



## Small Business Boost Agreement

This Small Business Boost (SBB) Agreement (this “Agreement”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the FEDERAL HOME LOAN BANK OF DALLAS, having its principal place of business at 8500 Freeport Parkway South, Irving, Texas 75063 (“ FHLB Dallas”) and \_\_\_\_\_, having a place of business at \_\_\_\_\_ (the “Participating Member”).

### **BACKGROUND**

FHLB Dallas has established the Small Business Boost Program (the “**Program**”) to provide funds to its Members to assist with the growth and development of small businesses. By entering into this Agreement, the Participating Member has agreed to participate in the Program.

### **OPERATIVE PROVISIONS**

In consideration of the mutual covenants contained in this Agreement, and for further good and valuable consideration, FHLB Dallas and the Participating Member agree as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:

“**Business Day**” means any day on which FHLB Dallas is open for business.

“**Eligible Small Business**” means a Small Business that (i) is not an Ineligible Business and (ii) has been approved by FHLB Dallas.

“**Enrollment Form**” means the FHLB Dallas form that the Participating Member uses to enroll in the Program, as may be modified, amended, or supplemented by FHLB Dallas from time to time.

“**Funding Approval Form**” means the FHLB Dallas form that the Participating Member uses to request that approved Recoverable Assistance monies be placed in its demand deposit account at FHLB Dallas, as may be modified, amended, or supplemented by FHLB Dallas from time to time.

“**Ineligible Business**” means (i) any business in the financial, insurance, real estate, housing finance, or government sectors of the economy, (ii) any non-profit organization, (ii) any business that is either illegal or, in the sole discretion of FHLB Dallas, immoral, or (iii) any business that for other reasons is deemed to be unacceptable in the sole discretion of FHLB Dallas.

“**Loan Agreement**” means the FHLB Dallas form by which (i) the Participating Member and an Eligible Small Business acknowledge that the Recoverable Assistance received by such Eligible Small Business was funded by FHLB Dallas and (ii) the Eligible Small Business agrees to repay the Recoverable Assistance to the Participating Member in accordance with the terms set forth therein, as may be modified, amended, or supplemented by FHLB Dallas from time

to time.

“**Member**” means any institution that has received approval from FHLB Dallas to join the Federal Home Loan Bank System and has purchased the required capital stock.

“**Performance Measurement Form**” means the FHLB Dallas form that the Participating Member must complete to assist FHLB Dallas in assessing the performance of the Program, as may be modified, amended, or supplemented by FHLB Dallas from time to time.

“**Recoverable Assistance**” means the monies provided to the Participating Member by FHLB Dallas for disbursement to an Eligible Small Business.

“**Pro Rata Basis**” when used to describe how payments will be allocated to loans made pursuant to the Program, means sharing such payments based on the ratio of each loan to the Eligible Small Business to the amount of the combined loans to the Eligible Small Business.

“**Registration Form**” means the FHLB Dallas form that the Participating Member uses to submit a Small Business for review by FHLB Dallas to determine if such Small Business qualifies to receive Recoverable Assistance under the Program, as may be modified, amended, or supplemented by FHLB Dallas from time to time.

“**Small Business**” means a “small business concern,” as that term is defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and implemented by the Small Business Administration under 13 CFR part 121, or any successor provisions.

“**Small Business Transaction**” means the Participating Member’s description of the use of all or any portion of the Recoverable Assistance provided to an Eligible Small Business.

2. **Small Business Boost Manual.** The Program shall be operated in accordance with the FHLB Dallas Small Business Boost Manual (the “**Manual**”). The Manual, as may be amended, modified, or supplemented from time to time by FHLB Dallas, is incorporated in this Agreement by reference thereto. Any reference to this Agreement shall be a reference to this Agreement and the Manual. All capitalized terms used but not elsewhere defined in this Agreement shall have the respective meanings ascribed to such terms in the Manual.
3. **Program Enrollment.** To enroll in the Program in any calendar year, the Participating Member must submit to FHLB Dallas a fully completed Enrollment Form by such date designated by FHLB Dallas. Enrollment Forms shall be accepted from the Participating Member.
4. **General Requirements of Enrollment.** Enrollment in the Program is subject to compliance by the Participating Member with all the terms and conditions set forth in this Agreement.
5. **Small Business Registration.** Once enrolled in the Program, the Participating Member shall submit a fully completed Registration Form to FHLB Dallas for each Small Business Transaction proposed by the Participating Member. If FHLB Dallas determines, in its sole discretion, that the Small Business has a need for Recoverable Assistance as set forth in such Registration Form, the Participating Member shall be notified by FHLB Dallas that such Small

Business has been approved as an “Eligible Small Business” and that funds have been reserved for the Small Business Transaction.

