



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

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February 22, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTIONS

1. Authorize the Department of Environmental Services to award a grant to the Town of Derry, NH (VC#177379-B003) in the amount not to exceed \$1,222,000 for water system improvements, effective upon Governor & Council approval through December 1, 2025. 100% Federal Funds.

Funding is available in the following accounts:

03-44-44-440010-2476-072-500574	<u>FY 2023</u>
Dept Environmental Services, ARPA DES Loans, Grants Federal	\$1,222,000
Activity code: 00FRF602WB4401M	

2. Authorize the Department of Environmental Services to approve a loan agreement with the Town of Derry, NH (VC#177379-B003) in the amount not to exceed \$4,888,000 to finance water system improvements under the provisions of RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. effective upon Governor & Council approval. 100% Drinking Water State Revolving Loan Fund (DWSRF) Repayment Funds.

Funding is available in the following account:

03-44-44-441018-4791-301-500833	<u>FY 2023</u>
Dept Environmental Services, DWSRF Loan Repayments, Loans	\$4,888,000

EXPLANATION

NHDES, through the American Rescue Plan Act funds (ARPA) and the Drinking Water State Revolving Loan Fund (DWSRF) has offered the Town of Derry \$6,110,000 in a combination of grant and loan funds for needed water system improvements. The Town will use the grant and loan funding to extend its municipal water system to interconnect the Town-owned Rand Shepard Hill community water system and the homeowner association-owned community water systems at Barkland Acres and Morningside Drive to address per- and polyfluoroalkyl substances (PFAS), manganese, arsenic and supply issues. This project will improve water quality and reliability.

ARPA of 2021 is a \$1.9 trillion economic stimulus bill passed by the 117th United States Congress and signed into law by President Biden on March 11, 2021, to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the resultant recession. The Act defines eligible uses of the state and local funding, including responding to public health emergencies, responding to workers performing essential work during the COVID-19 emergency, providing revenue relief to states and making investments in water, sewer, and broadband infrastructure. This is an allowable use of ARP FRF funds under Section 602 (c)(1)(D) to make necessary investments in water, sewer, or broadband infrastructure.

In accordance with the final rule from the US Treasury Department for water and wastewater infrastructure investments, project eligibility is aligned with the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF). This project is an eligible DWSRF infrastructure project.

The final DWSRF loan amount will be based on the total DWSRF funds disbursed and may be less than \$4,888,000. The loan interest rate may be adjusted downward if the DWSRF loan rate in effect upon project completion is less than the current rate of 2.536% for 20 years. The Town is eligible for principal forgiveness under the 2022 DWSRF Intended Use Plan. The amount of principal forgiveness will be determined when the aggregate principal amount is established, and the project is complete. There is currently a balance of \$60,685,201 in the DWSRF available for new loans.

In the event federal funds become no longer available, general funds will not be requested to support this program. This grant agreement has been approved by the Attorney General's Office as to form, substance, and execution.

We respectfully request your approval of this item.

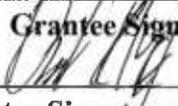
A handwritten signature in black ink, appearing to read "Robert R. Scott", written over a horizontal line.

Robert R. Scott
Commissioner

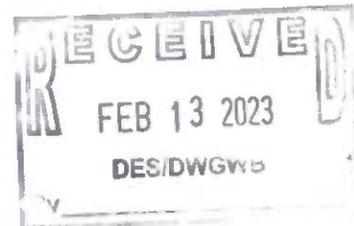
GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby
Mutually agree as follows:
GENERAL PROVISIONS

1. Identification and Definitions.

1.1. State Agency Name Department of Environmental Services		1.2. State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	
1.3. Grantee Name Town of Derry		1.4. Grantee Address 14 Manning Street, Derry, NH 03038	
1.5. Grantee Phone # 603-432-6147	1.6. Account Number 03-44-44-440010-2476-072	1.7. Completion Date December 1, 2025	1.8. Grant Limitation \$ 1,222,000
1.9. Grant Officer for State Agency Johnna McKenna		1.10. State Agency Telephone Number 603-271-7017	
If Grantee is a municipality or village district: "By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Grantee Signature 1 		1.12. Name & Title of Grantee Signor 1 David Caron, Town Administrator	
Grantee Signature 2 		Name & Title of Grantee Signor 2	
Grantee Signature 3		Name & Title of Grantee Signor 3	
1.13. State Agency Signature(s) 		1.14. Name & Title of State Agency Signor(s) Robert R. Scott, Commissioner Department of Environmental Services	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required)			
By: 		Assistant Attorney General, On: 3/13/2023	
1.16. Approval by Governor and Council (if applicable)			
By:		On: / /	

2. **SCOPE OF WORK:** In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as "the Project").



