
LOAN SERVICING AGREEMENT
BETWEEN
COMMUNITY REINVESTMENT FUND, INC.
AND
WEST ST. PAUL ECONOMIC DEVELOPMENT AUTHORITY
(THE "AGREEMENT")

LOAN SERVICING AGREEMENT

THIS AGREEMENT is entered into as of March XX, 2020, by and between Community Reinvestment Fund, Inc., a Minnesota nonprofit corporation with an office at 801 Nicollet Mall, Suite 1700W, Minneapolis, MN 55402 ("Servicer") and West St. Paul Economic Development Authority with an office at 1616 Humboldt Avenue, West St. Paul, MN 55118. ("Client")

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that in consideration of their mutual undertakings and payments provided for herein, the parties recite, covenant and agree as follows:

WHEREAS, Servicer is a nonprofit corporation engaged in the servicing of development loans; and represents that it is qualified and authorized to perform the services described herein; and

WHEREAS, Client originates, purchases, owns and/or manages loans that benefit economically distressed or declining areas, disadvantaged persons, neighborhood or community revitalization, foster job creation, or other section 501(c)(3) charitable purposes; and

WHEREAS, Servicer is authorized by Client to function as a servicing agent under the terms of this agreement; and

WHEREAS, the Client now desires to have Servicer perform the duties set forth herein for the loans covered by this Loan Servicing Agreement (the "Agreement")

NOW THEREFORE, Servicer and the Client agree as follows:

- Section 1.** Duties of Servicer. Servicer shall, at all times and with respect to all loans identified by Client (the "Client Loans") which it has been engaged by the Client to service, employ its normal and regular servicing activities in the servicing of Client Loans to perform those responsibilities specifically set forth on Schedule 1 (the "Services"). The parties acknowledge that, from time to time, the Services may be modified at the request of the Client and agreement by the Servicer. Such changes shall be mutually agreed upon and are not effective unless agreed to in writing by the execution of a revised Schedule 1.
- Section 2.** Effective Date. Servicer shall commence servicing activities under this Agreement effective on the XX day of March, 2020.
- Section 3.** Servicing Compensation and Reimbursement. The Client shall compensate Servicer for the Services in accordance with the fee schedule attached as Schedule 2 of this Agreement and reimburse Servicer for any of Servicer's out of pocket third-party costs of recordation, perfecting or releasing liens, legal costs incurred, servicing of notices, repossession, foreclosure, and other similar costs paid by Servicer on behalf of Client with respect to Servicer's actions on specific Client Loan(s) (the "Fees"). Servicer shall retain any late fees paid by borrower. Servicer shall invoice Client monthly and all invoiced Fees shall be paid as set forth in Schedule 2, which are due within thirty (30) days from the date of the invoice or as otherwise set forth in Schedule 2. Following the Initial Term, as hereinafter defined, Servicer may increase the Fees from time to time by providing an updated Schedule 2 to Client at least 30 days prior to effective date of the new Fee schedule.
- Section 4.** Initial Boarding of Client Loans.

- i. In making this agreement with Servicer, Client represents, warrants and agrees to provide to Servicer the information fields for each Client Loan and the documentation regarding the Client Loans for which it desires servicing under the terms of this Agreement (“Boarding”). Each Client Loan will be communicated to Servicer in a mutually agreed-upon electronic format or formats (in cases where more than one file format is needed by Servicer).
- ii. The Client will cooperate with Servicer, and provide Servicer such information as may be necessary to perform its duties under this Agreement, reconcile any loan balance information provided to Servicer, and Servicer may rely in good faith on information provided to it by the Client.

Section 5. Ongoing Boarding of Client Loans.

- i. From time to time, following the Effective Date of this Agreement, the Client may notify Servicer of newly-originated Loans for which it desires servicing under the terms of this Agreement.
- ii. Each Client Loan will be communicated to Servicer in a mutually agreed-upon format.
- iii. Client represents, warrants and agrees to cooperate with Servicer, and provide Servicer such information as may be necessary to perform its duties under this Agreement, reconcile any loan balance information provided to Servicer, and Servicer may rely in good faith on information provided to it by the Client.

Section 6. Reports the Property of Client. All reports, documents and material delivered by Servicer to Client pursuant to this Agreement are the exclusive property of the Client. Client may use any work product prepared by Servicer in such manner, for such purpose, and as often as Client shall deem advisable, in whole, in part or in modified form, without further compensation to Servicer.

