

GILMORE & BELL, P.C.  
DRAFT – MAY 26, 2024  
FOR DISCUSSION PURPOSES ONLY

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PURCHASE AGREEMENT

Dated as of August 1, 2024

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by and between the

MISSOURI DEPARTMENT OF NATURAL RESOURCES

and the

CITY OF LEE’S SUMMIT, MISSOURI

relating to

NOT TO EXCEED \$153,000  
REVENUE ANTICIPATION NOTE  
(STATE OF MISSOURI – LEAD SERVICE LINE INVENTORY LOAN PROGRAM)  
SERIES 2024

OF THE

CITY OF LEE’S SUMMIT, MISSOURI

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## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this “Agreement”) is entered into as of August 1, 2024, between the MISSOURI DEPARTMENT OF NATURAL RESOURCES, a department of the State of Missouri, and its successors and assigns (“DNR”), and the CITY OF LEE’S SUMMIT, MISSOURI, a home rule constitutional charter city and political subdivision of the State of Missouri (the “Participant”). *Terms not otherwise defined in the Recitals or Section 1.1 of this Agreement have the meanings set forth in the below-defined Ordinance.*

### RECITALS

1. Pursuant to 10 CSR 60-13.020 through 10 CSR 60-13.025 and 10 CSR 60-13.030 of the Code of State Regulations, DNR, in cooperation with the Safe Drinking Water Commission of the State of Missouri (the “Commission”), has developed and implemented the State of Missouri Drinking Water State Revolving Fund Lead Service Line Inventory Loan Program (the “LSLI Loan Program”) and has stated its intent to make loans to political subdivisions and other qualified recipients of the State of Missouri.

2. The Commission has approved (a) a loan to the Participant to be made by DNR pursuant to this Agreement (the “Loan”) and (b) a grant to the Participant to be administered by DNR pursuant to the Grant Agreement.

3. DNR and the Participant have entered into this Agreement to (a) provide for the Loan to finance lead service line inventory services for certain publicly-owned or other qualified drinking water treatment facilities (the “Project” as further described herein), (b) set forth the parties’ respective covenants and agreements respecting the application of the net proceeds of the Loan and the implementation of the Project, and (c) satisfy the obligations of DNR under the Federal Act and EPA guidance related to the LSLI Loan Program.

4. The Loan will be evidenced by the Note of the Participant delivered to DNR, as owner of the Note (the “Owner”), in the form authorized by an ordinance of the Participant (the “Ordinance”).

### AGREEMENT

#### ARTICLE I

#### DEFINITIONS

Section 1.1 Definitions. In addition to words and terms defined in the Recitals, elsewhere in this Agreement and in the Ordinance, capitalized words and terms have the following meanings in this Agreement:

“Actual Reimbursement Amount” means the amount of a Requisition approved for payment in accordance with Section 3.3.

“Authorized Representative” means any person designated in writing by a certificate executed by the Participant and filed with DNR.

“Business Day” means any day other than a Saturday, a Sunday or any other day that banking institutions in the State are authorized or required to be closed.

“CFR” means the Code of Federal Regulations.

“Closing Date” means the date of the initial issuance and delivery of the Note.

“Completion of Funding” means the date, established by the Participant, that no further Requisitions will be submitted by the Participant, and therefore no further Purchase Price Installments will be funded by DNR, as evidenced by a written certificate executed by the Authorized Representative and filed with DNR.

“Costs of Issuance” means, collectively, all costs of issuing the Note as certified by the Participant.

“Cumulative Principal Amount Outstanding” means the sum of (a) the initial Purchase Price Installment paid by the Owner to the Participant on the Closing Date, plus (b) each additional Purchase Price Installment, as notated on the Note by the Owner, less (c) the principal amount redeemed pursuant to the terms of the Ordinance.

“Disbursement” means each amount advanced to the Participant by DNR under this Agreement to pay Eligible Costs and Costs of Issuance, in an amount equal to the applicable Purchase Price Installment disbursed to the Participant pursuant to Section 3.3.

“Eligible Costs” means Project Costs determined by DNR to be eligible under the Regulations.

“EPA” means the Environmental Protection Agency.

“Event of Default” means an “Event of Default” as defined in Article VI.

“Federal Act” means the Federal Safe Drinking Water Act, 42 U.S.C. Section 300f, *et seq.*, as amended.

“Fiscal Year” means the fiscal year of the Participant, currently July 1 to June 30.

“Funding Sources” means the sources identified by DNR from time to time to fund the Loan.

“Governing Body” means the Participant’s City Council.

“Grant” means the grant to the Participant administered by DNR pursuant to the Grant Agreement, in the maximum amount of \$102,500 (or such higher amount as may be approved by the Commission and DNR), funded in installments.

“Grant Agreement” means the Financial Assistance Agreement dated on or prior to the Closing Date, between the Participant and DNR, together with all related attachments, as supplemented, modified or amended in accordance with its terms.

“Ineligible Costs” means Project Costs that are not Eligible Costs.

“Loan” means the loan by DNR to the Participant, funded in installments from the Funding Sources in accordance with, and subject to the terms and conditions of, this Agreement. The Loan is evidenced by the Note.

