ADDRESS

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONTRACTOR and CITY.

ARTICLE 24 – SEPARATE AGREEMENTS

CITY and CONTRACTOR each reserve the right to, from time to time; enter into other agreements or contracts for specific projects. If such agreements or contracts are separately approved in writing by the parties, the terms and conditions of those agreements or contracts shall prevail for the specific projects set forth therein.

ARTICLE 25 – ENTIRE AGREEMENT

This document, and attachments, represent the entire AGREEMENT between the CITY and CONTRACTOR. All previous agreements, representations, promises and conditions relating the CONTRACTOR'S services described herein are superseded.

ARTICLE 26 – SURVIVAL OF TERMS

The following provisions shall survive the expiration or termination of this AGREEMENT for any reason: if any payment obligations exist, Article 4 – Compensation; Article 5 – Permits and Licenses; Article 9 – Liability and Indemnification; Article 12 – Waiver; Article 13 – Severability; Article 15 – Assignment; Article 17 – Independent Contractors; Article 22 – Governing Law; Article 25 – Entire Agreement; and this Article 26 – Survival of Terms.

IN WITNESS WHEREOF, CITY and CONTRACTOR, by and through their authorized officers, have made and executed this AGREEMENT

CITY OF INDEPENDENCE, MISSOURI

CITY	**CONTRACTOR**
By_______________________________	By_______________________________
Robert Heacock, City Manager	
	Title_____________________________
Date_____________________________	Date_____________________________

Approved as to Form:

____
City Counselor

Attachment 3
Independence Home Energy Loan Program Description

Program Overview

The residential energy efficiency loan program, to be known as Independence Home Energy Loan Program (Program), is being funded with $250,000 from Energy Efficiency and Conservation Block Grant (EECBG) funds through the American Recovery and Reinvestment Act of 2009 (ARRA) and supplemental administrative funding through Independence Power & Light (IPL). It is envisioned that the Program will be an on-going program lasting several years. Any Independence resident in an owner-occupied dwelling who has qualifying home energy efficiency projects and meets qualifying credit worthiness criteria may be eligible for the Program. There is no maximum household income required for participating in the Program.

A credit enhancement in the form of a $250,000 loan loss reserve fund will be provided to a participating financial institution that provides capital for energy efficiency loans through the Program. The financial institution is expected to loan up to $5 million under this program. In addition, IPL will buy-down the interest rates for qualified energy efficiency investments to a level to be determined though an agreement between IPL and the FI.

The financial institution will provide unsecured, low-interest loans of about $1,000 to $10,000 to qualifying residential homeowners (exact dollar amounts to be determined). Loan terms are subject to negotiation, however it is expected that residents will have up to 10 years to repay loans in excess of $5,000 and 3-5 years to repay loans less than $5,000. The interest rate is expected to be between 1.99 and 8.99%. Loans from $10,000 to $15,000 which may or may not be secured (subject to negotiation) are expected to have lower interest rates than unsecured loans under $10,000.

The program will be marketed through a network of Approved Contractors, Certified Contractors and Certified Auditors (see Chart 1). The Program is anticipated to commence on or around July 15, 2010. Work funded through this program must meet certain federal requirements placed on all EECBG grantees, including financial and activity reporting requirements, which are noted in the Request for Proposals.

Through the Program, contractors will provide work to Independence homeowners under one of the following categories:

1. *ENERGY STAR® eligible measures:* Homeowner selects measure from list of qualifying measures. An energy efficiency checklist is completed by contractor but no further audit is needed. (See Chart 2 for details.)
2. *Home Performance with ENERGY STAR® audit-based full response:* Requires Home Performance with ENERGY STAR audit performed by a Certified Auditor. The Certified Auditor explains recommended measures and financing options. Although they are not required to do so, homeowners are encouraged to implement the top recommended energy savings measures identified by the audit. Only projects recommended by the *Home Performance with ENERGY STAR* audit qualify for a Program loan. (See Chart 2 for details.)

Participant Qualifications

To qualify for the program, participants must meet the following criteria:

- Home must be located within the City of Independence
- Property must be on IPL's residential electric rate
- Households must have acceptable credit history, based on the financial institutions' specified credit check
- Loan applicants must be the owner-occupant of the residential property seeking financing

- Only eligible energy efficiency measures qualify for Program loans

Loan Application Process for Participants
The Independence Program will be marketed primarily by IPL, and promoted and driven by contractors. In some cases, customers will approach IPL. In other cases, participating contractors and financial institution(s) will promote their affiliation with the Program through marketing materials. Regardless of the flow of contact between the customer, contractor, IPL and financial institutions, the loan application process remains the same.