3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.
4. EFFECTIVE DATE: COMPLETION OF PROJECT.
 - 4.1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.16), or upon signature by the State Agency as shown in block 1.14 ("the Effective Date").
 - 4.2. Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.7 (hereinafter referred to as "the Completion Date").
5. GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.
 - 5.1. The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.
 - 5.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT C.
 - 5.3. In accordance with the provisions set forth in EXHIBIT C, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.
 - 5.4. The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.
 - 5.5. Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.
6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits and RSA 31-95-b.
7. RECORDS and ACCOUNTS.
 - 7.1. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency, the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.
 - 7.2. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency pursuant to subparagraph 7.1, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these provisions
8. PERSONNEL.
 - 8.1. The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.
 - 8.2. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
 - 8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
9. DATA: RETENTION OF DATA: ACCESS.
 - 9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations,

- 9.2. computer programs, computer printouts, notes, letters, memoranda, paper, and documents, all whether finished or unfinished.
- 9.2. Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.
- 9.3. No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 9.4. On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.
- 9.5. The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.
10. CONDITIONAL NATURE OR AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.
11. EVENT OF DEFAULT: REMEDIES.
 - 11.1. Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):
 - 11.1.1 Failure to perform the Project satisfactorily or on schedule; or
 - 11.1.2 Failure to submit any report required hereunder; or
 - 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
 - 11.1.4 Failure to perform any of the other covenants and conditions of this Agreement.
 - 11.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
 - 11.2.1 Give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and
 - 11.2.2 Give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and
 - 11.2.3 Set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and
 - 11.2.4 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
12. TERMINATION.
 - 12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.
 - 12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.
 - 12.3. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.
 - 12.4. CONFLICT OF INTEREST. No officer, member of employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or

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- approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.
14. **GRANTEE'S RELATION TO THE STATE.** In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
15. **ASSIGNMENT AND SUBCONTRACTS.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit B without the prior written consent of the State.
16. **INDEMNIFICATION.** The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.
17. **INSURANCE.**
- 17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
- 17.1.1 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and
- 17.1.2 General liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
- 17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Grantee shall furnish to the State, certificates of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy.
18. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.
19. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.
20. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire, if required or by the signing State Agency.
21. **CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intend of the parties hereto.
22. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
23. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.
24. **SPECIAL PROVISIONS.** The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.

EXHIBIT A
SPECIAL PROVISIONS

I. NEW HAMPSHIRE STATE AND LOCAL FISCAL RECOVERY FUNDS FEDERAL REQUIREMENTS

This Agreement is funded under a grant to the State of New Hampshire (State) and subsequently through the Governor’s Office for Emergency Relief and Recovery (GOFERR) and New Hampshire Department of Environmental Services (NHDES) as approved by the Governor and Executive Council from the federal government through the Department of Treasury (Treasury) through the American Rescue Plan Act of 2021 (ARPA), with the source of funds being the State and Local Fiscal Recovery Funds (SLFRF) identified under the Catalog of Federal Domestic Assistance (CFDA) number #21.027. The Federal Award Identification Number (FAIN) for this award is SLFRP0145. This grant award is a subaward of SLFRF funds and any and all compliance requirements, as updated by Treasury, for use of SLFRF funds are applicable to the Subrecipient, without further notice. Treasury requirements are published and updated at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.

FEDERAL FUNDING ACCOUNTABILITY and TRANSPARENCY ACT (FFATA). The Subrecipient shall comply with the terms of the FFATA by providing NHDES with their Unique Entity Identifier (Unique Entity ID), and all applicable Executive Compensation Data information as required under the FFATA. A Unique Entity ID may be obtained by visiting <https://www.sam.gov>.

SAM REGISTRATION: The Subrecipient must have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>).

GENERALLY ACCEPTED ACCOUNTING PROCEDURES: The Subrecipient, if a governmental entity, shall maintain project accounts in accordance with the Generally Accepted Accounting Principles (GAAP), including standards relating to the reporting of infrastructure assets as issued by the Governmental Accounting Standards Board (GASB). The full text of Governmental Accounting Reporting Standards is available through the GASB website at: <http://www.gasb.org>

RECORDKEEPING REQUIREMENTS: The Subrecipient must maintain records and financial documents for five years after all funds have been expended or returned to the State and/or Treasury. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Subrecipient must agree to provide or make available such records to the State and Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

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SINGLE AUDIT REQUIREMENTS: Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. Recipients and subrecipients may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

CIVIL RIGHTS COMPLIANCE: The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply, and shall include in every contract or agreement funded with these funds this same requirement to comply, with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, NHDES may collect and review information from subrecipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury’s implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients and subrecipients (see 28 CFR 42.406).

PERIOD OF PERFORMANCE: All funds are subject to statutory requirements that they must be used for costs incurred by the recipient during the period that begins on March 3, 2021, and ends on December 31, 2024, and that award funds for the financial obligations incurred by December 31, 2024 must be expended by December 31, 2026.

PROCUREMENT, SUSPENSION AND DEBARMENT: Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable. The Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate. Subrecipients must have and use

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documented procurement procedures that are consistent with the standards outlined in 2 CFR 200.317 through 2 CFR 200.320.

Subrecipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, “Responsibilities of Participants Regarding Transactions Doing Business With Other Persons,” as implemented and supplemented by 2 C.F.R. Part 1532. subrecipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. Part 180, entitled “Covered Transactions,” and 2 C.F.R. § 1532.220, includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. subrecipient is responsible for further requiring the inclusion of a similar term and condition in any subsequent lower tier covered transactions. subrecipient acknowledges that failing to disclose the information required under 2 C.F.R. § 180.335 to NHDES may result in the delay or negation of this assistance agreement, or pursuance of administrative remedies, including suspension and debarment. Subrecipients may access the System for Award Management (SAM) exclusion list at <https://sam.gov/SAM/> to determine whether an entity or individual is presently excluded or disqualified.