6. **Structure of Small Business Transaction.** The approval by FHLB Dallas of each Small Business Transaction is subject to the following:

- (a) The Participating Member shall document a need by the Eligible Small Business for the Recoverable Assistance in accordance with the requirements set forth in the Manual.
- (b) The Participating Member shall certify that the Participating Member would not have approved a loan to the Eligible Small Business without the Recoverable Assistance.
- (c) The Participating Member shall provide financing to the Eligible Small Business (separate from the Recoverable Assistance) and have credit exposure in each Small Business Transaction in accordance with the requirements set forth in the Manual (“**Participating Member Financing**”).
- (d) The terms and conditions of the Small Business Transaction shall be consistent with similar credit facilities extended by the Participating Member to other borrowers.
- (e) The Small Business Transaction shall be an Eligible Use of the Program’s funds.
- (f) The Recoverable Assistance shall be disbursed by the Participating Member to the Eligible Small Business subject to the repayment terms set forth in this Agreement.
- (g) The Participating Member shall provide to FHLB Dallas, promptly after receiving a request from FHLB Dallas, any documents relating to the Small Business Transaction, including, without limitation, the documentation described in Paragraph 6(a) of this Agreement or the certification described in Paragraph 6(b) of this Agreement.

7. **Eligible Uses of Recoverable Assistance.** Recoverable Assistance shall be used by an Eligible Small Business only for an Eligible Use, as defined in the Manual.

8. **Ineligible Uses of Recoverable Assistance.** Recoverable Assistance shall not be made available: (i) to any Ineligible Business or (ii) to reduce or refinance the existing debt of a Small Business, if the Recoverable Assistance will be used solely to improve the Small Business’ cash flow or the Participating Member’s credit risk (“**Ineligible Uses**”).

9. **Funding.** In order to access funds reserved for a Small Business Transaction, the Participating Member must submit a fully completed Funding Approval Form to FHLB Dallas at least two (2) Business Days prior to accessing such funds. The funds requested shall be deposited by FHLB Dallas into the Participating Member’s Demand Deposit Account at FHLB Dallas (the “**DDA**”).

10. **Repayment Terms.**

- (a) The Participating Member shall, and shall cause each Eligible Small Business that receives Recoverable Assistance to, execute a Loan Agreement completed by the Participating Member in accordance with the terms set forth in the Manual. Without in any way limiting the foregoing, the Participating Member agrees that, in completing the Loan Agreement, it shall use the loan amortization schedule provided by FHLB Dallas unless FHLB Dallas has agreed otherwise in writing.
- (b) The Participating Member hereby authorizes FHLB Dallas to debit the Participating

Member's DDA at FHLB Dallas on the last business day of each month for the amount currently due to FHLB Dallas from each Eligible Small Business under the terms of its Loan Agreement. The amount collected will represent 12 months of payments made by the business and will be collected on the anniversary date the SBB loan was granted by the Participating Member; provided, however, if the Participating Member experiences (i) a material adverse change in financial condition, (ii) a default under its Advances and Security Agreement with the FHLB Dallas, or (iii) a reduction in its internal credit rating (as determined by the FHLB Dallas) to less than satisfactory (each, a "**Material Adverse Change**"), then FHLB Dallas, at its option and in its sole discretion, may, but in no event be required to, adjust the frequency of the collection schedule from an annual schedule to a quarterly or monthly schedule. It is the responsibility of the Participating Member to make certain that sufficient funds are in its DDA on the due date. FHLB Dallas shall send the Participating Member notice of the amount(s) to be debited from the DDA at least fifteen (15) days prior to the date the funds are to be debited. The Participating Member must inform FHLB Dallas at least two (2) business days prior to the date the funds are to be debited if the Participating Member believes that any amount to be debited is incorrect. FHLB Dallas shall make a reasonable effort to reconcile any discrepancy, however, the Participating Member agrees that FHLB Dallas' final determination as to any amount due shall in all cases be conclusive and binding on the Participating Member.