Section 7. Nature of Agreement. Servicer shall perform all of its services and duties hereunder at its own expense and without cost or charge to the Client except as expressly provided in Schedule 2 of this Agreement. Servicer acknowledges that this Agreement does not constitute a joint venture; that the Client is not responsible for Servicer’s acts, and that Servicer is acting as an independent contractor and not as agent for the Client except as may be specifically provided for herein.

- i. Governmental Approvals. Servicer has obtained and will maintain in full force and effect, and satisfy at all times all related eligibility criteria in order to maintain in full force and effect, without material impairment, suspension or revocation, all municipal, local, or other applicable governmental approvals, registrations, qualifications, permits, licenses and other applicable authorizations that are required or necessary to perform and conduct the services and Servicer’s business in accordance with Applicable Requirements, as hereinafter defined.
- ii. For purposes of this Agreement “Applicable Requirements” shall mean:
 - (a) All applicable federal, state, and local legal and regulatory requirements binding upon the Servicer related to the performance of the Services.;
 - (b) All other applicable requirements and guidelines of each governmental and quasi-governmental agency, board, commission, instrumentality and other governmental body or office having jurisdiction over Servicer;
 - (c) All other judicial and administrative judgments, orders, stipulations, awards, writs, and injunctions applicable to the services, Servicer; and
 - (d) The reasonable and customary practices of prudent service providers that offer the same types of services as Servicer in the jurisdictions in which Servicer operates.

Section 8. Disaster Recovery.

- i. Servicer shall take all reasonable precautions to safeguard information regarding the Client Loans to minimize the risk of loss from disaster disrupting business operations such as fire, flood, storm,

epidemic illness, equipment failure, sabotage, terrorism, natural disaster, disaster caused by humans, or electronic data system failures;

- ii. Servicer shall keep duplicate records of all electronic information in its possession pertaining to the Client Loans and shall store such records in a site remote from its main offices in the following manner:
 - (a) Full backups of daily files for 30 consecutive days;
 - (b) Full backups of month-end files for 7 years; and
 - (c) In the event of a natural disaster or catastrophic failure of Servicer's electronic data system, Servicer shall have a period not to exceed 45 days from the date of such catastrophe to recover or reconstruct such lost data necessary to comply with Section 1 hereof.

Section 9. Equal Employment Opportunity. Servicer shall comply with all applicable provisions of the Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.). Servicer is an equal opportunity employer and will not discriminate against any person on the basis of race, color, creed, religion, sex, national origin, age, disability, marital status, sexual orientation, status with regards to public assistance, or any other characteristic protected by law.

Section 10. Compliance.

- i. General. Servicer shall comply with all Applicable Requirements.
- ii. Vendors. From time to time, Servicer may engage vendors to perform certain tasks that may be included in Servicer's performance of the Services. Servicer shall follow commercially reasonable practices designed to ensure that any Services performed by vendors are in compliance with the Applicable Requirements and this Agreement.
- iii. Policies and Procedures. Servicer will maintain and follow written internal policies and procedures which satisfy all Applicable Requirements in connection with providing services to the Client, including without limitation policies and procedures for internal quality control, employee hiring and training, and other methods that ensure compliance.
- iv. Audit Rights. The Client will have the right to audit Servicer, at the Client's own expense and not more than once per calendar year, in order to assure compliance with the terms of this Agreement. Servicer will provide full cooperation and will be responsible for assuring full cooperation by its employees and vendors in connection with such audits. Servicer will, and shall cause any vendor that performs tasks related to the Services to, allow the Client and its counsel, accountants, and other representatives, as well as the applicable regulatory authorities of the Client, reasonable access upon thirty (30) days advance notice and only during normal business hours, to all of Servicer and vendors' files, books and records directly relating to the Services performed for Client under this Agreement. Servicer will provide, and shall cause vendor to provide, to the Client, or obtain for the Client, access to such properties, records, and personnel as the Client may reasonably require, and shall provide the Client with Servicer's most recent audited financial statements and the names, resumes, and proof of any required licensures for all relevant personnel employed by Servicer, the Client and its representatives and affiliates shall treat all information obtained in such investigation that is not otherwise in the public domain as confidential.