By entering into this agreement, the subrecipient certifies that the subrecipient is not debarred or suspended. Furthermore, the subrecipient certifies that no part of this contract will be subcontracted to a debarred or suspended person or firm.

DOMESTIC PREFERENCES FOR PROCUREMENTS (2 C.F.R. § 200.322) As appropriate and to the extent consistent with law, to the greatest extent practicable, there is a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

- (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, subrecipients, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or

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extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, Subrecipients, and borrowers also may not use federal funds to purchase:

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- a. Obligating or expending funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems. Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list which can be found at <https://www.sam.gov/SAM/pages/public/index.jsf>

REPORTING REQUIREMENTS: For all projects listed under the Water and Sewer Expenditure Categories (see Table below), detailed project-level information is required.

5: Infrastructure	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance

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5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure

Definitions for water and sewer Expenditure Categories can be found in the EPA’s handbooks. For “clean water” expenditure category definitions, please see: <https://www.epa.gov/sites/production/files/2018-03/documents/cwdefinitions.pdf>. For “drinking water” expenditure category definitions, please see: <https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-national-information-management-system-reports>.

All Clean Water and Drinking Water infrastructure projects:

- Projected/actual construction start date (month/year)
- Projected/actual initiation of operations date (month/year)
- Location (for broadband, geospatial location data)

For water and sewer projects:

- National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)

II. FEDERAL REQUIREMENTS APPLICABLE TO ARPA INFRASTRUCTURE PROJECTS OVER \$10M

For projects over \$10 million (based on expected total cost) a recipient shall provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed. All contracts and subcontracts for the construction of treatment works shall insert in full in any contract the standard Davis-Bacon contract clause as specified by 29 CFR §5.5(a).

Grantee Initials ME
 Date 2/3/22

III. OTHER SPECIAL PROVISIONS

- A. In addition to the above special provisions, the following provisions as required by federal regulations apply to this Agreement:
1. **Financial management.** The Contractor shall comply with 2 CFR part 200 Subpart D and the specific standards regarding financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management outlined therein.
 2. **Allowable costs.** All costs charged to this Agreement shall be eligible, necessary, and reasonable for performing the tasks outlined in the approved project scope of services. The costs, including match, shall be incurred during the period of performance of the project, and shall be allowable, meaning that the costs must conform to specific federal requirements detailed in 2 CFR part 200 Subpart E.
 3. **Property Management.** The Contractor shall comply with the property management and procedures detailed in 2 CFR Part 200 Subpart D.
 4. **Restrictions on Lobbying.** The Contractor shall comply with the terms of 15 CFR part 28 and 2 CFR Part 200 Subpart E which prohibit the use of federal Contract funds to influence (or attempt to influence) a federal employee, and requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if *nonfederal* funds have been used to influence (or attempt to influence) a federal employee.
 5. **Drug-Free Workplace.** The Contractor shall comply with the terms of 2 CFR part 1329 which require that as a condition of the Agreement, certification that they maintain a drug-free workplace. By signing and submitting the Agreement, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity associated with the Agreement.
 6. **Protection for Whistleblowers.** The Contractor shall comply with the terms of 41 U.S.C. §471 regarding Whistleblower protections. As described in 41 USC §471 "an employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant."

Grantee Initials MLL
Date 2/3/22

EXHIBIT B
SCOPE OF SERVICES

Town of Derry – Rand Shepard Hill (PWS #0612230):

The Town of Derry will use the American Rescue Plan Act (ARPA) grant funds to extend its municipal water system (PWS ID 0611010) to interconnect the Town-owned Rand Shepard Hill community water system (PWS ID 0612230). The project will also include the interconnection of the homeowner association-owned community water systems at Barkland Acres (PWS ID 612040) and Morningside Drive (PWS ID 0612050). The overall project consists of new water mains for the interconnection to the three community water systems plus the replacement of approximately 2,400 feet of existing undersized plastic pipe in the Barkland Acres distribution system. Upon completion of the project the Town intends to acquire and operate the Barkland Acres water system. Grant funds will be used in conjunction with NH Drinking Water State Revolving Fund (DWSRF) loan funds to complete the engineering, design, bidding, and construction for the project.

As a requirement of this grant funding, the Town of Derry is required to develop and adhere to an asset maintenance and renewal plan for the funded improvements and provide documentation supporting compliance with this requirement.

EXHIBIT C
METHOD OF PAYMENT

The NHDES shall pay to the Grantee the total reimbursable program costs in accordance with the following requirements:

Reimbursement requests for program costs shall be made no more than once per calendar month by the Grantee using the American Rescue Plan Act (ARPA) Disbursement form as supplied by the NHDES, which shall be completed and signed by the Grantee. The disbursement form shall be accompanied by proper supporting documentation based upon direct costs. The Grantee will maintain adequate documentation to substantiate all Program related costs. All work shall be performed to the satisfaction of the NHDES before payment is made.

This ARPA grant is in concert with a \$4,888,000 DWSRF loan. Each disbursement request will be paid 100% of eligible expenses as ARPA grant funds not to exceed \$1,222,000 followed by DWSRF loan funds.

Changes to the Scope of Services require NHDES approval in advance. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.7).