“Maximum Principal Amount” means \$153,000.

“Note Payments” means the amounts required to be paid by the Participant in repayment of the Note pursuant to Section 4.1.

“Note” means the Revenue Anticipation Note (State of Missouri – Lead Service Line Inventory Loan Program) Series 2024, issued by the Participant pursuant to the Ordinance.

“Ordinance” means the ordinance of the Participant, passed on [\*\*MEETING DATE\*\*], authorizing the issuance of the Note, as supplemented, modified or amended in accordance with its terms.

“Program Bond Counsel” means Gilmore & Bell, P.C., or another attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing engaged by DNR.

“Project” means the development of a Lead Service Line Inventory consistent with the requirements described in the FFY 2024 Drinking Water SRF Intended Use Plan (Appendix 8) to identify service line material for the System to be in compliance with the Lead and Copper Rule Revisions for eligible LSL Funding Program costs. The Project further includes all changes agreed to in writing by the Participant and DNR.

“Project Completion” means the date on which the Participant certifies that the Project has been completed in accordance with Section 3.4.

“Project Costs” means all costs or expenses that are necessary, incident or directly attributable to the Project, consisting of Eligible Costs and Ineligible Costs, if any.

“Purchase Price Installment” means the amount disbursed to the Participant by DNR from time to time in accordance with Section 3.3.

“Regulations” means 10 CSR 60-13.020 through 10 CSR 60-13.025 and 10 CSR 60-13.030 of the Code of State Regulations, as amended.

“Requisition” means a Drinking Water Reimbursement Form in substantially the form of Exhibit A, with such changes as are approved by DNR with written notice to the Participant.

“SRF Program” means the Missouri Leveraged State Drinking Water Revolving Fund Program, the Missouri Leveraged State Water Pollution Control Revolving Fund Program, the State of Missouri Drinking Water State Revolving Fund Direct Loan Program, and/or the State of Missouri Clean Water State Revolving Fund Direct Loan Program.

“State” means the State of Missouri.

“Supplemental Agreement” means any agreement supplementing or amending this Agreement pursuant to Section 7.5.

## Section 1.2 Interpretation.

(a) The words “herein,” “hereof” and “hereunder” and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any particular section or subdivision of this Agreement.

(b) References in this Agreement to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Agreement as originally executed.

(c) The Table of Contents and titles of articles and sections herein are for convenience of reference only and are not a part of this Agreement, and shall not define or limit the provisions of this Agreement.

(d) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(e) Words importing person shall include partnerships, limited liability companies, associations and corporations, including public bodies, as well as natural persons.

(f) Articles, sections, subsections and clauses mentioned by number only are those so numbered that are contained in this Agreement.

(g) Any opinion of counsel required under this Agreement shall be a written opinion of such counsel.

(h) Wherever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

(i) When used in this Agreement, “day” means “calendar day.”

Section 1.3 DNR Actions. All approvals, notices, consents and other actions of DNR under this Agreement (other than the execution of this Agreement and any amendments hereto) will be executed by the Director of the Financial Assistance Center of DNR (or any other person designated from time to time by the Director of DNR by a written instrument filed with the Participant), who shall have continued authority to grant such approvals and consents, deliver notices and perform other actions of DNR under this Agreement.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of Participant. The Participant represents to and covenants with DNR, as follows:

(a) Organization and Authority.

(i) The Participant is a home rule constitutional charter city and political subdivision duly created and validly existing under the laws of the State and has the necessary power and authority to own its properties and carry on its governmental functions as now being conducted.

(ii) The Participant has full legal right and authority and all necessary licenses and permits required as of the date of this Agreement to own, operate and maintain the System, to carry on its activities relating to the System, to undertake and complete the Project, to approve, execute and deliver this Agreement, the Note and the Ordinance, and to carry out its agreements under this Agreement, the Note and the Ordinance.

(iii) This Agreement, the Note, the Ordinance and all other ordinances, resolutions or proceedings of the Participant authorizing the Participant to undertake and complete the Project and execute and deliver this Agreement and the Note have been duly authorized, executed and delivered by the Participant, and constitute the legal, valid and binding obligations of the Participant enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and to the exercise of judicial discretion in accordance with general principles of equity.

(b) Full Disclosure. To the best knowledge of the Participant, after due investigation, there is no fact that the Participant has not disclosed to DNR in writing on the Participant's application for participation in the LSLI Loan Program, or otherwise, that materially and adversely affects or that will materially and adversely affect the properties or activities of the Participant or the System, or the ability of the Participant to make all Note Payments and otherwise observe and perform its agreements under this Agreement.

(c) Pending Litigation. To the best knowledge of the Participant, after due investigation, there are no proceedings pending or, to the knowledge of the Participant, threatened against or affecting the Participant, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Participant or the System, or the ability of the Participant to make all Note Payments and otherwise observe and perform its agreements under this Agreement, that have not been disclosed in writing to DNR in the Participant's application for participation in the LSLI Loan Program or otherwise.