Step 1. Customer works with a certified contractor or auditor to identify qualifying energy-efficiency improvements. A list of approved contractors and auditors will be available at a website accessible through www.indepmo.org/pl or another approved web site. A customer can choose from the Program's list of eligible measures or audit-based measures.
Step 2. The customer submits a loan application through the participating financial institution. The financial institution verifies that the chosen contractor is on the list of approved contractors and that the proposed work is eligible.
Step 3. Contractor works with pre-approved customer to finalize the work plan based on the needs and approved loan amounts.
Step 4. The contractor installs the equipment according to the work plan and contract with the customer. If an energy audit was performed, a "test out" procedure will also be conducted to ensure that the improvements were installed properly. As necessary, the work plan can be modified to address any health/safety issues identified during the installation process or the test-out procedure.
Step 5. The contractor certifies that the installed measures qualify for financing and IPL conducts an on-site inspection to verify. After verification, the contractor obtains the customer's signature on a certificate of completion and submits the signed certificate to the lender. This triggers payment to the homeowner or contractor and loan closing.
Step 6. The customer repays the loan via direct billing by the lender.

Interest Rates
The maximum interest rate financial institutions can charge for a Program loan is subject to the Agreement by the participating financial institution and the City of Independence. Interest rates for borrowers may be in two tiers, with IPL buying down the interest rate for the audit-based full response option. (As an example, similar programs offer 7% loans for the eligible measures option and 5% for the Home Performance with ENERGY STAR option, with IPL buying the rate down 2%). Loans will be at a fixed rate with no prepayment penalty. IPL will work with the FI to come to an Agreement for the interest rates.

Length of Loan
Loan terms will be based on the Agreement between the City of Independence and the participating financial institution.

Loan Loss Reserve Fund
A loan loss reserve fund of $250,000 will be distributed to one financial institution that will offer Program loans. These funds, which come from the federal EECBG program, will be used solely for the benefit of the lender to which it belongs. Lender will have access to their loss reserve fund when a loan is at least 90 days delinquent. The lender can claim up to 75% of unpaid loan principal and accrued interest from this fund.

Per federal guidance, all program income (including interest earned) paid to grantees is subject to the terms and conditions of the original grant which specifies that all income generated must be reinvested into eligible activities. In compliance with this, the interest generated from the loan loss reserve fund will be reinvested into the loan loss reserve fund or will be used by IPL to partially fund program administration.

Program Administration
IPL will contract for revolving loan administration and contractor management services. This program involves two primary components: The City is requesting proposals from organizations that can provide *one or both* components, and will choose administrators by the expected program start date of July 15, 2010.

Contractor Management Services
An outside vendor will provide management for the contractor and auditor component of the Program. Best practices from other residential loan programs have shown that the most successful programs are contractor-driven. The contractor management involves recruitment, screening, certification, database oversight, and trainings. See Chart 1 for contractor and auditor definitions and requirements.

Financial Services
IPL will partner with a financial institution, to provide services related to loan services including loan origination, loan servicing, payment to contractors, and co-marketing. The financial institution/organizations(s) will provide capital for the loans.

Independence Power and Light (IPL) Responsibilities
IPL will manage all aspects of the Program and will ensure that all program participants receive high-quality service at each step of the process.

Program Funding
IPL will provide a credit enhancement in the form of a $250,000 loan-loss reserve fund from the Energy Efficiency and Conservation Block Grant (EECBG). IPL will use its own funds for any related administrative costs and interest rate buy-downs. The program will be an on-going program funded through the IPL budget, contingent on City Council approval.

Review and Approval of Plan
IPL will monitor compliance by approved contractors and auditors to assure adherence to program rules and standards. IPL will also monitor loans issued to assure that program activity is meeting program goals and objectives.

Measurement and Verification
IPL will complete all on-site verification of installed measures and equipment. Based on engineering estimates, IPL will measure the energy savings and will report this to the federal government as required.

Marketing
IPL will provide marketing materials for the program including print materials, advertisements and brochures. Contractors and financial institutions may create their own marketing materials; however, these materials must include the IPL logo and be approved by IPL.

Eligible Upgrades and Installation Summary

The Program will offer a flexible portfolio of financing options for residents. Two upgrade and installation tiers will be offered:

1. *ENERGY STAR Eligible Measures*
   The list of eligible measures for residential customers includes common improvements such as heating, ventilation, and air conditioning (HVAC) systems; and measures such as air sealing and insulation. (See Chart 2.)

