

## RESOLUTION NO. 317

### RESOLUTION ACCEPTING USDA AMENDED LETTER OF CONDITIONS FOR GRANT FUNDING FOR WATER PROJECT PHASE III

WHEREAS, the Town of Stevensville on May 31, 2010 signed a Letter of Conditions with the USDA Rural Development Agency in the amount of \$4,324,400.00 and is attached as Exhibit A.

WHEREAS, the amount funded through this letter was intended to fund multiple phases of the Town water construction project;

WHEREAS, on May 16, 2013, at 3:00 p.m. the Town opened bids for the "Water Main and Other Improvements" Project. The bid amount of \$2,300,095.80 including Alternates #1, #7, #8, and #9 exceeded available funds by \$364,100.00;

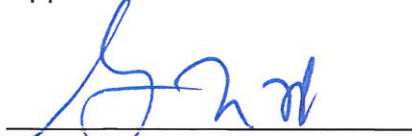
WHEREAS, the Town has applied for and received an additional grant from USDA Rural Development in the amount of \$329,100.00 with Town matching funds of \$35,000.00 for a total of \$364,100.00;

WHEREAS, the Town of Stevensville has the \$35,000.00 of matching funds available in the Water Construction Account;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Stevensville accepts the Amended Letter of Conditions dated June 27, 2013 and attached as Exhibit B.

Adopted this 27<sup>th</sup> day of June, 2013.

Approved:



Gene Mim Mack  
Mayor

Attest:



Stacy Bartlett  
Town Clerk



United States Department of Agriculture  
Rural Development  
Montana State Office

Town of Stevensville  
Lewis C. Barnett  
P.O. Box 30  
Stevensville, MT 59870

May 31, 2010

Subject: Letter of Conditions proposed funding:

RD Loan	\$2,173,000
RD Grant	\$ 864,900
<u>Leveraging</u>	<u>\$1,286,500</u>
Total Project:	\$4,324,400

Dear Mayor Barnett:

This letter establishes conditions which you must understand and agree to before further consideration may be given to your application. The State and Area staff of USDA, Rural Development (RD) will administer the loan and grant on behalf of the Rural Utilities Service (RUS). You must report any changes in design, project cost, source of funds, scope of services, or any other significant changes in the project to RD for review and approval. A written amendment to this letter will be prepared for approved changes. Changes not approved by RD may be cause for discontinuing processing of the application.

Your documents concerning the creation and legal existence of your entity are administratively acceptable; however, the documents will be reviewed further by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

This letter is not to be considered as loan and grant approval or as representation that funds are available.

**If you desire that further consideration be given to your application, complete and return the following to Rural Development no later than fourteen days from the date of this Letter of Conditions.**

- RD 1942-46, "Letter of Intent to Meet Conditions"
- RD 1940-1, "Request for Obligation of Funds"

2229 Boot Hill Court • Bozeman, MT 59715-7914  
Voice (406) 585-2520 • Fax (406) 585-2565 • TDD (406) 585-2562

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To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W.,  
Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-6382 (TDD).



June 27, 2013

Gene Mim Mack, Mayor  
Town of Stevensville  
P.O. Box 30  
Stevensville, MT 59870

Subject: Amended Letter of Conditions proposed funding:

RD Loan	\$2,173,000	FY10
RD Grant	\$ 864,900	FY10
RD Grant	\$ 329,100	FY13
Leveraging	\$ 35,000	FY13
Leveraging	\$1,286,500	FY10
<b>Total Project:</b>	<b>\$4,688,500</b>	

Dear Mayor Mim Mack:

This letter establishes conditions which you must understand and agree to before further consideration may be given to your application. The State and Area staff of USDA, Rural Development (RD) will administer the loan and grant on behalf of the Rural Utilities Service (RUS). You must report any changes in design, project cost, source of funds, scope of services, or any other significant changes in the project to RD for review and approval. A written amendment to this letter will be prepared for approved changes. Changes not approved by RD may be cause for discontinuing processing of the application.

Your documents concerning the creation and legal existence of your entity are administratively acceptable; however, the documents will be reviewed further by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

This letter is not to be considered as loan and grant approval or as representation that funds are available.