- (c) The Participating Member shall notify FHLB Dallas immediately if it becomes aware of any Material Adverse Change.
- (d) The Participating Member shall notify FHLB Dallas immediately if:
  - (i) With respect to the Participating Member Financing or Recoverable Assistance, an Eligible Small Business is sixty (60) days or more delinquent.
  - (ii) an Eligible Small Business has defaulted under the terms of its Loan Agreement or any other documents between it and the Participating Member related to the Small Business Transaction;
  - (iii) the Participating Member receives any notice from an Eligible Small Business pursuant to its Loan Agreement;
  - (iv) an Eligible Small Business uses all or any portion of the Recoverable Assistance it received for a purpose that is not an Eligible Use;
  - (v) an Eligible Small Business no longer satisfies the requirements to be an "Eligible Small Business" hereunder;
  - (vi) an Eligible Small Business refinances its Participating Member Financing with another financial institution or otherwise prepays all or any portion thereof;
  - (vii) an Eligible Small Business is the subject of any Bankruptcy Event; or
  - (viii) the Participating Member becomes aware of any fraud on the part of an Eligible Small Business in obtaining, or otherwise in relationship to, the Recoverable Assistance it received.
- (e) If an Eligible Small Business:
  - (i) defaults under the terms of its Loan Agreement or any other documents between it and the Participating Member related to the Small Business Transaction;
  - (ii) uses all or any portion of the Recoverable Assistance it received for a purpose which is not an Eligible Use;
  - (iii) no longer satisfies the requirements to be an "Eligible Small Business" hereunder;
  - (iv) is the subject of any Bankruptcy Event; or
  - (v) commits any fraud in obtaining, or otherwise in relationship to, the Recoverable Assistance it received;

then, upon the occurrence of any such event, FHLB Dallas may require the Participating Member to immediately recover the Recoverable Assistance and return it to FHLB Dallas.

- (f) If an Eligible Small Business refinances the Participating Member Financing with another financial institution or otherwise prepays the Participating Member Financing in full, the Participating Member shall cause the Eligible Small Business to prepay the Recoverable Assistance in full. In the event that the Eligible Small Business fails to so prepay the Recoverable Assistance, the Participating Member shall remit a portion of the prepayment on a pro rata basis to FHLB Dallas as payment for the Recoverable Assistance.
- (g) If the Eligible Small Business prepays a portion, but less than all, of the Participating Member Financing, the Participating Member shall remit a portion of the payment on a pro rata basis to FHLB Dallas as payment for the Recoverable Assistance.
- (h) If an Eligible Small Business shall fail to repay its Recoverable Assistance to the Participating Member in accordance with the terms set forth in its Loan Agreement or this Agreement, the Participating Member shall use all reasonable collection efforts to recover the Recoverable Assistance from such Eligible Small Business.
- (i) Failure by the Participating Member to remit any principal or interest received from an Eligible Small Business to FHLB Dallas in accordance with the terms set forth in this Agreement may result in suspension of further committed funding.

#### **11. Performance Measurement.**

- (a) The Participating Member shall provide to FHLB Dallas promptly after receiving a request from FHLB Dallas, any documents related to the Small Business Transaction, including, without limitation, the Loan Agreement and the documents evidencing the obligations of the Eligible Small Business to the Participating Member.
- (b) In order to enable FHLB Dallas to measure the impact of the Program on Small Businesses and community economic growth, the Participating Member shall submit to FHLB Dallas a fully completed Performance Measurement Form, and any other documents related to the Participating Member's participation in the Program that have been requested by FHLB Dallas.

#### **12. Representations and Warranties of the Participating Member.** The Participating Member hereby represents and warrants to FHLB Dallas as follows:

- (a) Existence and Power. The execution and delivery of this Agreement and compliance by the Participating Member with all provisions of this Agreement (i) are within the power and authority of the Participating Member, and (ii) have been duly authorized by all requisite corporate proceedings. This Agreement has been duly executed and delivered by the Participating Member and constitutes a valid and binding agreement of the Participating Member, enforceable in accordance with its terms, except as such enforceability may be limited by laws affecting the rights of creditors generally or by principles of equity.
- (b) Authority. The execution and delivery of this Agreement shall not conflict with or result in a breach of the terms, conditions or provisions of, give rise to a right of termination under, constitute a default under, or result in any violation of its Articles of Incorporation or Association, bylaws, or similar instruments or any mortgage, agreement, contract, instrument, order, judgment, decree, or current statute, law, rule or regulation to which the Participating Member or any of its assets is subject.

- (c) Compliance with All Laws. The Participating Member's participation in the Program is in compliance with all applicable state and federal laws, including, without limitation, the Equal Credit Opportunity Act, 15 U.S.C. §1691 et seq., and Regulation B, 12 C.F.R. §1002 et seq.