   While not exhaustive, this list allows for financing of a limited set of measures for customers with immediate needs, such as furnace replacement, or customers who, for whatever reason, are not interested in a comprehensive audit.

2. *Home Performance with ENERGY STAR®-based Full Response Measures*
   Under the audit-based full response, or whole home approach, the customer receives a comprehensive home energy assessment from a certified energy auditor. The audit will use the audit standards of the Building Performance Institute (BPI), including applicable modeling software and "test-in"/"test-out" procedure, to asses the home, identify all cost-effective improvements, and ensure quality and safe installation (see Chart 1 for details). To be eligible for financing, customers must implement measures identified by the auditor. The measures are not limited to those on the eligible measures list. Customers are encouraged to implement measures that will achieve cumulative energy savings of 20 percent or more. Whenever recommended, health and safety measures must be implemented for the project to be eligible for financing.

Contractor Requirements
Only Program Approved Contractors, Certified Contractors and Certified Auditors can perform the work. Visit www.independencemo.org/pl or another approved web site, or call (816) 325-7485 to find approved contractors in your area. If you would like to use a contractor or auditor who is not currently approved, they may contact the City about becoming an Approved Contractor, Certified Contractor or Certified Auditor.

There are two levels of contractors and one level of energy auditor certification in the Program. The Program does not promote any one contractor but maintains a directory of contractors. The definition and requirements for each level of contractors are explained below.

Approved Contractors have been reviewed for financial stability and are currently authorized to perform work under the qualifying measures loan program, but may not perform work associated with the Home Performance with ENERGY STAR® program. Approved Contractors must have all necessary City and State business licenses and permits to perform work in the City of Independence, and must receive training for the Program.

Certified Contractors are Approved Contractors who also have achieved BPI (Building Performance Institute) certification or accreditation. BPI is the nationally recognized designation for building and energy professionals who have undergone rigorous training on "whole house" energy improvements. Certified contractors are authorized to perform all work under the program.
Certified Auditors are professional energy auditors certified by BPI and familiarity with an approved software to conduct home energy audits. (Auditors who have certification in the Kansas City Power and Light/Missouri Gas Energy Home Performance with ENERGY STAR program would qualify as a Program Certified Auditor.) Additionally, Certified Auditors must receive program training specific to the Program. Certified Auditors may work independently from your contractor or they may be Certified Contractors who have also met the qualifications to perform as Certified Auditors. Participants must have an audit performed by a Certified Auditor to utilize the Home Performance with ENERGY STAR loan option.

Accountability

Energy auditors or contractors may not be approved to participate in the Program at the sole discretion of IPL at any time. Reasons for not being approved may include complaints from IPL customers, not having required licenses or permits, or having multiple instances of installing incorrect efficiency equipment and/or inadequate workmanship.

Contractors offering Independence Program financing or work must provide high-quality work. Oversight of contractors will include file checks as well as random field inspections of a percentage of jobs. This quality assurance role will be performed by IPL and the designated Contractor Manager.

Note: Contractor terms and requirements are subject to change prior to program implementation. Independence Power and Light and the chosen Contractor Manager will come to an agreement about Contractor and Auditor terms and requirements.

Chart 1: **Contractor Work and Requirements**

Approved Contractors	Certified Contractors	Certified Auditors
May perform only work related to ENERGY STAR® eligible measures. Requirements: 1. Must have a business license from the City of Independence 2. Must have required permits for work being performed 3. Must have training through the designated Contractor Manager	May perform all work, both related to eligible measures and Home Performance with ENERGY STAR®. Requirements: 1. Must have a business license from the City of Independence 2. Must have required permits for work being performed 3. Must have training through the designated Contractor Manager 4. Must have attained BPI* certification **Building Performance Institute*	May perform work related to Home Performance with ENERGY STAR®. Requirements: 1. Must have a business license from the City of Independence 2. Must have required permits for work being performed 3. Must have training through the designated Contractor Manager 4. Must be certified by BPI* and familiar with an approved software to conduct home energy audits