**If you desire that further consideration be given to your application, complete and return the following to Rural Development no later than fourteen days from the date of this Letter of Conditions.**

- RD 1942-46, "Letter of Intent to Meet Conditions"
- RD 1940-1, "Request for Obligation of Funds"

The loan will be considered approved on the date a signed copy of the Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

Rural Development • Montana State Office  
2229 Boot Hill Court • Bozeman, MT 59715  
Voice (406) 585-2520 • Fax (406) 585-2565

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To file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

**This approval will be contingent on your meeting the conditions herein.**

By accepting this loan, you are also agreeing to refinance the unpaid balance in whole, or in part, upon the request of the Government, if at any time it should appear to the Government that the Town of Stevensville is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms.

You may access our web-site located at <http://www.usda.gov/rus/water/> to access our forms and regulations.

The conditions referred to above are as follows:

1. **Project Budget** – Funding from all sources has been budgeted for the estimated expenditures as follows:

<b>Project Costs:</b>	<b>Total Budgeted:</b>
Legal Fees	\$ 95,000
Audit Fees	\$ 10,000
Interim Interest	\$ 42,500
Bond Costs	\$ 15,000
Basic Engineering	\$ 474,768
Construction Inspection	\$ 87,000
Additional Services	\$ 15,000
Construction	\$3,259,173
Construction Cost Overrun	\$ 364,100
Project Contingency	<u>\$ 325,959</u>
<i>Total Project Budget:</i>	<i>\$4,688,500</i>

2. **Project Funds** - The project funding is planned in the form of a loan and grant from the following sources and amounts:

<b>Project Funding Source:</b>	<b>Funding Amount:</b>	
Applicant Contributions	\$ 24,000	FY10
Applicant Contributions	\$ 35,000	FY13
TSEP Grant	\$ 500,000	
DNRC Grant	\$ 100,000	
RUS Loan	\$2,173,000	FY10
RUS Grant	\$ 864,900	FY10
RUS Grant	\$ 329,100	FY13
WRDA	\$ 175,000	
WRDA Special Appropriation	<u>\$ 487,500</u>	
<i>Total Project Funding (All Sources):</i>	<i>\$4,688,500</i>	

Any changes in funding sources following obligation of RD funds must be reported to the processing official. You must assure that all project funds are expended only for the eligible items included in the project budget of this letter of conditions or as amended by RD in writing at a later date.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and approval of the other grants. This evidence should include a copy of the grant award. An agreement should be reached with all funding sources on how funds are to be disbursed before the start of construction.

3. **Disbursement of Funds** – An applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RD project funds will be considered to be RD grant funds and refunded to RD. RD funds may not be used to reimburse the owner for certain salary/general administrative expenses.

If the amount of unused RD project funds exceeds the RD grant, that part would be RD loan funds and applied as an extra payment. **The applicant is responsible for all cost overruns in connection with the construction of this project**

Interim financing should be used for the RD loan portion of funding if it is available at reasonable rates and terms. Interim financing should not increase project costs unless your proposed operating budget supports such additional costs. You must provide RD with a copy of the tentative agreement reached in connection with interim financing for review and approval.

You must establish a separate account, to be known and hereafter referred to as the Construction Account, with a participating 31 CFR Part 202 collateral depository, federal agency, or Federal Reserve Bank acting as a fiscal agent in the United States. All project funds will be deposited into this account. The account shall be used solely for the purpose of paying authorized costs of the project as outlined in the project budget. Once the funds are deposited into the Construction Account, they become your responsibility. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account at any one time.

Any RD grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

- a. Federal grant awards (includes all federal funding sources) are less than \$120,000 per year.
- b. The best available interest bearing account would not be expected to earn in excess of the following:



Interest earned on grant funds in excess of \$100 per year will be submitted to RUS at least quarterly as required in 7CFR3016.

c. The depository would require a minimum balance so high that it would not be feasible.

4. **Security – (Revenue Bonds - Public Body)** The loan must be secured by a statutory lien of first priority, a pledge of the system's revenues and other agreements between you and RD as set forth in the bond resolution. Additional security requirements are contained in RUS Bulletin 1780-12, "Water or Waste System Grant Agreement" and RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)" which are mentioned later.

The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, attachments, and enclosures.