(d) Compliance with Existing Laws and Agreements. The agreements of the Participant in this Agreement will not constitute a default under any indenture, mortgage, deed of trust, lease or agreement or other instrument executed by the Participant or by which it or any of its property is bound or any applicable law, rule, regulation or judicial proceeding.

(e) No Defaults. No event has occurred and no condition exists that constitutes or, with the giving of notice or the lapse of time, would constitute an Event of Default. To the knowledge of the Participant, after due investigation, the Participant is not in violation of any agreement that would materially adversely affect the ability of the Participant to make all Note Payments or otherwise observe and perform its agreements under this Agreement.

(f) Governmental Consent. To the best of its knowledge, the Participant has made all filings that it is obligated to make with, and has obtained all permits, licenses, franchises, consents, authorizations and approvals required to date from, all federal, state and local regulatory agencies having jurisdiction to the extent, if any, required by applicable laws and regulations to be made or to be obtained in undertaking the Project or this Agreement. To the best of its knowledge, the Participant has complied with all applicable provisions of law requiring any notification to any governmental body or officer in connection with this Agreement or with the undertaking, completion or financing of the Project.

(g) Source for Repayment. The Participant has established a dedicated revenue source for the repayment of the Loan. The dedicated source of revenue includes the full faith, credit and resources of the Participant including the anticipated revenue yet to be collected before the end of the current year plus any unencumbered balances from the current year and from prior years.



(h) Performance Under Agreement. The Participant covenants and agrees:

(i) to comply with all applicable State and federal laws, rules and regulations in the performance of this Agreement, including federal laws and executive orders referenced in Exhibit B to the extent applicable; and

(ii) to cooperate with DNR in the timely observance and performance of the respective agreements of the Participant and DNR under this Agreement.

(i) Bid Solicitations. The Participant acknowledges that doing business with any party appearing in the “List of Parties Excluded from Federal Procurement or Non Procurement Programs” may result in the termination of the Participant’s participation in the LSLI Loan Program and may also result in suspension or debarment under the Regulations. The Participant will obtain the written approval of DNR before advertising for bids.

(j) Disadvantaged Business Enterprises (“DBEs”). MBE/WBE reporting is required where there are funds budgeted for procuring construction, equipment, services and supplies, that exceed the threshold amount of \$250,000, including any amendments and/or modifications. Once the threshold is exceeded, all procurement actions are reportable, not just that portion that exceeds the threshold. The Participant shall utilize EPA form 5700-52A to annually report to DNR procurements for the Project. Annual reports are due by October 30<sup>th</sup> of each year. Final reports are due by October 30<sup>th</sup> or 90 days after the end of the Project period, whichever comes first.

(k) Prevailing Wage. The Participant will require any Project contractor and subcontractor to pay all laborers and mechanics employed by the contractor or subcontractor at rates not less than the greater of (i) those rates prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act), as required by the Consolidated Appropriations Act, 2012 (P.L. 112-74) or (ii) those rates required pursuant to Chapter 290 of the Revised Statutes of Missouri, as amended. The Participant agrees to include information about these requirements in solicitation documents.

(l) Retainage. The Participant shall comply with the provisions of Section 8.960 of the Revised Statutes of Missouri, as amended, with respect to the amount of any retainage required to be withheld on any construction contract or subcontract for the Project.

(m) Completion of Project and Provision of Moneys. The Participant agrees:

(i) to exercise its best efforts in accordance with prudent drinking water treatment utility practice to complete the Project in a timely manner; and

(ii) subject to the provisions of the Ordinance, to provide from its own financial resources all moneys in excess of the amount available under this Agreement to complete the Project.

(n) Requests for Funding; Use of Proceeds. The Participant will request the funding of Purchase Price Installments to pay Eligible Costs in accordance with this Agreement to the extent the sum of Purchase Price Installments and Costs of Issuance has not exceeded the Maximum Principal Amount, in order to provide for the prompt payment of the contractors. The Participant will apply the Disbursements to finance a portion of the Project Costs, and, where applicable, to reimburse the Participant for a portion of the Project Costs, which portion was paid or incurred in anticipation of reimbursement from moneys

held in the Project Fund and is eligible for reimbursement pursuant to the Regulations. All costs will be Eligible Costs that DNR is authorized to finance pursuant to the Federal Act and the Regulations.

(o) Notice of Completion. The Participant will provide written notice of the Project Completion to DNR within 45 days after the occurrence of each of these events.

(p) Retention of Project Records. The Participant will retain all Project records in accordance with Chapter 109 of the Revised Statutes of Missouri, as amended.

(q) Operations and Maintenance of System. The Participant will, in accordance with prudent drinking water treatment utility practice,

(i) at all times operate the System in an efficient manner,

(ii) maintain the System in good repair, working order and operating condition over the structural and design life of the System,

(iii) in accordance with 10 CSR 60-14.020 of the Regulations, provide a certified operator for the life of the System.

(r) Records and Accounts; Audits.

(i) The Participant will keep accurate records and accounts for the System (the "System Records") separate and distinct from its other records and accounts (the "General Accounts"). The System Records and General Accounts will be available for inspection by DNR at any reasonable time.