Chart 2: **Independence Home Energy Loan Program Eligible Measures**

Eligible Measures for ENERGY STAR® (ES) Certified Improvements Home Loan **www.energystar.gov**	***Home Performance with ENERGY STAR®* Loan**
ES Air Source Heat Pumps **ES Central AC Systems** **ES Furnaces (all fuels)** Must be ES certified except for indoor solid fuel burning furnaces (wood, coal, etc.) which must have a minimum 78% AFUE. **ES Water Heaters** **ES Ceiling Fans** **Programmable ThermostatsES Windows/Doors** With NFRC label, U factor .35 or less **Air Sealing and Insulation** ES Certification not required, provided that all of the following must be completed: • Air sealing of the home and ducts is performed, and • Ceiling insulation installed achieves R-38 or better*, and • Floor insulation installed achieves R-25 or better* • Wall insulation installed achieves R-15 or better* *Unless structural limitations prevent achievement of these insulation levels, in which instances the maximum R-value that can be achieved is required. **Geothermal Heat Pumps** Closed Loop Geo-Exchange Systems Only EER ≥ 14.1, COP ≥ 3.3 *Work must be performed by* ***Approved Contractor*** *or* ***Certified Contractor****.*	*Home Performance with ENERGY STAR* qualifying Improvements consist of the comprehensive "whole house" energy audit conducted by a Certified Auditor and the recommended energy improvements presented by the Certified Auditor as a result of the audit. Work must be performed by a Certified Contractor. An initial energy audit is conducted, which recommends energy conservation measures. The audit must be in line with the Home Energy Assessment requirements in the Home Performance with ENERGY STAR program. *Work must be performed by a* ***Certified Contractor****.* *Audit must be performed by a* ***Certified Auditor****.*

Final eligible measures will be determined by the Contractor Management Servcies Offeror and the City.

Independence Power & Light guidelines are subject to change at any time, without notice.

Last revised May 10th, 2010.

DRAFT MICHIGAN SAVES
LOAN LOSS RESERVE FUND AGREEMENT

This Michigan SAVES Loan Loss Reserve Fund Agreement (this "Agreement") is effective as of ________________, 2010, between MICHIGAN SAVES, INC., a Michigan nonprofit corporation ("Michigan SAVES"), and ShoreBank Enterprise Detroit, a community development financial institution ("Lender") (hereinafter, collectively the "Parties").

WHEREAS, Michigan SAVES and the Lender are entering into this Agreement regarding the Michigan SAVES Loan Program (the "Program") to provide a loan loss reserve for certain types of energy efficiency loans ("Program Loans") to be made by Lender to certain eligible borrowers;

WHEREAS, contemporaneously with the signing of this Agreement, Michigan SAVES has provided Lender with a copy of the Michigan SAVES Pilot Program: Requirements for ShoreBank Enterprise Detroit (as may be amended from time to time, the "Requirements");

WHEREAS, Michigan SAVES desires to provide a loan loss reserve fund in connection with Program Loans made by Lender; and

WHEREAS, the parties desire to set forth in this Agreement the terms and conditions of the Reserve Fund.

NOW, THEREFORE, the parties agree as follows:

1. Term of Agreement.

1.1 Lending Period. Program Loans may be made during the period (the "Lending Period") beginning as of the date of this Agreement and ending on the earlier of (a) the date on which Michigan SAVES has contributed the Maximum Total Net Contribution (as defined in Section 3.5) to the Lender's Reserve Fund Balance (defined in Section 3.1) or (b) six months following the effective date of this Agreement or such later date as the parties may mutually agree to in writing.

1.2 Term of this Agreement. This Agreement shall continue in effect until the earlier of (i) the date by which each Program Loan made by the Lender during the Lending Period has been either repaid in full by the borrower or Lender has recovered its Eligible Losses (as defined in Section 5.1) with respect to such Program Loan pursuant to this Agreement, or (ii) the date the Lender's Reserve Fund Balance has been paid to Lender in accordance with Section 4.2.

2. Program Loans.

2.1 Requirements. Only Program Loans meeting the criteria specified in the Requirements are eligible for recovery from the Reserve Fund. Lender has received and agrees to comply with the Requirements and follow the Program procedures described in the Requirements. Michigan SAVES may modify the Requirements and its contents from time to time by modifying the Requirements on the Michigan SAVES website, provided that Michigan SAVES gives notice prior to making the change, via email or US Mail to the Lender's contact person for purposes of the Program. Any Program Loans shall be originated by Lender in conformity with the Requirements.

2.2 Promotion of Program Loans. Lender will use reasonable efforts to educate appropriate staff concerning Program Loans. Based on the Initial Loan Loss Reserve Amount (as defined in Section 3.1) of $160,000, the parties anticipate that Lender will be able to make at least $320,000 of Program Loans for which the $160,000 would represent a fifty percent (50%) reserve fund on the terms of this Agreement.

2.3 Underwriting and Loan Administration.

(a) Underwriting. Program Loans must satisfy the minimum underwriting criteria specified in the Requirements. Lender has sole responsibility for underwriting decisions and legal compliance with respect to the Program Loans it makes. Lender agrees that for each Program Loan it makes it will investigate and evaluate the creditworthiness of the applicant in a manner consistent with its customary practice for a business loan in the amount proposed without the benefit of a loss reserve.