5. **Loan Repayment –** The loan will be scheduled for repayment over a period of 39 years. Payments for the first year of the loan will be interest only then for the remaining term of the loan will be equal amortized monthly installments. For planning purposes use a 3.25% interest rate and a monthly amortization factor of 3.73, which provides for a monthly payment of \$8,106.00.

The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, whichever is less, unless you choose otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount. The payment due date will be established as the day that the loan closes.

You will be required to complete SF-5510, Authorization Agreement for Preauthorized Payments for all new and existing indebtedness to RD. It will allow for your payment to be electronically debited from your account on the day your payment is due.

*Please work with your Bond Counsel to schedule closing at the maturity of your existing Interim financing. We plan to advance enough funds to pay the interim loan at closing and the balance of the bond as needed "multiple advances" until the full amount has been drawn down.*

6. **Reserves –** Reserves must be properly budgeted to maintain the financial viability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs, and assist with debt service should the need arise. Reserves can also be established and maintained for the anticipated and expected expenses including but not limited to operation and maintenance, customer deposits, and asset management for short-lived assets.

As a part of this RD loan proposal you must establish and fund monthly a debt service reserve fund equal to 10% of the monthly payment each month over the life of the loan

until you accumulate one annual installment. This reserve is required to establish an emergency fund for emergency maintenance and repairs and debt repayment should the need arise. Ten percent of the proposed loan installment would equal \$811.00 per month.

In addition, you must fund a Short Lived Asset Replacement Reserve for short-lived assets by depositing a sum of \$1395.00 monthly in addition to that required for the debt service reserve. The deposits will be made monthly for as long as the RD Loan is outstanding. This fund is to be used for replacement of short-lived items as listed in your application to RD. This amount may need to be adjusted annually based on inflation.

7. **Users** – This letter of conditions is based upon you providing evidence or a certification that there will be at least 798 users on the existing and proposed system when construction has been completed.

You must provide evidence or a certification that the total required number of users are currently using the system or signed up to use the system and that the monthly water usage projected for each by the engineer is reasonable. In the event any of the large volume users discontinue the offered service, you must obtain enough additional revenue (i.e., increase in user rates, sign up of an adequate number of other users, reduction in project scope to reduce debt service and O&M, etc.) to make up the projected income that would be lost by not having those users on the system.

**Mandatory Hookups:** If relying on mandatory connection requirements, you must provide evidence of the ordinance and a certification attesting to the number of users that will be required to connect to the proposed system prior to advertisement for construction bids.

Information and material evidencing compliance with this requirement must consist of: (1) your written certification as to the number of existing users (2) signed user agreements, (3) signed service declination statements, (4) records evidencing user contributions having been paid, (5) a map locating each potential user's property in the new service area identifying it by number, (6) a list of all signed users numbered so as to be a cross-reference with the map, and (7) a list of all declination statements numbered so as to be a cross-reference with the map.

You must provide a positive program to encourage connection by all users as soon as service is available. The program will be reviewed and approved by RD prior to advertisement for bids. The program shall include:

- An aggressive information program to be carried out during the construction period. You should send written notification to all signed users in advance of the

date service will be available, stating the date users will be expected to have their connections completed, and the date user charges will begin.

- Positive steps to assure that installation services will be available. These may be provided by the contractor installing the system, local plumbing companies, or local contractors.
- Aggressive action to see that all signed users can finance their connections.

8. **Income Available** – You must maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance, debt service, and reserves.
9. **Delayed Payment Penalty** - The entity must establish a late fee, disconnection and reconnection policy and fee schedule for collection of delinquent accounts in compliance with state law.
10. **Proposed Operating Budget and User Rate Analysis** - You will be required to submit a copy of your proposed annual operating budget and rate analysis to RD, which supports the proposed loan repayment prior to RD giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow after completion of the construction phase. The rate analysis will be required to show the number of users, their average consumption based on a twelve-month consecutive average, and rate structure to support the necessary revenue to make the operating budget cash flow.
11. **Insurance and Bonding Requirements** - Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.
  - a. **General Liability Insurance** – Include vehicular coverage.
  - b. **Workers' Compensation** - In accordance with appropriate State laws.
  - c. **Position Fidelity Bond(s)** - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. You should have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The minimum coverage acceptable to RD will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s). The coverage may be increased during construction of this project based on the anticipated monthly advances. The amount of coverage should be discussed and approved by RD.