(ii) The Participant will maintain the System Records in accordance with accounting principles generally accepted in the United States of America as codified in the Governmental Accounting Standards Board's *Codification of Governmental Accounting and Financial Reporting Standards (Codification)*.

(A) The Participant will use the accrual or modified accrual basis of accounting (in order to provide an effective measure of costs and expenditures) for the System Records.

(B) The Participant may use an accounting method other than accounting principles generally accepted in the United States of America for its General Accounts.

(iii) Promptly after the end of each Fiscal Year, the Participant will cause an audit of the System for the preceding Fiscal Year to be made by a certified public accountant or firm of certified public accountants employed for that purpose. The annual audit will cover in reasonable detail the operation of the System during the Fiscal Year. So long as the Loan is outstanding, within 180 days after the end of the Participant's Fiscal Year, a copy of the audit will be delivered (via regular mail or electronically) to DNR. If audited financial statements are not available by the time required pursuant to this Section, the Participant shall notify DNR in writing of the delay with the expected date of completion.

(iv) If notified by DNR, the Participant will comply with OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Grants Guidance), governing the audit of state and local governments, if the Participant

expends during any Fiscal Year an aggregate amount of \$1,000,000 or more of federal assistance (1) under the SRF Program and the LSLI Loan Program and (2) from other federal sources.

(A) A copy of the Participant's annual audit, including the written comments and recommendations of the Participant's auditor, will be furnished to DNR within the time period provided in OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Grants Guidance).

(B) The amount of federal assistance to the Participant under the SRF Program and LSLI Loan Program for each Fiscal Year will be identified in each payment review letter transmitted to the Participant by DNR.

(v) In accordance with, and subject to the requirements of, Section 29.235 of the Revised Statutes of Missouri, as amended, the Participant will (A) make available to the State auditor, or his or her designee, all books, accounts, records, reports, vouchers and other documents relating to the Project and the Loan and (B) permit the examination and inspection of all property constituting the Project.

(s) Inspections; Information. The Participant will permit the EPA, the DNR and any party designated by DNR to examine, visit and inspect all property constituting the Project at any reasonable time and to inspect and make copies of any accounts, books and records, including its records regarding receipts, disbursements, contracts, investments, its financial condition and other related matters, and will supply such reports and information as the EPA and DNR may reasonably require.

(t) Insurance. The Participant will carry and maintain the amount of all risk insurance on the properties and operations of the System as would be carried by similar municipal operators of drinking water treatment facilities, insofar as the properties are insurable at a commercially reasonable cost.

(u) Notice of Material Adverse Change. The Participant will promptly notify DNR of any material and adverse change in the activities, prospects or condition (financial or otherwise) of the System or in the ability of the Participant to make the Note Payments and otherwise observe and perform its agreements under this Agreement.

(v) Completion Required Without Regard to Sufficiency of Loan. Subject to the provisions of the Ordinance, the Participant agrees to complete the Project whether or not the proceeds from the Loan are sufficient to complete the Project.

(w) Signage - Enhancing Public Awareness. The Participant agrees to comply with the Guidelines for Enhancing Public Awareness of SRF Assistance Agreements, issued by EPA and dated June 3, 2015.

(x) Signage - Bipartisan Infrastructure Law. Pursuant to the terms and conditions of the Infrastructure Investment and Jobs Act, the Participant will ensure that a sign is placed at construction sites supported under this award displaying the official "Building A Better America" emblem and must identify the Project as a "project funded by President Biden's Bipartisan Infrastructure Law." Construction is defined at 40 CFR 33.103 as "erection, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other improvements to real property, and activities in response to a release or a threat of a release of a hazardous substance into the environment, or activities to prevent the introduction of a hazardous substance into a water supply." The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

Section 2.2     Representations of DNR. DNR represents as follows:

- (a) DNR is a department of the State and a governmental instrumentality duly organized and existing under the laws of the State with lawful power and authority to enter into this Agreement acting by and through its duly authorized officers.
- (b) DNR is the State's administrative body responsible for the enforcement of the Federal Act and Chapter 644 of the Revised Statutes of Missouri, as amended, and is responsible for the management of the LSLI Loan Program. DNR will comply with the terms and conditions of its agreements with EPA applicable to the LSLI Loan Program.
- (c) DNR commits to fund the Loan from one or more of the following sources (provided DNR may modify the sources if DNR has the legal authority to commit the replacement sources to the funding of the Loan):
  - (i) any available funds pursuant to a capitalization grant agreement with the EPA;
  - (ii) any available funds designated as the State's required matching funds necessary to receive ongoing capitalization grants from the EPA; and
  - (iii) The Water and Wastewater Loan Revolving Fund.
- (d) This Loan has been designated as a "federal equivalency project" for Capitalization Grant No. 4L-96707901.
- (e) The execution, delivery and performance of this Agreement by DNR will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or agreement or other instrument to which DNR is a party or by which it or any of its property is bound or any applicable law, rule or regulation.