(b) Loan Administration. The Lender will receive all loan payments and will service each Program Loan until it is paid in full. The Lender will follow its normal collection procedures with respect to any delinquent Program Loan. Lender shall maintain such records with respect to the Program Loans as it customarily maintains with respect to other loans it makes of a similar nature.

(c) Consent to Information Sharing. Lender shall require each borrower under a Program Loan to sign a consent form provided by Michigan SAVES that allows Lender to share information about the account with Michigan SAVES.

2.4 Monthly Reporting of New Program Loans and Portfolio Status.

(a) Monthly Report. Within ten business days after the end of each month, Lender shall provide to Michigan SAVES an itemized report on a form provided by Michigan SAVES (the "Monthly Loan Report"). The Monthly Loan Report will include:

(1) New Program Loans. An itemized report of new Program Loans made during that month, including the loan number, the origination date, the name of the borrower(s), amount of loan, interest rate, amount of monthly payments and term;

(2) Confirmation of Eligibility. A certification by Lender that to the Lender's knowledge the new Program Loans are eligible loans under the criteria included in the Requirements related to Lender's responsibilities;

(3) Portfolio Status and Amortization Report. A status report for all outstanding Program Loans, including the loan number, the origination date, the borrower name(s), original balance, current balance, loan term and interest rate, payments received and information about any delinquent payments; and a report on the amortization of all outstanding Program Loans through the end of that month reporting the total principal repayment for all Lender's Program Loans during that month (the "Aggregate Amortization Amount"). The Aggregate Amortization Amount represents the amount of principal that has been repaid during that month.

(b) Review and Confirmation. Michigan SAVES shall have the right to review and confirm the existence of and documentation for any Program Loan included in a Monthly Loan Report.

(c) Confidentiality. Michigan Saves will use information provided in each Monthly Loan Report and other information provided by Lender for program management and evaluation purposes only, and will require all staff, affiliates, agents, and designees to treat the information as confidential unless otherwise required by law. For all other uses, Michigan Saves will only release information in an anonymous and aggregated form – that is, by removing all personally identifying information.

3. The Reserve Fund.

3.1 Reserve Fund. Michigan SAVES agrees to designate a cash reserve on the Michigan SAVES balance sheet (the "Reserve Fund") for the benefit of Lender and such other lenders as Michigan Saves may enter into agreements with from time to time. Michigan SAVES will designate a portion of the Reserve Fund as the reserve fund balance available to Lender on the terms of this Agreement ("Lender's Reserve Fund Balance"). Lender's Reserve Fund Balance will be adjusted and administered as provided in this Agreement and shall be solely for the benefit of Lender as described in this Agreement. Within five business days of the date of this Agreement, Michigan Saves shall designate $160,000.00 (the "Initial Loan Loss Reserve Amount") as the initial Lender's Reserve Fund Balance.

3.2 Adjustment after Lending Period. Within fifteen days following the end of the Lending Period, Lender will provide Michigan Saves with a current Monthly Report. The Lender's Reserve Fund Balance will be reset to an amount equal to fifty percent (50%) of the outstanding principal amount of all Program Loans listed in the Monthly Report as of the end of the Lending Period. Any amounts in excess of the reset amount of the Lender's Reserve Fund Balance shall be refunded to Michigan Saves and shall no longer be part of the Lender's Reserve Fund. The contribution to the Lender's Reserve Fund Balance for loans made after the Initial Term will be determined by mutual agreement between Michigan Saves and Lender.

3.3 Additions to Lender's Reserve Fund Balance. After the Lending Period, Michigan SAVES shall have no obligation to make additional contributions to the Lender's Reserve Fund Balance other than the Initial Loan Loss Reserve Amount.

3.4 Reductions to Lender's Reserve Fund Balance.

(a) Losses paid to Lender. The Lender's Reserve Fund Balance shall be reduced by any and all amounts paid by Michigan SAVES to Lender for Eligible Losses pursuant to Section 5 of this Agreement.

(b) Amortization of Program Loans. After the Lending Period, the Lender shall issue, as part of the Monthly Report, a report on the amortization of all outstanding Program Loans through the end of that month reporting the total principal repayment for all Lender's Program Loans during that month (the "Aggregate Amortization Amount"). The Aggregate Amortization Amount represents the amount of principal that has been repaid during that month. The Lender's Reserve Fund Balance shall be reduced by fifty percent (50.0%) of the Aggregate Amortization Amount for the prior month as reported in the Monthly Loan Report.