- d. **National Flood Insurance** - If the project involves acquisition or construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy at the time of loan closing.
- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured and subsurface lift stations except for the value of electrical and pumping equipment. Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

**13. Accounting Services** - You may be required to obtain the services of an independent licensed Certified Public Accountant (CPA). When permitted by state statutes or with the approval of RD, a state or Federal auditor may perform the audit in lieu of a CPA:

- a. Meets the standards for independence contained in the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct in effect at the time the CPA's independence is under review;
- b. Does not have any direct financial interest or any material indirect financial interest in the borrower during the period covered by the audit; and
- c. Is not, during the period of the audit, connected with the borrower as a promoter, underwriter, trustee, director, officer or employee.

**Audit Agreement:** You must enter into a written audit agreement with the auditor and submit a copy to RD. The audit agreement may include terms and conditions that you and the auditor deem appropriate; however, the agreement should specify the following:

- a. A statement that the auditor will perform and document the audit work in accordance with Generally Accepted government Auditing Standards, (GAGAS), as outlined in "Government Auditing Standards, July 2007 Revision (GAO-07-731G), and the professional standards of the AICPA;
- b. A statement that the auditor will submit the completed audit and accompanying letters to your governing body 30 days prior to the date the audit is due to the Agency;
- c. A statement that the auditor will make all audit-related documents, including work papers, available to the Agency or its representatives, upon request; and
- d. A statement that the auditor will immediately report, in writing, all irregularities and illegal acts to your governing body and the Agency.

Prior to the advertisement of construction bids, your accountant must certify to you and the Agency that the accounts and records as required by your bond resolution have been established and are operational.

**Quality Review Requirement:** as required by Generally Accepted Governmental Auditing Standards (GAGAS), the auditor must belong to, participate in an external quality review program, and provide you with a copy of the most recent quality review report. These reviews are performed every three (3) years by an independent organization to determine if the auditor is following established audit procedures and applicable auditing standards.

**Audit Requirements:** The following management data will be required from you on an annual basis and be submitted to RD as specified below:

- a. A borrower that expends \$500,000 or more in federal financial assistance per fiscal year shall submit an audit performed in accordance with the requirements of OMB Circular A-133. As described above, the total federal funds expended from all sources shall be used to determine federal financial assistance expended. Projects financed with interim financing are considered federal expenditures. OMB Circular A-133 audits shall be submitted no later than 9 months after the end of the fiscal year. In addition to submitting two (2) copies of the audit report to RD, the borrower is also required to submit copies of OMB Circular A-133 audits, accompanying audit letters (the "reporting package"), and the Data Collection Form to the Federal clearinghouse designated by OMB to retain as an archival copy. The Federal clearinghouse address is: Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, Indiana 47132. RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits" outlines the requirements of OMB Circular A-133 audits.
- b. A borrower that expends less than \$500,000 in Federal financial assistance per fiscal year and an outstanding RD loan balance of \$1,000,000 or more shall submit an audit performed in accordance with Water and Waste audit requirements (i.e., a GAGAS audit). These audits shall be submitted to RD no later than 150 days after the end of the fiscal year. Two (2) copies of the audit report are required by RD. An audit performed in accordance with Water and Waste audit requirements should not be submitted to the Federal clearinghouse. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement" outlines the requirements for Water Programs Audits.
- c. As long as the bonds remain outstanding and RD remains the holder of the bonds, yearend management reports shall be submitted to RD no later than 60 days after the end of the fiscal year. All borrowers are required to submit a year-end management report which shall consist of: Form FmHA 442-3, "Balance Sheet", and Form FmHA 442-2, "Statement of Budget, Income and Equity", or forms that provide the information in a similar format. Additional system

information will be requested and shall be provided in the management report including, but not limited to, number of users, user rates and charges, accounts receivable aging, report of officials, details and proof of bonding and insurance coverage and system volumes (number of gallons/cubic feet produced, used, purchased, sold and/or treated). Unless you are notified otherwise by RD, the management report shall satisfy the financial reporting requirements for a borrower that expends less than \$500,000 in Federal financial assistance per fiscal year and has an outstanding RD loan balance of less than \$1,000,000.