ARTICLE III

EXECUTION OF AGREEMENT; TERMS OF LOAN

Section 3.1     Execution and Delivery of Agreement. Simultaneously with the execution of this Agreement, the Participant will deliver to DNR the following:

- (a) a certified copy of the Ordinance and the minutes (or an excerpt thereof) of the meeting of the Participant's Governing Body showing the passage of the Ordinance;
- (b) the executed and authenticated Note in the Maximum Principal Amount;
- (c) an executed counterpart of this Agreement and the Grant Agreement;
- (d) a certificate of the Participant executed by the Authorized Representative in form and substance satisfactory to DNR; and
- (e) a signed copy of the opinion of Program Bond Counsel to the effect that the execution and delivery of this Agreement and the Note have been duly authorized by the Participant; this Agreement and the Note have been duly and validly executed and delivered by the Participant and constitute valid and binding obligations of the Participant enforceable in accordance with their terms; and the Note is a valid and binding special, limited obligation of the Participant

payable from, and secured by a pledge of the full faith, credit and resources of the Participant from anticipated revenue yet to be collected before the end of the current year plus any unencumbered balances from the current year and from prior years. In rendering the foregoing opinion, Program Bond Counsel may take an exception on account of bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally and by equitable principles, whether considered at law or in equity.

Section 3.2     Maximum Principal Amount of Loan. Subject to the provisions of this Agreement, DNR will make the Loan in installments to the Participant in the aggregate amount not to exceed the Maximum Principal Amount to pay Eligible Costs of the Project and to pay Costs of Issuance. The Maximum Principal Amount may be reduced without revision of any other terms, provisions or conditions of this Agreement to reflect reductions in the estimated or actual total Eligible Costs as impacted by bid openings, change orders, final actual costs, and prepayments. The Loan is evidenced by the Note.

Section 3.3     Funding of Purchase Price Installments and Disbursements.

(a)     DNR will fund Purchase Price Installments and moneys will be disbursed to the Participant only once each calendar month in accordance with this Section. Purchase Price Installments will be deposited by the Participant when received in the Project Fund established under the Ordinance.

(b)     The Participant will deliver, by overnight delivery, regular mail service or electronic mail, a completed Requisition to DNR. The Requisition must be executed by the Authorized Representative, set forth the amounts due and payable to the payees identified in signed invoices or statements attached to the Requisition submitted to DNR, and contain any additional information requested by DNR. The execution and delivery of a Requisition will constitute a representation by the Participant that, to the best of its knowledge, the amounts for which a Requisition is submitted are due and payable and constitute Eligible Costs and/or Costs of Issuance. Notwithstanding any provision herein to the contrary, no Requisition is required for the initial Purchase Price Installment to pay Costs of Issuance.

(c)     DNR will use its best efforts to review a Requisition within ten Business Days after its receipt to determine if any Project Costs are Ineligible Costs. This determination will be conclusive, unless determined otherwise by EPA in its annual oversight reviews. DNR will not approve any Requisition upon an Event of Default by the Participant or the issuance of a stop-work order by EPA or DNR.

(d)     Upon DNR's approval of a Requisition, DNR will fund a Disbursement of the Loan in an amount equal to the Actual Reimbursement Amount by electronic transfer of funds to the Participant for further deposit by the Participant in the Project Fund. Such Disbursement shall be considered a Purchase Price Installment of the Note. Participant will administer funds on deposit in the Project Fund in accordance with the Ordinance.

Section 3.4     Project Completion. Project Completion shall be evidenced to DNR by a certificate signed by the Authorized Representative stating (a) that the Project has been completed in accordance with professional agreements therefor, (b) that all Project Costs have been paid, except Project Costs the payment of which is not yet due or is being retained or contested in good faith by the Participant, and (c) the date of the Project Completion. The Participant's certificate must be accompanied by a completed lead service line inventory study prepared by the Consulting Engineer that was engaged to complete the Project. The Participant's certificate may state that it is given without prejudice as to any rights of the Participant against third parties that exist as of the date of the certificate or that may subsequently come into being.

Section 3.5     Completion of Funding.

(a)     The Completion of Funding will be the date of a certificate signed by the Authorized Representative and delivered to DNR stating that no further funding of Purchase Price Installments will be requested by the Participant. DNR may direct the Participant to sign and deliver a Completion of Funding certificate in appropriate circumstances. Appropriate circumstances include, but are not limited, to the following:

(i)     the Participant appears to have satisfied or is in a position to satisfy the conditions set forth in Section 3.4 for completion of the Project and/or has filed the certificate described in Section 3.4 but has not filed the Completion of Funding certificate in a timely manner;

(ii)    the Participant has not submitted a Requisition for a significant period of time or otherwise demonstrated that the Participant is proceeding with due diligence to complete the Project; or

(iii)   Completion of Funding has not occurred by the first anniversary of the Closing Date.

(b)     Within 10 Business Days after the Participant has delivered the Completion of Funding certificate, DNR will provide a final debt service schedule for the Note.

ARTICLE IV

PAYMENTS

Section 4.1     Note Payments. The Participant will repay the Loan by making the Note Payments in accordance with the Ordinance.

Section 4.2     Costs of Issuance. The Participant will pay all Costs of Issuance.

Section 4.3     Loan Prepayment. The Participant may prepay the Loan by complying with the redemption provisions for the Note as set forth in the Ordinance. The Participant will be responsible for the payment of any professional costs, fees and expenses incurred in connection with the prepayment of the Loan.