Grantee Initials DR
Date 2/26/23



DRINKING WATER INFRASTRUCTURE PROJECT CERTIFICATE OF VOTE – GRANTS ONLY



Drinking Water & Groundwater Bureau Sustainability Grants,
Drinking Water & Groundwater Trust Fund (DWGTF),
PFAS Remediation Loan Fund (PFAS-RLF), And American Recovery Plan Act (ARPA)

Env-Dw 1300; Env-Dw 1400

A Certificate of Vote of Authorization is a certificate that states that a grant applicant is willing to enter into a grant agreement with the State of NH Department of Environmental Services and that whoever signs the Grant Agreement (provided under separate cover) has the authority to do so. **This is a 3-person form:**

- Completed and signed by someone other than the person being given authority.
- Must be notarized.
- Original is required for submittal.

Certificate of Vote of Authorization

TOWN OF DERRY, NH
14 MANNING STREET DERRY, NH 03038

I, Thomas A. Carrier, Deputy Director of Public Works of the Town of Derry, NH do hereby certify that at a meeting held on 11/1/2022, and 1/17/2023, the Derry Town Council voted to enter into a American Rescue Plan Act Fund (ARPA) grant agreement with the New Hampshire Department Environmental Services to fund a water system improvement project.

The Town of Derry, NH further authorized the Town Administrator, David Caron to execute any documents which may be necessary to effectuate this grant agreement.

IN WITNESS WHEREOF, I have hereunto set my hand as Deputy Director of Public Works of the Town of Derry, NH, the day of February 2023.

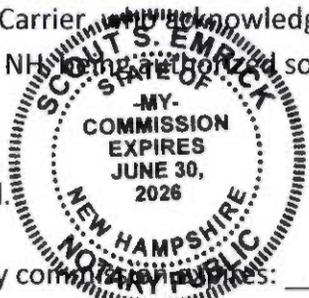
Thomas A. Carrier, Deputy Director of Public Works Signature: 

STATE OF NEW HAMPSHIRE, County of Rockingham

On this 9th day of February 2023, Thomas A Carrier, before me (Notary Public) the undersigned Officer, personally appeared. Thomas A. Carrier, who acknowledged himself to be the Deputy Director of Public Works (TITLE) of the Town of Derry, NH, and authorized so to do, execute the foregoing instrument for the purpose therein contained.

In witness thereof, I have set my hand and official seal.

Notary Public  My commission expires: June 30 2024



Drinking Water State Revolving Fund
Drinking Water & Ground Water Trust Fund
PFAS- Remediation Loan Fund



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: Town of Derry 14 Manning Street Derry, NH 03038	Member Number: 154	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624
---	------------------------------	--

Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not	
<input type="checkbox"/> General Liability (Occurrence Form) <input type="checkbox"/> Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			Each Occurrence	
			General Aggregate	
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident) Aggregate	
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	7/1/2021 7/1/2022	7/1/2022 7/1/2023	<input checked="" type="checkbox"/> Statutory	
			Each Accident \$2,000,000	
			Disease - Each Employee \$2,000,000	
			Disease - Policy Limit	
<input type="checkbox"/> Property (Special Risk includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: Proof of Primex Member coverage only.

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex ³ - NH Public Risk Management Exchange By: <i>Mary Beth Purcell</i> Date: 5/12/2022 mpurcell@nhprimex.org
Department of Environmental Services PO Box 95 29 Hazen Dr Concord, NH 03302-0095			Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: Town of Derry 14 Manning Street Derry, NH 03038	Member Number: 154	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624
---	------------------------------	--

Type of Coverage		Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply	
<input checked="" type="checkbox"/>	General Liability (Occurrence Form)	7/1/2021	7/1/2022	Each Occurrence	\$ 1,000,000
<input type="checkbox"/>	Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2022	7/1/2023	General Aggregate	\$ 2,000,000
				Fire Damage (Any one fire)	
				Med Exp (Any one person)	
<input type="checkbox"/>	Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
				Aggregate	
<input type="checkbox"/>	Workers' Compensation & Employers' Liability			<input type="checkbox"/> Statutory	
				Each Accident	
				Disease - Each Employee	
				Disease - Policy Limit	
<input type="checkbox"/>	Property (Special Risk Includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: Grant. The certificate holder is named as Additional Covered Party, but only to the extent liability is based solely on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered. Pollution and hazardous waste related liabilities, expenses and claims are excluded from coverage in the coverage document.

CERTIFICATE HOLDER:	<input checked="" type="checkbox"/>	Additional Covered Party	<input type="checkbox"/>	Loss Payee	Primex ³ - NH Public Risk Management Exchange
					By: <i>Mary Beth Purcell</i>
					Date: 5/12/2022 mpurcell@nhprimex.org
State of NH Department of Environmental Services PO Box 95 29 Hazen Dr Concord, NH 03302 -0095					Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax

STATE OF NEW HAMPSHIRE

DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM

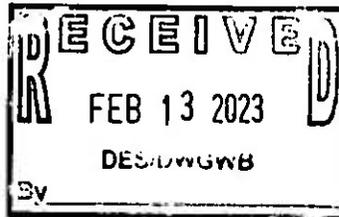
TOWN OF DERRY, NEW HAMPSHIRE
(Project No. 0612230 – RAND SHEPARD HILL)

ORIGINAL LOAN AGREEMENT

I. This Agreement is between the State of New Hampshire Drinking Water State Revolving Loan Fund Program (State) and the Town of Derry, New Hampshire (Loan Recipient) in accordance with RSA 486:14 and New Hampshire Code of Administrative Rules Env-Dw 1100 (Rules) for the purpose of financing, to the extent of the aggregate amount of funds transferred (Disbursements) to the Loan Recipient made hereunder, the Rand Shepard Hill Water Main Extension Project (Project) now being undertaken by the Loan Recipient. The Project is described in Exhibit A. The Loan Recipient shall abide by all of the requirements of RSA 486:14 and the Rules.