Compensation for preparation of the A-133 audit or your annual audit is included in the project funds as applicant contribution.

**Annual Budget and Projected Cash Flow:** Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. You should submit a copy of Form RD 442-2, Statement of Budget, Income and Equity, Schedule 1, page 1; and Supplemental Data Form. The only data required at this time on Schedule 1, page 1, is Columns 2 & 3. With the submission of the annual budget, you will be required to provide a current rate schedule, a current listing of the Board or Counsel Members and terms.

14. **Legal services** – RD requires a “Legal Services Agreement” or an agreement for services with local counsel. The agreement must be accepted and approved by separate letter.
15. **Property Rights - Acquisitions** of necessary land and rights must be accomplished in accordance with the Uniform Relocation and Real Property Acquisition Act.

Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence of control over the lands and rights must be in the following form:

- a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
  - b. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way,” may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions.
16. **Engineering Services** – RD must approve any agreements or modifications to agreements for professional design services. The agreement for engineering services

should consist of the EJCDC documents as indicated in RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance" or other approved form of agreement.

17. **Resident Inspection** – Full-time inspection is required unless waived or modified by RD in writing prior to advertisement for bids. This service is to be provided by the consulting engineer or other arrangements as approved by RD. Prior to the pre-construction conference, a resume of qualifications of the resident inspector(s) will be submitted to the owner and RD for review and approval. The owner will provide a letter of acceptance for all proposed inspectors to the engineer and RD. The resident inspector(s) must attend the pre-construction conference.
18. **Homeland Security Initiative** - The Bioterrorism Act of 2002 amended the Safe Drinking Water Act to require all medium-sized and large-sized community water systems to assess vulnerability to terrorist attack and develop emergency plans for and respond to such attack. RD is committed to ensure all rural water systems that benefit from RD funding have Vulnerability Assessments (VA) and Emergency Response Plans (ERP) in place. Montana Rural Water and Rural Community Assistance Corporation can provide technical assistance in completing the VA and ERP.

19. **Environmental Requirements -**

- a. **Mitigation:** At the conclusion of the proposal's environmental review process, specific actions were negotiated with environmental regulatory officials to avoid or minimize adverse environmental impacts. The following lists of action(s) are required for successful completion of the project and must be adhered to during project design and construction.

**Any excavation by the Contractor that uncovers an historical or archaeological artifact shall be immediately reported to the foreman and a representative of Rural Development. Construction shall be temporarily halted pending the notification process and further directions issued by Rural Development after consultation with the State Historic Preservation Officer (SHPO).**

**If excavation within any area of the project uncover human remains, all work shall cease immediately in accordance with the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) and State Code. The area around the discovery shall be secured and the County Coroner and State Archeologist at SHPO shall be notified immediately. The State Archeologist shall notify the effected tribes or THPO, and USDA RD SEC without delay.**

**There is proposed to be one crossing of Robertson Creek, mitigation measures will be in accordance with the US Army Corp of Engineers Nationwide Permit 12 for utility line activities.**

- b. **Project Modifications** – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.
20. **Permits** - The owner is responsible for obtaining all necessary permits
21. **Contract Documents, Final Plans and Specifications** -
  - a. The contract documents should consist of the EJCDC Construction Contract Documents as indicated in RUS Bulletin 1780-26 or other approved form of agreement.
  - b. The contract documents, final plans, and specifications must comply with RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Construction and Inspections and be submitted to RD for approval prior to advertisement for bids.
  - c. The use of any procurement method other than competitive bidding must be requested in writing and approved by RD.
  - d. RD requires a pre-construction conference, pre-final, final, and warranty inspection.
  - e. RD requires prior agency concurrence of all Change Orders, Invoices, and Payment Estimates.
  - f. RD will monitor construction through routine inspections and review of monthly payment estimates, change orders, and inspector's daily record to protect the interest of the agency.
  - g. Any construction contract in excess of \$2,000 will include the Labor Standards Provisions stated in RD Instruction 1940-C, Exhibit A.
22. **Applicable State Statutes and Requirements** – All applicable State statutes and requirements must be met.
23. **Processing Forms** - At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:  
Form RD 400-1 - "Equal Opportunity Agreement"  
Form RD 400-4 - "Assurance Agreement"