(c) Repayment of Program Loans. Whenever a Program Loan is repaid in full at maturity or upon early repayment in full, the Lender shall notify Michigan SAVES in writing in the Monthly Loan Report. If a Program Loan made during the Lending Period has been repaid or prepaid, then the Lender's Reserve Fund Balance shall be reduced by twenty percent (20.0%) of the repayment amount of the Program Loan which has been repaid or prepaid (to the extent not previously included Aggregate Amortization Amount pursuant to Section 3.4(b)).

3.5 Maximum Total Net Contribution. The contributions of Michigan SAVES to the Lender's Reserve Fund Balance over the term of this Agreement, net of any repayment to Michigan SAVES pursuant to Section 3.4(b), Section 3.4(c) or Section 5.6, shall in no event exceed the "Maximum Total Net Contribution". The Maximum Total Net Contribution shall be $160,000. Michigan SAVES will maintain available funds to enable it to contribute up to the Maximum Total Net Contribution according to the terms of this Agreement. The parties may by mutual written agreement change the amount of the Maximum Total Net Contribution at any time during the term of this Agreement.

3.6 Re-evaluation. The parties agree that the terms and conditions of the Reserve Fund have been established pursuant to certain assumptions agreed to by the parties concerning loan performance and default. Actual loan losses may be different than what the parties anticipate. If it appears to the parties after two years of administration of the Program and funding of the Reserve Fund that in fact the losses on the Program Loans are fewer in number or less in amount than were projected by the parties at the time of the execution of this Agreement, the parties may, but are not required to, agree upon a reduction in the amount of contribution that must be made by Michigan SAVES to the Reserve Fund upon origination of each Program Loan.

4. Administration of the Reserve Fund.

4.1 Administration. Michigan SAVES shall administer and invest the Reserve Fund (which includes Lender's Reserve Fund Balance) in accordance with the terms of this Agreement. Michigan SAVES shall account for the Reserve Fund as a separate line on its balance sheet and shall maintain appropriate records related to that portion of the Reserve Fund which is the Lender's Reserve Fund Balance. Michigan SAVES shall provide written confirmation to the Lender of the designation and amount of the Reserve Fund and the Lender's Reserve Fund Balance. The moneys designated by Michigan SAVES as the Lender's Reserve Fund Balance within the Reserve Fund shall be held in a Michigan SAVES depository account at an institution to be selected by Michigan SAVES. Contributions made to the Reserve Fund on account of Lender shall be deposited jointly with contributions made on account of all Participation Loans. The Lender's Reserve Fund Balance will be used solely for the purposes provided in this Agreement and the Requirements. Interest or other earnings on the Reserve Fund shall accrue to and be payable to Michigan SAVES each calendar quarter. Michigan SAVES will maintain records and accounts on the Lender's Reserve Fund Balance, which will be available for reasonable inspection by the Lender. Michigan SAVES will provide Lender with a Monthly report of the balances of the Reserve Fund and the Lender's Reserve Fund Balance. Lender shall not have any lien on or pledge on any amount on deposit from time to time in the Reserve Fund (which includes the Lender's Reserve Fund Balance) or the proceeds thereof.

4.2 Payment upon Suspension of Operations. If Michigan SAVES suspends all business operations for a period of 180 days or more, then if Michigan SAVES so elects or if Lender so requests, Michigan SAVES will make a "Final Payment" in cash to Lender. That Final Payment will constitute a full and final satisfaction of all further obligations of Michigan SAVES to Lender under this Agreement. The "Final Payment" shall be equal to the Lender's Reserve Fund Balance after all adjustments required by this Agreement have been made. Following the Final Payment, the Lender shall continue to track the Program Loans and the use of the Final Payment with respect to such Program Loans. When the Lender's last Program Loan has either been repaid or the Lender has recovered its Eligible Losses, then Lender shall refund to Michigan SAVES (or its successors or assigns) any remaining amount of the Final Payment that was not used to pay Eligible Losses on Program Loans.

5. Recovery from the Reserve Fund.

5.1 Eligible Loss. Lender shall be entitled to payment from the Lender's Reserve Fund Balance on unrecovered losses on a Program Loan only after the loan is at least 90 days past due and only if Lender has exercised commercially reasonable efforts to collect the Program Loan or bring the Program Loan current in a manner consistent with its practices for other business loans that are not Program Loans. Lender may claim from the Lender's Reserve Fund Balance as unrecovered losses eighty percent (80%) of the sum of (a) the unpaid principal and (b) any unpaid interest on the Program Loan to which it is legally entitled (the 80% portion shall be individually an "Eligible Loss" and collectively the "Eligible Losses"). As a result, Lender shall retain responsibility for twenty percent (20%) of each delinquent Program Loan (the "Retention Percentage").