II. The State agrees to loan to the Loan Recipient, and the Loan Recipient agrees to repay to the State, in accordance with the terms of this Agreement, the principal sum of Four Million Eight Hundred Eighty-Eight Thousand and 00/100 Dollars (\$4,888,000) (Principal Sum) or such lesser amount as shall equal the aggregate of Disbursements made hereunder by the State to the Loan Recipient. In addition to the principal sum, the Loan Recipient agrees to pay the applicable interest accrued as described in Paragraphs IV, VI, and VIII. Federal financial assistance provided through the Drinking Water State Revolving Loan Fund Program (CFDA #66.468) may comprise all or a portion of the Principal Sum. Any Disbursement or other payment from the State to the Loan Recipient is contingent upon the availability of funds.

III. The Loan Recipient is eligible for the Disadvantaged System Program as outlined in Section 3 of the 2022 State of New Hampshire Drinking Water State Revolving Loan Fund Intended Use Plan. The amount



1 of principal forgiveness will be determined when the aggregate principal loan amount is established, and
2 the project is complete and will be applied to the loan upon the initial repayment.

3
4 IV. Disbursements shall be made on a periodic basis, as requested by the Loan Recipient, but not more
5 frequently than monthly, subject to the approval of the amount of each Disbursement by the State. The
6 State shall approve the amount requested if it determines that the costs covered by the request are
7 eligible under Env-Dw 1104.01, as applicable. Interest on each Disbursement shall accrue on the
8 outstanding principal balance from the date of the Disbursement at the rate of 1% per annum computed
9 on the basis of 30-day months and 360-day years until the date of Substantial Completion of the Project
10 or the date of Scheduled Completion, whichever is earlier. At the option of the Loan Recipient, such
11 interest may be paid (1) prior to the commencement of Loan repayment, (2) at the time of the first Loan
12 repayment, or (3) by adding the charges to the outstanding principal Loan balance so long as the Loan
13 Recipient's authority to borrow is not exceeded.

14
15 V. The aggregate of the Disbursements shall be consolidated by a Promissory Note (Note) of the Loan
16 Recipient in a Supplemental Loan Agreement issued under and in accordance with the applicable
17 provisions of this Agreement and the Municipal Finance Act, RSA 33, as amended and supplemented,
18 including the provisions of RSA 486:14. The Note shall be substantially in the form of Exhibit B.

19
20 VI. The interest rate applicable to the Note will be 2.536%, as determined in accordance with RSA 486:14
21 and Env-Dw 1100 et seq.

22
23 VII. The Loan Recipient hereby authorizes the State to compute the payments of principal and interest on
24 the Note. The principal shall be paid in full within **twenty (20)** years from the date of the Note. Note
25 payments shall commence within one year of the Substantial Completion date of the Project or the

1 Scheduled Completion date of the project, whichever is earlier. The Scheduled Completion date is hereby
2 determined to be **December 1, 2025**; however, should the project experience an excusable delay, an
3 extension may be granted by the Commissioner of the Department of Environmental Services upon
4 request in writing by the Loan Recipient. In no event shall Note payments commence later than ten years
5 from the effective date of this Agreement.

6
7 VIII. The Loan Recipient reserves the right to prepay, at any time and without penalty, all or any part of
8 the outstanding principal or interest of the Note.

9
10 IX. In the event of a default in the full and timely remittance of any Note payment, any State Aid Grant
11 funds payable to the Loan Recipient under RSA 486:A may be offset against and applied to the payment
12 of any obligations that are due hereunder. The Loan Recipient agrees to be liable for all costs of collection,
13 legal expenses, and attorney's fees incurred or paid by the State in enforcing this Agreement or in
14 collecting any delinquent payments due hereunder.

15
16 X. No delay or omission on the part of the State in exercising any right hereunder shall operate as a waiver
17 of such right or of any other right under this Agreement. A waiver on any one occasion shall not be
18 construed as bar to any right and/or remedy on any future occasion.

19 XI. The Loan Recipient agrees to comply, and to require all of its contractors to comply, with all
20 applicable state and federal requirements contained in the Rules and applicable state and federal laws,
21 including those specific requirements outlined in Exhibit C.

22
23 XIII. The Loan Recipient is required to develop an asset maintenance and renewal plan for the asset(s)
24 being funded under the loan or incorporate the funded asset(s) into an existing asset management plan.

1 At a minimum the plan must include a commitment to asset management, financing and
2 implementation strategy and an inventory of the funded asset(s).