ARTICLE V

ASSIGNMENTS; SALE, LEASE OR DISPOSAL OF THE PROJECT

Section 5.1     Assignment by DNR. The Participant acknowledges that DNR may, in its sole discretion, assign the Note and its right, title and interest in this Agreement, in whole or in part, including the right to receive Note Payments from the Participant, to the State Environmental Improvement and Energy Resources Authority or its assignee or otherwise.

Section 5.2     Assignment by the Participant; Sale, Lease or Disposal of the Project. This Agreement may be assigned by the Participant only with the prior written consent of DNR. The Participant may sell, lease, mortgage or otherwise dispose of the Project with the prior written consent of DNR. In the event of sale, lease, mortgage or other disposition of the Project, the Participant will apply the proceeds to the full redemption of the Note in accordance with the provisions of the Ordinance (regardless of the amount

of the disposition proceeds). If the Note are required to be redeemed as provided above, the proceeds of the sale, lease, mortgage or other disposition will be deposited as directed in writing by DNR.

## ARTICLE VI

### EVENTS OF DEFAULTS AND REMEDIES

Section 6.1     Events of Default. Any of the following events will be an “Event of Default” under this Agreement:

- (a)     failure by the Participant to pay, or cause to be paid, any Note Payment required to be paid when due;
- (b)     failure by the Participant to observe and perform any agreement under this Agreement, the Grant Agreement or the Ordinance, other than as referred to in paragraph (a) of this Section, and the continuation of the failure for a period of 30 days after written notice is given pursuant to Section 6.2. If the failure stated in the notice is correctable but cannot be corrected within the applicable period and corrective action is instituted and diligently pursued by the Participant, DNR may not unreasonably withhold its consent to an extension to the date that is 90 days after the delivery of the original notice;
- (c)     any representation made by or on behalf of the Participant in this Agreement, the Grant Agreement, the Ordinance, the Participant’s due diligence request form provided to DNR or in any instrument furnished in compliance with or with respect to this Agreement, is determined by DNR to be false or misleading in any material respect;
- (d)     a petition is filed by or against the Participant under any federal or state bankruptcy or insolvency law or other similar law, unless any petition filed against the Participant is dismissed within 30 days after filing and the dismissal is final and not subject to appeal; and
- (e)     the Participant generally fails to pay its debts as they become due.

Section 6.2     Notice of Default. The Participant will give DNR prompt telephonic notice of the occurrence of any Event of Default referred to in Section 6.1(d) or (e) and of the occurrence of any other event or condition that, with the passage of time or the giving of notice, would constitute an Event of Default. Telephonic notice will be immediately followed by written notice of the Event of Default. Notice of default given to the Participant will specify the event or condition, state that the event or condition constitutes an Event of Default if not remedied, and request that the event or condition be remedied. Except as provided in the first sentence of this Section, notice will be given in the manner provided in Section 7.3.

Section 6.3     Remedies on Default. Whenever an Event of Default has occurred and is continuing, DNR will have the right to take whatever action at law or in equity or as otherwise provided by law, including monthly withholdings equal to any delinquent Note Payment, to the extent permitted by law, pursuant to Section 644.125 of the Revised Statutes of Missouri, as amended.

Section 6.4     Attorneys’ Fees and Other Expenses.

(a)     Upon (i) an Event of Default or (ii) the occurrence and continuance of any event that, with the giving of notice, lapse of time, or both, would constitute an Event of Default, the Participant, on demand, will pay to DNR the reasonable fees and expenses of attorneys and other reasonable costs and expenses

(including, but not limited to, the reasonably allocated costs of in-house counsel and legal staff) incurred by DNR in the collection of Note Payments or the enforcement of any agreements of the Participant.

(b) Prior to incurring any fees, costs and expenses pursuant to this Section, DNR will provide written notice to the Participant that it intends to incur fees, costs and expenses. Failure by DNR to give the notice will not affect DNR's right to receive payment for attorneys' fees and expenses under this Section. Upon request by the Participant, DNR will provide the Participant with copies of statements evidencing the fees, costs and expenses for which DNR is requesting payment. The statements may be edited to maintain the attorney-client privilege.

Section 6.5 Application of Moneys. Any moneys collected by DNR under Section 6.3 will be applied first, to pay principal on the Note then due and payable, second, to pay the fees, costs and expenses owed by the Participant under Section 6.4, and third, to pay any other amounts due and payable under this Agreement.

Section 6.6 No Remedy Exclusive; Waiver; Notice. No remedy conferred upon or reserved to DNR is intended to be exclusive and every remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default will impair any right, remedy or power or will be construed as a waiver. Any right, remedy or power may be exercised from time to time and as often as may be deemed expedient. DNR is not required to give notice to the Participant in advance of the exercise of any right, remedy or power reserved to it in this Article, except as expressly provided in this Article.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1 Effect of Breach. Failure on the part of DNR in any instance or under any circumstances to observe or fully perform any obligation assumed by or imposed upon it by this Agreement or by law will not make DNR liable in damages to the Participant or relieve the Participant from making any payment to DNR or fully performing any other agreement under this Agreement. The Participant may have and pursue any other remedies provided by law for compelling performance by DNR of any agreement of DNR.