5.2 Claim for Recovery from Lender's Reserve Fund Balance. To claim an Eligible Loss and receive reimbursement from the Reserve Fund, the Lender shall provide to Michigan Saves (a) a written schedule itemizing the Eligible Loss claimed (80% of the unpaid principal and interest) and certifying that it is for a Program Loan that is at least 90 day past due, (b) a certification that the Lender has exercised commercial reasonable efforts to obtain recovery against the borrower, and (c) a copy of the first Monthly Report from Lender that reported such Program Loan issued pursuant to Section 2.4 above.

5.3 Loss Recovery. Whenever Lender makes a claim consistent with the terms of this Agreement for an Eligible Loss from the Lender's Reserve Fund Balance as provided above, Lender shall be entitled to payment of the Eligible Loss up to but not in excess of the amount of Lender's Reserve Fund Balance (if and only if Lender's Reserve Fund Balance at that time is a positive number) at the time that such claim for an Eligible Loss is presented to Michigan SAVES.

5.4 Timing of Payment. If the Lender makes a claim consistent with the terms of this Agreement for an Eligible Loss from the Lender's Reserve Fund Balance, Michigan SAVES shall make payment to the Lender to the extent provided above, no later than fifteen (15) days following the end of the month in which the claim is made.

5.5 Payments Limited to Reserve Fund. The aggregate liability of Michigan SAVES to Lender shall not under any circumstances exceed the Lender's Reserve Fund Balance. The Lender does not have any additional recourse against Michigan SAVES for Eligible Losses in excess of the Lender's Reserve Fund Balance at the time. The Lender acknowledges and agrees that its losses on Program Loans may exceed the funds available in the Lender's Reserve Fund Balance. This Agreement is not a guarantee of the full amount of Program Loans. Except as explicitly provided in this Agreement, Michigan SAVES is under no obligation to further contribute to or supplement the Lender's Reserve Fund Balance.

5.6 Subsequent Collection Activities. Lender agrees to use its commercially reasonable commercially reasonable efforts to collect any delinquent Program Loan, even after it has collected from the Lender's Reserve Fund Balance with respect to such Program Loan. For any recovery on a Program Loan, net of expenses, Lender shall retain 20% of such net recovery and 80% of such net recovery shall be paid to Michigan Saves.

6. General Terms and Conditions:

6.1 Liability Limitation. Neither the State of Michigan, Michigan SAVES, nor any officer, director, employee, agent or agency of the State of Michigan or Michigan SAVES shall be liable or responsible for any action taken or omitted by the State of Michigan or Michigan SAVES hereunder in good faith and in the reasonable belief that such action taken or omitted is authorized or within the discretion or rights or powers conferred by this Agreement. Neither the State of Michigan nor Michigan SAVES shall be under any obligation or duty to perform any act which would involve it in expense or liability or to advance any of its own money unless expressly provided herein. Michigan SAVES and the State of Michigan shall be fully protected in acting upon any notice, consent, statement, opinion or other paper or document provided by Lender.

6.2 Expenses. The expenses incurred by each party hereto incident to the execution, delivery and performance by each party under this Agreement, unless expressly provided herein, shall be paid for by each party.

6.3 Amendment. This Agreement may be amended at any time and from time to time by one or more writings executed by all parties hereto.

6.4 Notices. All notices shall be delivered or mailed, certified mail, to Michigan SAVES at 600 W. Saint Joseph St. Suite 10, Lansing, MI 48933-2265, Attn: Ms. Julie Bennett, and to the Lender at [INSERT ADDRESS], Attn: [Chief Financial Officer].

6.5 Severability. In case any one or more of the provisions in the Agreements are invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall be not be affected thereby.

6.6 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Michigan.

6.7 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto were upon the same instrument.

6.8 Independent Parties. This Agreement shall not be deemed to constitute the parties as partners or joint venturers, nor shall any party be deemed to constitute the other party as its agent.

6.9 Successors and Assigns. This Agreement shall be binding on the parties' successors and assigns provided that this Agreement shall not be assigned by Lender without the prior written consent of Michigan SAVES.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as a sealed instrument by their respective authorized officers or representatives as of the date and year first above written.

MICHIGAN SAVES, INC.