**13. Miscellaneous.**

- (a) Indemnification. The Participating Member agrees to indemnify and hold FHLB Dallas harmless for any and all losses, liabilities, damages, claims, costs, and expenses, including, without limitation, attorneys' fees, incurred or suffered by FHLB Dallas for any breach of this Agreement by the Participating Member or the willful misconduct or negligence of the Participating Member in the performance of its obligations or responsibilities under this Agreement or its reckless disregard of such obligations or responsibilities.
- (b) Notices. Any notice required under this Agreement shall be in writing and deemed sufficiently delivered when: (i) sent by certified United States mail, postage paid, return receipt requested, (ii) delivered in person, (iii) sent by fax, or (iv) sent by email, and, if not otherwise specified, shall be directed by the Participating Member or FHLB Dallas at the addresses set forth below:

If to the Participating Member:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_ Title: \_\_\_\_\_

Fax: ( ) \_\_\_\_\_ E-mail: \_\_\_\_\_

If to FHLB Dallas:  
Federal Home Loan Bank of Dallas Community Investment Department  
8500 Freeport  
Irving, TX 75063  
Fax: (214) 441-8577  
email: [sbb@fhlb.com](mailto:sbb@fhlb.com)

Either party to this Agreement may change the individual(s) or addresses listed hereinabove from time to time by written notice from an authorized individual of such party to the other party.

- (c) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of each of the parties to this Agreement.
- (d) Governing Law. This Agreement shall be governed by the laws (exclusive of the choice of law provisions) of the State of Texas.
- (e) Amendments. FHLB Dallas and the Participating Member may from time to time enter into agreements amending, modifying or supplementing this Agreement or changing the rights of FHLB Dallas or of the Participating Member under this

Agreement, and FHLB Dallas may from time to time grant waivers or consents to a departure from the due performance of the obligations of the Participating Member under this Agreement. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth in such writing.

- (f) Execution in Counterparts; Electronic Execution Permitted. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by fax, email, or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by fax, email, or other electronic means as if the original had been received.
- (g) Waivers. No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- (h) Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- (i) Assignment. Neither party may assign this Agreement nor assign or delegate any right or obligation provided for under this Agreement, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.
- (j) Relationship of the Parties. The Participating Member shall have no obligation or responsibility to FHLB Dallas except as specifically stated in this Agreement, and the Participating Member shall have no fiduciary duties to FHLB Dallas except as set forth in Paragraph 10 of this Agreement. FHLB Dallas shall have no obligation or responsibility to the Participating Member except as specifically stated herein, and FHLB Dallas shall have no fiduciary duties to the Participating Member. It is the intention of the parties to this Agreement that this Agreement does not create a joint venture or partnership between the parties, but rather constitutes a contractual arrangement between them.
- (k) Termination. Either party to this Agreement may terminate its participation in the Program at any time by giving thirty (30) days' prior written notice to the other party. If FHLB Dallas terminates its participation in the Program, it shall remain obligated to fund any Recoverable Assistance that was approved, but not yet funded, by it prior to the termination date. Notwithstanding any termination hereunder: (i) the provisions set forth in this Agreement, including, without limitation, the provisions set forth in Paragraphs 10 and 11 of this Agreement, shall remain in full force and effect with respect to any funds outstanding under the Program until such funds have been fully repaid or repayment has been waived in full as set forth herein; and (ii) all obligations of indemnification, reimbursement and the like set forth in this Agreement, including, without limitation, those set forth in Paragraph 13(a) of this Agreement, shall survive the termination of this Agreement.
- (l) Access to Records. FHLB Dallas may from time to time request that the Participating Member allow the inspection of any of the books and records of the Participating Member pertaining to this Agreement and the Participating Member shall allow such

inspections and access to such books and records at reasonable times during the normal business hours of the Participating Member and upon reasonable terms without disruption to the normal business operations of the Participating Member.

- (m) Entire Agreement; Conflicts. This Agreement constitutes the entire agreement between the parties to this Agreement and supersedes any and all prior agreements or understandings, verbal or written, between the parties with respect to the subject matter of this Agreement. In the event of any conflict between this Agreement and the Manual, this Agreement shall prevail over the Manual.
- (n) Headings. The headings appearing at the beginning of each Paragraph of this Agreement are for convenience only and shall not in any way affect the meaning or interpretation of this Agreement.
- (o) Other Rights and Remedies. In the event that the Participating Member fails to fulfill any of its obligations under this Agreement, including, without limitation, its obligations under Paragraph 10 of this Agreement, FHLB Dallas, in its sole discretion, may, but shall not be required to, fulfill such obligations of the Participating Member.

The parties to this Agreement have caused this Agreement to be executed by their duly authorized representatives as of the date and year first above written.

**FEDERAL HOME LOAN BANK OF DALLAS**

\_\_\_\_\_  
**(Participating Member)**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_