Section 7.2 Termination of Agreement. This Agreement will terminate upon the payment in full of the Note under the Ordinance.

Section 7.3 Notices. All notices, filings and other communications will be given by overnight or first class mail, postage pre-paid, or sent by electronic mail, telegram, telecopy or telex or other similar communication or delivered by a reputable private courier or overnight delivery service, addressed as follows:

Participant:

City of Lee's Summit, Missouri  
1200 SE Hamblen Road  
Lee's Summit, Missouri 64081  
Attention: Utility Manager



DNR:

Missouri Department of Natural Resources  
Financial Assistance Center  
1101 Riverside Drive, P.O. Box 176 (Zip Code 65102)  
Jefferson City, Missouri 65101  
Attention: Director  
Email: [deqwpcpfacaccounting@dnr.mo.gov](mailto:deqwpcpfacaccounting@dnr.mo.gov)

Each party may change its address by giving written notice of the new address to the other parties.

Section 7.4 Exculpatory Provision. In exercising powers under this Agreement, the Participant and DNR and their members, directors, officers, employees and agents will not be liable to any other party to this Agreement (a) for any actions taken or omitted by it or its members, officers, directors, employees or agents in good faith and believed by it or them to be authorized or within their discretion or rights or powers conferred upon them, or (b) for any claims based on this Agreement against any member, director, officer, employee or agent of the Participant or DNR in his or her individual capacity.

Section 7.5 Amendment. This Agreement may be amended or supplemented by a written instrument executed by the parties, subject to the requirements of the Federal Act and regulatory authority of EPA that The Water and Wastewater Loan Fund be operated in a manner that preserves The Water and Wastewater Loan Fund in perpetuity for its designated purposes and to provide necessary and ongoing assistance to communities to attain and maintain compliance with the Federal Act.

Section 7.6 Electronic Transactions. The transactions described in this Agreement may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 7.7 Severability of Invalid Provisions. If any agreement provided in this Agreement is contrary to law, that agreement will be severable from the remaining agreements and will not affect the validity of the other provisions of this Agreement.

Section 7.8 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which will be regarded for all purposes as one original and constitute one and the same instrument.

Section 7.9 Applicable Law. This Agreement will be governed exclusively by the laws of the State.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized officers or signatories and dated as of the day and year first above written.

MISSOURI DEPARTMENT  
OF NATURAL RESOURCES

By: \_\_\_\_\_  
Authorized Officer

CITY OF LEE'S SUMMIT, MISSOURI

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Mayor

(SEAL)

ATTEST:

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City Clerk

Taxpayer Identification No.: 43-6000208

## EXHIBIT A

## FORM OF REQUISITION

MISSOURI DEPARTMENT OF NATURAL RESOURCES FINANCIAL ASSISTANCE CENTER STATE REVOLVING FUND REIMBURSEMENT FORM			
<b>RECIPIENT ORGANIZATION:</b> City of Lee's Summit 1200 SE Hamblen Road Lee's Summit, MO 64081		<b>PAYMENT REQUEST NUMBER:</b> _____ <b>LOAN TRUSTEE:</b> UMB BANK, NA IN TRUST FOR LEE'S SUMMIT 2 S. BROADWAY, SUITE 600 ST. LOUIS, MO 63102	
<b>FUNDING PROGRAM:</b> <b>FUNDING TYPE:</b> SRF GRANT AND LEAD LOAN <b>PROJECT NUMBER:</b> DWLSL-164-23		If applicable, check here if are you requesting release of retainage. _____	
ELIGIBLE PROJECT COSTS INCURRED (EXCLUDING RETAINAGE) <small>Show construction, engineering, administrative costs, etc.</small>	Current Period	Cumulative	Office Use Only
A. <i>Cost of Issuance at Loan Closing</i>			
B.			
C.			
D.			
E.			
F.			
G.			
H.			
I.			
J.			
K.			
Z. Total from continuation sheet (lines L - Y)			
AA. Eligible costs incurred to date			
<b>FOR OFFICE USE ONLY</b>	BB. TOTAL APPROVED ELIGIBLE COSTS TO DATE		BB.
	CC. LESS AMOUNT PREVIOUSLY APPROVED FROM SRF GRANT		CC.
	DD. LESS AMOUNT PREVIOUSLY APPROVED FROM SRF LOAN		DD.
	EE. AMOUNT PAYABLE TO RECIPIENT FROM SRF GRANT _____		EE.
	FF. AMOUNT PAYABLE TO RECIPIENT FROM SRF LOAN _____		FF.
<b>CERTIFICATION:</b> 1. By signing this form, I certify to the best of my knowledge and belief that the form is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.  2. The payrolls for this reimbursement request contain the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i) and that such information is correct and complete; and the project is in compliance with the requirements of 29 CFR 5.5(a)(1), based upon the most recent payroll copies.			
<b>RECIPIENT:</b>			
_____ Signature of authorized certifying official		_____ Typed or printed name and title	
		_____ Date signed	
<b>Office Use Only DNR REVIEWER:</b>			
_____ Signature of review official		_____ Typed or printed name and title	
		_____ Date signed	