3
4 XIV. The Loan Recipient agrees to permit the Comptroller General of the United States, an appropriate
5 Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.),
6 or an authorized representative of either of the foregoing officials, or of the State of New Hampshire to
7 have access to and the right to:

8
9 (i) Examine any of the Loan Recipient's, the contractor's or any subcontractor's records
10 that pertain to and involve transactions relating to this Agreement, the Construction Contract,
11 the Engineering Contract or a subcontract thereunder; and

12
13 (ii) Interview any officer or employee regarding such transactions.

14
15 The Loan Recipient shall insert subparagraphs (i). and (ii). in the Construction Contract and require the
16 Contractor to insert subparagraphs (i). and (ii). in all subcontracts thereunder.

17
18 XV. The effective date of this Agreement shall be the date of its approval by the Governor and Executive
19 Council. This Agreement may be amended, waived, or discharged only by a written instrument signed by
20 the parties hereto and only after approval of such amendment, waiver, or discharge by the Governor and
21 Executive Council.

22
23 XVI. This Agreement shall be construed in accordance with the laws of the State of New Hampshire and
24 is binding upon and inures to the benefit of the parties and their respective successors. The parties

1 hereto do not intend to benefit any third parties and, consequently, the Agreement shall not be
2 construed to confer any such benefit.

3
4 XII. The Loan Recipient acknowledges that by accepting the Loan it will be a sub-recipient of federal
5 financial assistance and, as such, subject to requirements of the federal Single Audit Act and subsequent
6 amendments (SAA). The Loan Recipient further acknowledges that, if the Loan Recipient expends more
7 than the required threshold in federal financial assistance from all sources in any fiscal year, it must
8 perform an SAA audit in accordance with the requirements of Office of Management and Budget
9 Circular A-133. In that event, the Loan Recipient shall provide the State with a copy of the SAA audit
10 report within nine months of the end of the audit period.

11
12 XVII. This Agreement, which may be executed in a number of counterparts, each of which shall be
13 deemed an original, constitutes the entire agreement and understanding between the parties and
14 supersedes all prior agreements and understandings relating thereto. Nothing herein shall be construed
15 as a waiver of sovereign immunity, such immunity being hereby specifically reserved.

16
17 STATE OF NEW HAMPSHIRE by:

18  2/23/23

19 Robert R. Scott Date
20 Commissioner
21 Department of Environmental Services

TOWN OF DERRY, NEW HAMPSHIRE by:

22  2/3/23

23 David Caron Date
24 Town Administrator
25 Town of Derry

26 This Agreement was approved by Governor and Executive Council on _____
27 _____ as Item No. _____

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EXHIBIT A
STATE OF NEW HAMPSHIRE
DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM

PROJECT DESCRIPTION

The **Town of Derry** has applied for a Loan to be used for water system improvements including extending its municipal water system (PWS ID 0611010) to interconnect the Town-owned Rand Shepard Hill community water system (PWS ID 0612230). The project will also include the interconnection of the homeowner association-owned community water systems at Barkland Acres (PWS ID 612040) and Morningside Drive (PWS ID 0612050). The overall project consists of new water mains for the interconnection to the three community water systems plus the replacement of approximately 2,400 feet of existing undersized plastic pipe in the Barkland Acres distribution system.