Section 11. Indemnity. Servicer and Client each agree to indemnify, defend, and hold each other and each of their respective officers, directors, employees, agents, counsel, advisors and representatives (each, an "Indemnified Party") harmless from and against any and all claims, losses, penalties, fines, forfeitures, legal fees and related costs, judgments, and any other costs, fees and expenses that Indemnified Party may sustain in any way related to the failure of Servicer or Client to perform its duties in compliance with the terms of this Agreement. Notwithstanding the foregoing,

- i. Servicer shall not indemnify any such Indemnified Party if such acts, omissions or alleged acts constitute fraud, gross negligence, willful misconduct or breach of fiduciary duty by such Indemnified Party;
- ii. Servicer shall not indemnify any such Indemnified Party, for any taxes, including without limitation any federal, state or local income or franchise taxes or other taxes, imposed on or measured by income received by such Indemnified Party (or any interest or penalties with respect thereto or arising from a failure to comply therewith) that are required to be paid by such Person in connection herewith to any taxing authority;
- iii. Servicer and any director, officer, employee or agent of Servicer may rely on any document of any kind which it in good faith reasonably believes to be genuine and to have been adopted or signed by the proper authorities or persons respecting any matters arising hereunder;
- iv. Servicer shall have no obligation to appear with respect to, prosecute or defend any legal action which is not incidental to this Agreement; and
- v. Notwithstanding the foregoing, Servicer's indemnity of Client shall be limited to no more than the prior twelve months Servicing Compensation invoiced to and paid by the Client, excluding any third party costs paid by Servicer.

Section 12. Fidelity Bond. Servicer shall maintain with a responsible company, and at its own expense, a blanket fidelity bond and an errors and omissions insurance policy, in a minimum amount equal to \$3,000,000, and a maximum deductible of \$100,000, if commercially available, with coverage on all employees acting in any capacity requiring such persons to handle funds, money, documents or papers relating to the Client Loans ("Employees"). The fidelity bond shall insure the Client, its respective officers and employees against losses resulting from forgery, theft, embezzlement or fraud by such Employees. The errors and omissions policy shall insure against losses resulting from the errors, omissions and negligent acts of such Employees. No provision of this Section 12 requiring such fidelity bond and errors and omissions insurance policies shall relieve Servicer from its duties as set forth in this Agreement. Upon the request of the Client, Servicer shall make available to the Client for their review, a true copy of such fidelity bond and errors and omissions insurance policy.

Section 13. Limitation of Liability. Servicer's role is strictly limited to the Services. Client will be solely responsible for making all decisions concerning the management of the Client Loans. At all times, Client will be responsible for the accuracy of all information provided to Servicer and Servicer may rely on any document of any kind which it, in good faith, reasonably believes to be genuine and to have been adopted or signed by the proper authorities or persons respecting any matters arising hereunder. The sole duty of Servicer is to exercise ordinary care in its performance of the obligations described in this Agreement. Client agrees that Servicer, its officers, directors, agents, and employees ("Servicer's Representatives") will not be liable for events or circumstances beyond their reasonable control, and the liability of Servicer and Servicer's Representatives will be limited to correcting errors caused by Servicer. Client and Servicer agree that clerical errors and mistakes in judgment do not constitute a failure to exercise ordinary care or to act in good faith.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION, ANY DAMAGES CLAIMED FOR LOSS OF INCOME, REVENUE, OR PROFITS OR FOR LOSS OF GOODWILL) ARISING FROM OR RELATED TO SERVICES PROVIDED PURSUANT TO THIS AGREEMENT.

THE EXCLUSIVE REMEDY AVAILABLE TO CLIENT SHALL BE THE RIGHT TO PURSUE CLAIMS FOR ACTUAL DAMAGES THAT ARE DIRECTLY CAUSED BY ACTS OR OMISSIONS THAT ARE BREACHES BY SERVICER OF ITS DUTIES UNDER THIS AGREEMENT. SERVICER'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NEVER EXCEED THE TOTAL

AMOUNT PAID BY CLIENT TO SERVICER PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH ACTION, EXCLUDING ANY THIRD PARTY COSTS.

Section 14. Term of Agreement; Termination. The initial term shall commence on the Effective Date and continue for a period of one (1) years (the "Initial Term"). Thereafter, the Agreement shall automatically renew for successive one (1) year periods, unless CRF or Client provides written notice of non-renewal to the other party at least sixty (60) days before the end of the current term. Notwithstanding the preceding, on the date corresponding to sixty days prior to the one year anniversary, the contract will automatically extend to the next one year anniversary date, unless notice of termination is given as specified in the following paragraph.