By:____

Print name:__________________________________

Its:____
Hereunto duly authorized

[NAME OF LENDER]

By:____

Print name:__________________________________

Its:____
Hereunto duly authorized

Sample Residential Program Term Sheet — DRAFT

Introduction

______ is seeking to develop an energy efficiency loan product for ______ [name sector and sub sector] customers. The product would be offered under the sponsorship of _________ [name sponsor]. The sponsor will provide a ______ [Name primary sponsor financial contribution here such as "credit enhancement in the form of an assignable loss reserve account, while a partnering financial institution will originate and service loans."]

Program Overview	Detail
Program Goal	Show finance program goal. For instance: "To offer a loan product to residential customers that will enhance customers' ability to pay for energy efficiency measures while eliminating up-front costs to the customer."
Program Sponsor	Product will be marketed under the sponsorship and name of ___________________.
Program Administrator	Define who will market program, originate loans, etc.
Eligible Borrowers and Properties	Define eligible borrowers. For instance: "Owners of owner-occupied, single-family homes (1-4 units)."
Grantee Role	Define major role of the grantee. For instance: "______ will market program in collaboration with the program administrator, provide credit support, and train contractors."
Partner Lender Role	Define major elements of partner lender role. For instance: "A partner lender will be selected to originate and service loans and to provide loan capital. The lender partner will serve as the implementation partner for financial aspects of the loan program, under the terms of a loan loss reserve agreement and subject to standards set by the grantee."
Loan Facility Size	Total loan facility size in the first year is estimated to be ______ [show total amount of loans expected to be made on both an annual and total basis].
Maximum and Typical Loan Size	Show projected max/min loan sizes. For instance: "Maximum loan size will be $15,000 with unsecured loans, with average loan size expected to be approximately ____."
Program Launch Date	Show when program is expected to launch.

Loan Product	Proposed Structure / Minimum Standards
Loan Amounts	Show dollar value of loans expected, in terms of minimum, maximum, and typical.
Loan Terms	Show expected length of loan term. Typically subject to negotiation.
Loan Rates	Show expected interest rates or show a range of rates. Typically subject to negotiation.
Definition of Default	Show definition of default, e.g., 90 days/120 days. May be subject to negotiation.
Secured / Unsecured	Show whether loans will be unsecured or unsecured. If secured, show how loans will be secured.

Loan Product	Proposed Structure / Minimum Standards
Eligible Measures	Energy efficiency measures include__________. For instance: "Measures as defined through an energy audit" or "specific measures such as duct sealing, air sealing, attic insulation, high efficiency replacement heating and cooling equipment. For electric utilities also include shade screens."
Eligible Borrowers	Define eligible borrowers. For instance: "Residential homeowners" or "Small commercial entities as defined by ___."

Underwriting Standards	
Underwriting Procedure	Define desired characteristic of underwriting. For instance: "Underwriting to take place quickly, with a goal of conditional approval within 1 to 2 hours of application."
Minimum FICO	Define a minimum FICO credit score that the sponsor would like to see. For instance: "640 FICO or better."
Foreclosure / Repossession	Define foreclosure/repossession as related to borrower qualification.
Unpaid Collection Accounts, Judgments, Tax Liens	Define. For instance: "No unpaid collection accounts, judgments, or liens outstanding allowed."
Income Verification Required	Define whether income needs be verified and under what circumstances.
Debt-to-Income Ratio	Define acceptable debt-to-income ratios. For instance: "50% debt-to-income ratio or better."

Sources of Capital and Credit Enhancements	Details
Credit Enhancement Structure	If program is based on a credit enhancement, define that credit enhancement. For instance: "A loan loss reserve in the amount of ___% of the value of either the outstanding loans or the loan commitment will be provided to a participating lender, and available to that lender subject to the terms established in a Loan Loss Reserve (LRF) Agreement. This LRF Agreement shall specify underwriting standards, definitions of default, collection methods, and other related requirements. The lender will be authorized to withdraw ___% of the value of an individual defaulted loan after payment is ___ days late."
Loss Reserve Segregation	If program is based on a loss reserve, define the tracking mechanism and who holds that loss reserve. For instance: "Loss reserve to be held in an interest-bearing account at the participating financial institution."

Loan Product Marketing and Contractor Network	Details
Marketing	Define who will market the product. For instance: "Loan product to be marketed through a network of contractors who will be trained on loan product features."
Contractor Network	Contractor network to be trained and monitored by ________.
Marketing Materials	Define who will be responsible for marketing the program. For instance: "Sponsor to develop and assist in development of marketing materials to be provided by contractors."