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EXHIBIT B

**STATE OF NEW HAMPSHIRE
DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

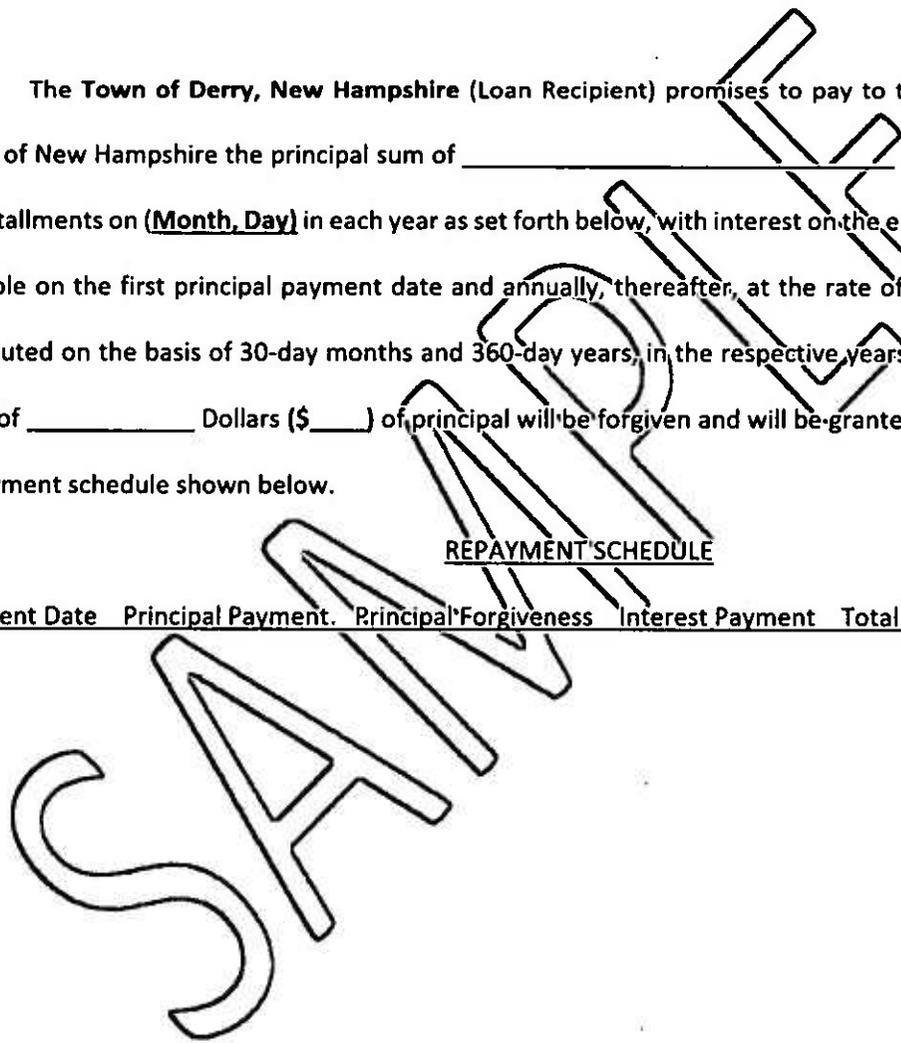
PROMISSORY NOTE AND REPAYMENT SCHEDULE

The Town of Derry, New Hampshire (Loan Recipient) promises to pay to the Treasurer of the State of New Hampshire the principal sum of _____ Dollars (_____) in installments on (Month, Day) in each year as set forth below, with interest on the entire unpaid balance payable on the first principal payment date and annually, thereafter, at the rate of _____% per annum, computed on the basis of 30-day months and 360-day years, in the respective years set forth below. A total of _____ Dollars (\$_____) of principal will be forgiven and will be granted as reflected in the repayment schedule shown below.

REPAYMENT SCHEDULE

Payment Date Principal Payment Principal Forgiveness Interest Payment Total Payment

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10 This Promissory Note (Note) is issued under and by virtue of the New Hampshire Municipal
11 Finance Act, an agreement duly entered into by the Loan Recipient and the Drinking Water State Revolving
12 Loan Fund Program and is issued for the purpose of financing the cost of the Project as described in Exhibit
13 A of the Supplemental Loan Agreement (Agreement).

14
15 The Loan Recipient reserves the right to prepay, at any time and without penalty, all or any part
16 of the outstanding principal or interest on this Note.

17
18 The terms and provisions of the Agreement are hereby incorporated in and made a part of this
19 Note to the same extent as if said terms and provisions were set forth in full herein.

20
21 It is hereby certified and recited that all acts, conditions, and things required to be done
22 precedent to and in the issuing of this Note have been done, have happened, and have been performed
23 in regular and due form and, for the payment hereof when due, the full faith and credit of the Loan
24 Recipient are hereby irrevocably pledged.

25

1 IN WITNESS whereof the Loan Recipient has caused this Note to be signed by its Town
2 Administrator, on the date(s) below.

3

4 TOWN OF DERRY, NEW HAMPSHIRE by:

5 _____
6 David Caron, Town Administrator
Town of Derry

_____ Date

(Seal)

7
8
9
10
11
12

SAMPLE

1 EXHIBIT C

2 STATE OF NEW HAMPSHIRE
3 DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM

4 FEDERAL REQUIREMENTS

5 **UNIQUE ENTITY IDENTIFIER (UEI):** The Loan Recipient must obtain a Unique Entity Identifier (Unique
6 Entity ID). The federal government has adopted the use of a Unique Entity ID to track how federal grant
7 money is allocated. The Unique Entity ID identifies your organization. A Unique Entity ID may be
8 obtained by visiting <http://sam.gov>.

9
10 **SIGNAGE REQUIREMENT:** The Loan Recipient must communicate to the public that EPA funds are
11 contributing to the project by constructing a sign in accordance with the Bipartisan Infrastructure Law
12 Signage Term and Conditions. The type and location of the sign shall be mutually agreed upon between
13 the Loan Recipient and NHDES. The Loan Recipient shall maintain the sign throughout the duration of
14 the project.

15
16 **WAGE RATE REQUIREMENTS (DAVIS-BACON):** Davis-Bacon (DB) prevailing wage requirements apply to
17 the Project in accordance with the federal fiscal year (FY) 2014 Consolidated Appropriations Act (P.L.
18 113-76). The Loan Recipient shall insert in full in any contract in excess of \$2,000 which is entered into
19 for Project construction the standard Davis-Bacon contract clause as specified by 29 CFR §5.5(a). The
20 Loan Recipient shall obtain the wage determination for the locality in which a covered activity subject to
21 DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting
22 contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into
23 solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that
24 subcontractors follow the wage determination incorporated into the prime contract.

1 **AMERICAN IRON AND STEEL (AIS):** The Loan Recipient agrees to comply with Section 436 of the
2 Consolidated Appropriations Act, 2014 (P.L. 113-76), which requires that all of the iron and steel
3 products used in the Project are to be produced in the United States (“American Iron and Steel
4 Requirement”) unless (i) the Loan Recipient has requested and obtained a waiver from the
5 Environmental Protection Agency pertaining to the Project or (ii) the State has otherwise advised the
6 Participant in writing that the American Iron and Steel Requirement is not applicable to the Project. The
7 Loan Recipient further agrees to maintain records documenting compliance with the American Iron and
8 Steel Requirement, and to provide records and certifications to the State upon request.

