RESOLUTION OF THE FAYETTEVILLE PUBLIC WORKS COMMISSION TO ACCEPT A STATE LOAN OFFER UNDER THE SAFE DRINKING WATER ACT AMENDMENTS OF 1996

WHEREAS, the Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Fund have authorized the making of loans and/or grants, as applicable, to aid eligible, drinking-water system owners in financing the cost of construction for eligible, drinking-water infrastructure, and

WHEREAS, the North Carolina Department of Environmental Quality (NCDEQ) has offered a BIL DWSRF-LSLR Fund Loan in the amount of $1,000,000 for the Lead & Copper Service Line Inventory and Verification project (Exhibit A); and

WHEREAS, the Fayetteville Public Works Commission (COMMISSION) intends to perform said project in accordance with the agreed scope of work; and

WHEREAS, the loan terms for the Lead & Copper Service Line Inventory and Verification project are 5 years, $600,000 principal forgiveness, 0.00% interest and 2% closing fee, and

NOW THEREFORE LET IT BE RESOLVED BY THE COMMISSION THAT:

1. The COMMISSION does hereby accept the BIL DWSRF-LSLR Fund Loan offer of $1,000,000 as presented in Exhibit A, contingent upon approval of the same by the City Council of the City of Fayetteville pursuant to Charter Section 6A.19.

2. The COMMISSION does hereby give assurance to NCDEQ that all items specified in the loan offer, Section II – Assurances will be adhered to.

3. Timothy L. Bryant, CEO/General Manager of the COMMISSION, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; to execute the promissory note; and to execute such other documents as may be required in connection with the application.

4. The COMMISSION has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances appliable to the project and to Federal and State grants and loans pertaining thereto.

5. The COMMISSION requests that the City Council of the City of Fayetteville approve this loan pursuant to Charter Section 6A.19 by adopting a Resolution in the form attached hereto.

Adopted this 10th day of July, 2024.

FAYETTEVILLE PUBLIC WORKS COMMISSION

Donald L. Porter, Chairman

ATTEST:

Ronna Rowe Garrett, Secretary

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STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Fayetteville Public Works Commission
955 Old Wilmington Road
Fayetteville, North Carolina 28301

Project Number: SRF-D-LSL-0022

Assistance Listing Number: 66.468
Unique Entity ID Number: UMXDRGNCMPQ7

Funding Program

Drinking Water ☒ **Stormwater** ☐ **Wastewater** ☐		**Additional Amount for Funding Increases**	**Previous Total**	**Total Offered**
BIL-DWSRF-LSLR Fund - Repayable Loan	☒	--	--	$400,000
BIL-DWSRF-LSLR Fund - Principal Forgiveness	☒	--	--	$600,000
State Reserve Loan	☐			
State Reserve Grant	☐			
State Reserve Earmark (S.L. 2023-134)	☐			
American Rescue Plan Act - Choose an item.	☐			

Project Description:

Lead & Copper Service Line Inventory and Verification

Total Financial Assistance Offer:	**$1,000,000**
Total Project Cost:	$2,558,600
Estimated Closing Fee*:	**$20,000**
For Loans	
Interest Rate:	0% Per Annum
Maximum Loan Term:	5 Years

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance.

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina: **Shadi Eskaf, Director, Division of Water Infrastructure**
North Carolina Department of Environmental Quality

DocuSigned by:
Shadi Eskaf
6300A872077B4C5...
Signature

6/17/2024
Date

On Behalf of: Fayetteville Public Works Commission
Name of Representative in Resolution: Timothy Bryant
Title (Type or Print): CEO/General Manager

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the attached Assurances and the Standard Conditions.

Timothy D. Bryant P.E.
Signature

7/15/24
Date

APPLICABLE STANDARD CONDITIONS*
Project Applicant: **Project Number:**

1. **Social Authorities:** Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, The Age Discrimination Act of 1975, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, and Equal Employment Opportunity (Executive Order No 11246, as amended) which prohibits activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, religion, sex, sexual orientation, gender identity, or national origin.

2. **Environmental Authorities:** National Environmental Act, National Historic Preservation Act, Archeological and Historic Preservation Act, Protection of Wetlands, Flood Plain Management, Farmland Protection Policy Act, Coastal Zone Management Act, Coastal Barriers Resources Act, Wild and Scenic Rivers Act, Endangered Species Act, Essential Fish Habitat and the Safe Drinking Water Act applicability will be determined upon submittal of an Environmental Information Document (EID) during the Engineering Report (ER) review process. Projects that do not involve construction (e.g., inventory only) are not required to prepare an ER/EID.

3. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The Applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.

4. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for sub agreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.

5. Debarment and Suspension, Executive Order No. 12549: Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: http://www.sam.gov. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.

6. The construction contract requires the contractor to adhere to Davis-Bacon and Related Acts Provisions and Procedures as listed in the Code of Federal Regulations Chapter 29 Part 5 Section 5 (29 CFR 5.5). Public Law pertaining to this is also enacted in Title 40, United States Code, Subtitle II Section 3141 through Section 3148. Projects that do not involve construction (e.g., inventory only) are generally not subject to Davis-Bacon; however, special circumstances may trigger Davis-Bacon requirements.

7. Projects funded through the BIL DWSRF-LSLR funds are required to comply with the Federal Build America, Buy America Act (BABAA). BABAA requires that iron, steel, manufactured products, and construction materials used in infrastructure projects are produced in the United States. Projects that do not involve construction (e.g., inventory only) are not subject to BABAA.

    a. If your project qualifies for a BABAA waiver, American Iron & Steel (AIS) provisions will apply instead, as required by H.R. 3547, "Consolidated Appropriations Act, 2014" Section 436, Division G, Title IV. The State provides detailed requirements to be included in the construction contract specifications. Projects that do not involve construction (e.g., inventory only) are not subject to AIS.

8. Pursuant to 2 C.F.R. § 200.216, subrecipients cannot obligate SRF funds to: (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services (described in Public Law 115-232, Section 889) as a substantial or essential component of any system, or as a critical technology as part of any system.

**Note: Condition 1 does not require anything to be submitted. Details on all of these conditions can be found in the EPA Cross-Cutter handbook.*

ASSURANCES	
Project Applicant:	**Project Number:**

1. The Applicant intends to complete the project in accordance with the application for financial assistance approved by the Division. The Applicant acknowledges that in the event a milestone contained in the most recent BIL DWSRF-LSLR Fund Intended Use Plan and/or the Letter of Intent to Fund is missed, the Department of Environmental Quality may rescind this Funding Offer.

2. The Applicant is responsible for paying for the costs ineligible for BIL DWSRF-LSLR funding.

3. All aspects of the project, including the letting of contracts in connection therewith, conform to the applicable requirements of State and local laws and ordinances.

4. The Applicant will provide and maintain adequate engineering supervision and inspection.

5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the course of the project and these records will be retained and made available for a period of at least three years following completion of the project.

6. All BIL DWSRF-LSLR funds loaned shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.

7. The Applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.

8. **The Applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.**