- i. Either the Client or Servicer may terminate servicing by Servicer with respect to any Client Loan or all Client Loans upon ninety (90) days written notice delivered to the other party via email (and duly acknowledged by the other party) or upon a Servicer Termination Event (as defined below). Upon such termination, Servicer shall promptly supply appropriate reports, documents, promissory notes and other information as requested by the Client or any person or entity designated by the Client and shall use its best efforts to effect the orderly and efficient transfer of servicing to the Client or a new servicer designated by the Client subject to the fees described in Schedule 2.
- ii. If any of the following events with respect to Servicer shall occur and be continuing, it shall be a "Servicer Termination Event":
 - (a) any failure by Servicer to remit any payment required to be made under the terms of the Agreement which continues un-remedied for a period of ten (10) business days after such payment was required to be made (and such cured failure shall not be deemed a Servicer Termination Event); provided, however, that any such failure shall not constitute a Servicer Termination Event if such delay or failure could not have been prevented by the exercise of reasonable diligence by Servicer, or such delay or failure was caused by an act of God or public enemy, acts of declared or undeclared war, terrorism, public disorder, rebellion, riot or sabotage, epidemics, landslides, lightening, fire, hurricanes, tornadoes, earthquakes, nuclear disasters or meltdowns or floods; or
 - (b) any breach by Servicer of the representations and warranties contained herein that materially and adversely affects the interests of the Client, or any failure on the part of Servicer to observe or perform in any material respect any of the covenants or agreements on the part of Servicer not described in subsection (a) and that continues unremedied for a period of thirty (30) days after the date on which notice of such breach, requiring the same to be remedied, shall have been given to Servicer by the Client; provided, however, that if Servicer certifies to the Client that Servicer is in good faith attempting to remedy such breach, such cure period will be extended to the extent necessary to permit Servicer to cure such breach, but in no event more than thirty (30) days from the date of receipt by Servicer of written notice of such breach; or
 - (c) a decree or order of a court or agency or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding-up or liquidation of its affairs, shall have been entered against Servicer and such decree or order shall have remained in force, undischarged or unstayed for a period of 60 days; or
 - (d) Servicer shall consent to the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings of or relating to Servicer or of or relating to all or substantially all of Servicer's property; or
 - (e) Servicer shall admit in writing its inability to pay its debts as they become due, file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations.

- Section 15.** Assignment of Rights. Servicer acknowledges that all right, title and interest in and to this Agreement may be assigned with prior written Servicer approval, such approval not to be unreasonably withheld, by the Client to its successor or any trustee designated by the Client, if any, and that the successor and trustee shall have the rights to enforce the same. Servicer may not assign its rights under this Agreement without the prior written consent of the Client.
- Section 16.** Independent Contractor. Nothing herein contained shall be deemed or construed to create a co-partnership or joint venture between the parties hereto and the services of Servicer shall be rendered as an independent contractor and not as agent for the Client, its successors and assigns, or any obligors or noteholders under the Client Loans.
- Section 17.** Amendments. This Agreement may not be amended or modified except by a written agreement signed by the parties in interest at the time of such modification. Notwithstanding the foregoing, Servicer may adjust the Fees by providing an updated Schedule 2 as set forth in Section 3 and all other Schedules may be changed by mutual agreement.
- Section 18.** Confidentiality. Neither the Client nor Servicer shall disclose or use any Confidential Information (as defined below in Section 18.v) of the other party or its affiliates without the express written authorization of such other party or its affiliates, and each party will keep such Confidential Information confidential and will ensure that its affiliates and advisors who have access to such Confidential Information comply with such non-disclosure and non-use obligations.
- i. Notwithstanding the foregoing, the Client or Servicer may provide such Confidential Information as required pursuant to a court or administrative subpoena, court order or other such legal process or requirement of law; provided, however, that it shall endeavor to promptly notify the other of such request, order or requirement, unless such notice is prohibited by statute, rule, or court order. Nothing herein shall require either the Client or Servicer to fail to honor a subpoena, court or administrative order, or a requirement of law on a timely basis.
 - ii. Notwithstanding this section, Servicer is expressly permitted to release information to borrowers upon written request regarding their specific loans; and, following receipt of borrower's written authorization to release information, Servicer is expressly authorized to release such information regarding that borrower's loan to a third party.
 - iii. Servicer shall cause vendors, if any, not to use or disclose any Confidential Information of the Client except in compliance with this Agreement. Notwithstanding the foregoing, a vendor may disclose Confidential Information as required pursuant to a court or administrative subpoena, order or other such legal process or requirement of law; provided, however, that it shall first notify the Client of such request or requirement, unless such notice is prohibited by statute, rule or court order. Servicer shall not, on the Client's behalf, require a vendor to fail to honor a subpoena, court or administrative order, or a requirement of law on a timely basis. Servicer shall also cause vendors not to remove any Confidential Information from the Client premises without the Client's prior written authorization.
 - iv. Each party shall limit access to the other party's Confidential Information to only those of its employees and agents who require such access in performing their duties hereunder. Servicer agrees to either return the Confidential Information to the Client or destroy the Confidential Information upon completion of the work or, in any event, upon termination of the Agreement between the parties. Except as expressly provided in this Agreement, no ownership or license rights are granted in any Confidential Information. Notwithstanding the foregoing, Confidential Information may be disclosed to a party's accountants, attorneys, insurers, regulators and consultants. Notwithstanding the foregoing, a party may retain one archival copy of Confidential Information that may be used solely to demonstrate compliance with this Agreement, Applicable Law, and internal policies and procedures.
 - v. "Confidential Information" shall mean any information of Servicer, the Client or their respective affiliates (whether written or oral), including:

- (a) Financial information, marketing plans, and personnel records;
- (b) Technical and non-technical data, including without limitation, customer lists, customer information, customer non-public information, fee schedules, forms, information, business and management methods, trade secrets, compilation and analysis of financial information and data to prepare and submit bids and proposals to third parties;
- (c) Other proprietary or confidential information;
- (d) Proprietary computer software, management information and information systems, whether or not such Confidential Information is disclosed or otherwise made available to one party or the other pursuant to this Agreement.
- (e) Terms and provisions of this Agreement and any transaction or document executed by the parties pursuant to this Agreement. Confidential Information does not include any information that:
 - (1) is or becomes generally available to and known by the public (other than as a result of an unpermitted disclosure directly or indirectly by the receiving party or its affiliates, advisors, or representatives);
 - (2) is or becomes available to the receiving party on a non-confidential basis from a source other than the furnishing party or its affiliates, advisors, or representatives, provided that such source is not and was not bound by a confidentiality agreement with or other obligation of secrecy to the furnishing party of which the receiving party has knowledge at the time of such disclosure; or
 - (3) has already been or is hereafter independently acquired or developed by the receiving party without violating any confidentiality agreement with or other obligation of secrecy to the furnishing party.

Section 19. Notices. All notices and communications as part of this Agreement must be in writing and, except as otherwise agreed to, must be delivered, mailed, faxed, or telegraphed to the following addresses:

i.If to Servicer, to:

Community Reinvestment Fund, Inc.
801 Nicollet Mall, Suite 1700W
Minneapolis, MN 55402
Attention: Loan Servicing
Phone: (612) 248-8043
Email: loanservicing@crfusa.com

With a copy to:

Community Reinvestment Fund, Inc.
801 Nicollet Mall, Suite 1700W
Minneapolis, MN 55402
Attention: CFO
Phone: (612) 338-3050
Email: Compliance@crfusa.com

ii.If to the Client, to:

West St. Paul Economic Development Authority
1616 Humboldt Avenue
West St. Paul, MN 55118

Attention:

Phone:

Email:

iii. Each such notice shall be effective upon receipt by the recipient.

Section 20. Governing Law. This Agreement and each transaction consummated hereunder shall be deemed to be made under the internal laws of the State of Minnesota and shall be construed in accordance with and governed by the laws of said State, without regard to the choice of law rules of that State, except to the extent that any of such laws may now or hereafter be preempted by Federal law.

Section 21. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument.

Section 22. Prior Agreement. This Agreement supplements any and all prior agreements between Servicer and Client related to the Client Loans. In the event of a conflict between this Agreement and any prior agreement between Servicer and Client related to the Client Loans, this Agreement shall prevail, unless otherwise provided herein.

Section 23. Authorized Persons: Client agrees to maintain a proper and complete log of individuals with access to client portal and receipt of reports, either orally or in writing, with respect to Client Loans or Client reports; and to promptly inform Servicer of any changes to those persons having access to or receiving reports or information about Client Loans as first set forth in Schedule 4, and Servicer shall not be responsible for any correspondence with or access provided to any such individual who is approved to interact with Servicer.

Section 24. Records: Servicer shall retain all records relating to a Loan for at least one year following termination of this Agreement or one year from maturity or payoff of a Loan unless such documentation is requested by and delivered to Client at an earlier date. The records will be maintained in either hard copy or machine-readable (electronic) format. In the event Servicer is no longer in existence, its successor shall continue to retain such records as provided above or deliver the records to Client.

Section 25. Deconversion: In the event of termination of this agreement, Servicer agrees to provide Client with electronic copies of the Client Loan records in Servicer's standard format at the current rate of Final Transaction as stated in Schedule 2.

Accepted and Agreed to:

West St. Paul Economic Development Authority

Community Reinvestment Fund, Inc.

By: _____

By: _____

Its: _____

Its: _____

DATED: _____

DATED: _____

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