Form AD 1047 - "Certification Regarding Debarment, Suspension and other Responsibility Matters"  
 Form AD 1049 - "Certification Regarding Drug-Free Workplace Requirements"  
 Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"  
 FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"  
 Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)  
 RUS Bulletin 1780-22, "Eligibility Certification"  
 RUS Bulletin 1780-27 - "Loan Resolution (Public Bodies)"  
 RUS Bulletin 1780-28 - "Loan Resolution Security Agreement"  
 Form RD 1940-1 - "Request for Obligation of Funds"  
 Please complete and return the enclosed Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire further consideration be given your application.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

**24. Civil Rights & Equal Opportunity - You should be aware of and will be required to comply with other federal statute requirements including but not limited to:**

**Section 504 of the Rehabilitation Act of 1973 – Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.**

**Civil Rights Act of 1964 – All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this title.**

**The Americans with Disabilities Act (ADA) of 1990 – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities, which accommodate the public.**

**Age Discrimination Act of 1975 – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in,**

be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

RD financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

The owner is required to have accessible facilities and services or reasonable accommodations in place. In addition the owner is required to have a TDD phone number on their letterhead and public information disseminated or reasonable accommodations in place. Also, all printed material, including letterhead used, describing the program or facility must include the following non-discrimination statement:

***"In accordance with Federal law and the U.S. Department of Agriculture's policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs)."***

***To file a complaint of discrimination, write to: USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW., Washington DC 20250-9410 or call 800-795-3272 (Voice and TDD). USDA is an equal opportunity provider and employer.***

If the owner's material is too small to permit the full nondiscrimination statement to be included, the material will, at a minimum, include this shortened statement (in print size no smaller than the text): ***"This institution is an equal opportunity provider."***

**Posters:** The grantee and sub-recipients, during the grant performance period, will post in a public place the USDA poster "And Justice for All". Several posters are enclosed.

25. **Bid Authorization** - Once all the conditions outlined in this letter have been met, RD may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. No Notice of Award will be issued until RD concurs with the engineer's recommendations. Immediately after bid opening you must provide RD with (a) bid tabulation, and (b) your engineer's evaluation of bids and recommendations for contract awards and (c) owners request for RD's concurrence in award. If the owners request and engineers recommendation are not the same RD may request additional information. If RD agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued to you setting forth any further requirements that must be met before the loan can be closed. A Notice of Award may then be issued.

**Obligated loan and grant funds not needed to complete the proposed project will be de-obligated prior to construction. Any reductions will be applied to grant funds first.**

When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

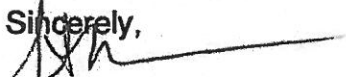
**26. Use of Remaining Funds – Applicant contributions and connection or tap fees will be the first funds expended in the project. Remaining funds may be considered in direct proportion to the amounts obtained from each source and handled as follows:**

- Remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
- RD loan funds that are not needed will be applied as an extra payment on the RD indebtedness unless other disposition is required by the bond ordinance, resolution, or State statute.
- Grant funds not expended for authorized purposes will be cancelled within 90 days of project completion. Prior to actual cancellation, you and your attorney and engineer will be notified of RD's intent to cancel the remaining funds and given appropriate appeal rights.

If the conditions set forth in this letter are not met within 18 months from the date of this letter, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within 6 months and it is determined the applicant still wishes to proceed, it may be necessary to review the conditions outlined in this letter. If during that review, it is determined the conditions outlined are no longer adequate, RD reserves the right to require that the letter of conditions be revised or replaced.

We believe the information in this letter clearly sets forth the conditions, which must be complied with; however, this letter does not relieve you from meeting the requirements of RUS Instruction 1780. If you have any questions, please do not hesitate to contact, Dan Johnson, Area Specialist Missoula, MT, 406-829-3395 Ext. 108.

Sincerely,

  
STEVEN P. TROENDLE,  
Community Programs Director

Ecc: Anthony Preite, State Director  
Kim Maines, Area Director  
Dan Johnson, Area Specialist