9

10 **BUILD AMERICA, BUY AMERICA (BABA) ACT:** Comply with all federal requirements applicable to the
11 assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”),
12 Public Law No. 117-58) which the Participant understands includes, but is not limited to, the following
13 requirements: that all of the iron and steel, manufactured products, and construction materials used in
14 the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless
15 (i) the Participant has requested and obtained a waiver from the cognizant Agency[1] pertaining to the
16 Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing
17 Agencies have otherwise advised the Participant in writing that the Build America, Buy America
18 Requirements are not applicable to the Project. Comply with all record keeping and reporting
19 requirements under all applicable legal authorities, including any reports required by the funding
20 authority (such as EPA and/or a state), such as performance indicators of program deliverables,
21 information on costs and project progress. The Participant understands that (i) each contract and
22 subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii)
23 failure to comply with the applicable legal requirements and this Agreement may result in a default
24 hereunder that results in a repayment of the assistance agreement in advance of the maturity of the

1 Bonds, termination and/or repayment of grants, cooperative agreements, direct assistance or other
2 types of financial assistance, and/or other remedial actions.

3 **GENERALLY ACCEPTED ACCOUNTING PROCEDURES:** The Loan Recipient shall maintain project accounts
4 in accordance with the Generally Accepted Accounting Principles (GAAP), including standards relating to
5 the reporting of infrastructure assets as issued by the Governmental Accounting Standards Board
6 (GASB). The full text of Governmental Accounting Reporting Standards is available through the GASB
7 website at: <http://www.gasb.org>

8

9 **DISADVANTAGED BUSINESS ENTERPRISE (DBE):** Pursuant to 40 CFR, Section 33.301, the Loan Recipient
10 shall make good faith efforts to utilize small, minority and women’s business enterprises whenever
11 procuring construction, equipment, services and supplies under an EPA financial assistance agreement,
12 and shall require that prime contractors also comply. Records documenting compliance with the six
13 good faith efforts shall be retained.

14

15 **SUSPENSION AND DEBARMENT:** The Loan Recipient shall fully comply with Subpart C of 2 C.F.R. Part
16 180 entitled, “Responsibilities of Participants Regarding Transactions Doing Business With Other
17 Persons,” as implemented and supplemented by 2 C.F.R. Part 1532. Recipient is responsible for ensuring
18 that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. Part 180, entitled “Covered
19 Transactions,” and 2 C.F.R. § 1532.220, includes a term or condition requiring compliance with 2 C.F.R.
20 Part 180, Subpart C. Recipient is responsible for further requiring the inclusion of a similar term and
21 condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to
22 disclose the information required under 2 C.F.R. § 180.335 to the EPA office that is entering into the
23 transaction with the recipient may result in the delay or negation of this assistance agreement, or
24 pursuance of administrative remedies, including suspension and debarment. Recipients may access the

1 System for Award Management (SAM) exclusion list at <https://sam.gov/SAM/> to determine whether an
2 entity or individual is presently excluded or disqualified.

3
4 By entering into this agreement, the Loan Recipient certifies that the Loan Recipient is not debarred or
5 suspended. Furthermore, the Loan Recipient certifies that no part of this contract will be subcontracted
6 to a debarred or suspended person or firm.

7
8 **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR**
9 **EQUIPMENT**

10 This term and condition implements 2 CFR 200.216 and is effective for obligations and expenditures of
11 EPA financial assistance funding on or after 8/13/2020. As required by 2 CFR 200.216, EPA recipients and
12 subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from
13 obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure
14 or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment,
15 services, or systems that use covered telecommunications equipment or services as a substantial or
16 essential component of any system, or as critical technology as part of any system. As described in
17 Public Law 115-232, section 889, covered telecommunications equipment is telecommunications
18 equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate
19 of such entities). Recipients, subrecipients, and borrowers also may not use EPA funds to purchase: a.
20 For the purpose of public safety, security of government facilities, physical security surveillance of
21 critical Page 4 of 29 infrastructure, and other national security purposes, video surveillance and
22 telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision
23 Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such
24 entities). b. Telecommunications or video surveillance services provided by such entities or using such
25 equipment. c. Telecommunications or video surveillance equipment or services produced or provided by

1 an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or
2 the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or
3 controlled by, or otherwise connected to, the government of a covered foreign country. Consistent with
4 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such
5 as phones, internet, video surveillance, and cloud servers are allowable except for the following
6 circumstances: a. Obligating or expending EPA funds for covered telecommunications and video
7 surveillance services or equipment or services as described in 2 CFR 200.216 to: (1) Procure or obtain,
8 extend or renew a contract to procure or obtain; (2) Enter into a contract (or extend or renew a
9 contract) to procure; or (3) Obtain the equipment, services, or systems. Certain prohibited equipment,
10 systems, or services, including equipment, systems, or services produced or provided by entities
11 identified in section 889, are recorded in the System for Award Management exclusion list.

12

13 **SUPER CROSS-CUTTERS:**

14 -Title VI of the Civil Rights Act

15 -Section 13 of the Federal Water Pollution Control Act Amendments of 1972

16 -Section 504 of the Rehabilitation Act of 1973

17 -The Age Discrimination Act of 1975

18 -Equal Employment Opportunity requirements (Executive Order 11246)

19