CONTINUATION PAGE

**MISSOURI DEPARTMENT OF NATURAL RESOURCES  
FINANCIAL ASSISTANCE CENTER  
STATE REVOLVING FUND REIMBURSEMENT FORM**

PAGE \_\_\_\_\_ OF \_\_\_\_\_

**RECIPIENT ORGANIZATION:**  
City of Lee's Summit

**PAYMENT REQUEST NUMBER:** \_\_\_\_\_  
**PROJECT NUMBER:** DWLSL-164-23

ELIGIBLE PROJECT COSTS INCURRED (EXCLUDING RETAINAGE) Show construction, engineering, administrative costs, etc.	Current Period	Cumulative	Office Use Only
L.			
M.			
N.			
O.			
P.			
Q.			
R.			
S.			
T.			
U.			
V.			
W.			
X.			
Y.			
TOTAL THIS PAGE:			

EXHIBIT B  
FEDERAL REQUIREMENTS<sup>1,2</sup>

<u>CATEGORY</u>	<u>FEDERAL CITATION</u>	<u>EQUIV.</u>	<u>NON-EQUIV.</u>
<b><u>General</u></b>			
Davis Bacon and Related Acts (DBRA)	33 U.S.C. 1382(b)(6) 42 U.S.C. 300j-12(a)(5)	Yes	Yes
American Iron and Steel (AIS)	33 U.S.C. 1388 42 U.S.C. 300j-12(a)(4)	Yes	Yes
Architecture and Engineering Procurement (Brooks Act) ( <i>CWSRF only</i> )	33 U.S.C. 1382(B)(14)	Yes	-
Cost and Effectiveness ( <i>CWSRF only</i> )	33 U.S.C. 1382(B)(13)	Yes	Yes
Environmental Review (SERP)	40 CFR 35.3140 40 CFR 35.3580	Yes	Yes
Fiscal Sustainability Plans ( <i>CWSRF only</i> )	33 U.S.C. 1383(d)(1)(E)	Yes	Yes
Generally Accepted Accounting Principles	33 U.S.C. 1382(b)(9) 42 U.S.C. 300j-12(g)(3)	Yes	Yes
Signage: 2015 Enhancing Public Awareness	15-02	Yes	-
Signage: 2022 BIL		Yes	-
Single Audit	2 CFR Part 200, Subpart F	Yes	-
Technical, Managerial, and Financial Capacity Demonstration ( <i>DWSRF only</i> )	42 U.S.C. 300j-12(a)(13)	Yes	Yes
<b><u>Crosscutters: Environmental</u></b>			
Archaeological and Historic Preservation Act (AHPA)	16 U.S.C. 469 et seq. PL 93-291	Yes	-
Clean Air Act Conformity	42 U.S.C. 7401 et seq. PL 95-95	Yes	-

<sup>1</sup> As of February 2024

<sup>2</sup> Treatment Works only

<b><u>CATEGORY</u></b>	<b><u>FEDERAL CITATION</u></b>	<b><u>EQUIV.</u></b>	<b><u>NON-EQUIV.</u></b>
Coastal Barriers Resources Act	16 U.S.C. 3501 et seq. PL 97-348	Yes	-
Coastal Zone Management Act	16 U.S.C. 1451 et seq. PL 92-583	Yes	-
Endangered Species Act	16 U.S.C. 1531 et seq. PL 93-205	Yes	-
Farmland Protection Policy Act	7 U.S.C. 4201 et seq. PL 97-98	Yes	-
Floodplain Management - E.O. 11988 (1997) as amended by E.O. 13690 (2015)		Yes	-
Magnuson-Stevens Fishery Conservation Management Act	16 U.S.C. 1801 et seq. PL 94-265	Yes	-
National Historic Preservation Act (NHPA)	54 U.S.C. 300101 et seq. PL 89-655	Yes	-
Sole Source Aquifer, Section 1424(e) of SDWA	42 U.S.C. 300j-3e	Yes	-
Wetlands Protection E.O. 11990 (1977) as amended by E.O. 12608 (1987)		Yes	-
Wild and Scenic Rivers Act	16 U.S.C. 1271 et seq. PL 90-54	Yes	-
<b><u>Super Crosscutters: Social Policy</u></b>			
Civil Rights Laws: The Age Discrimination Act of 1975	42 U.S.C. 6102 et seq.	Yes	Yes
Civil Rights Laws: §13 of Federal Water Pollution Control Act Amendments of 1972 ( <i>CWSRF only</i> )	33 U.S.C. 1251 et seq. PL 92-500	Yes	Yes
Civil Rights Laws: §504 of Rehabilitation Act of 1973	29 U.S.C. 794 PL 93-112	Yes	Yes
Civil Rights Laws: Civil Rights Act of 1964, Title VI	42 U.S.C. 2000d et seq. PL 88-352	Yes	Yes

<u>CATEGORY</u>	<u>FEDERAL CITATION</u>	<u>EQUIV.</u>	<u>NON-EQUIV.</u>
<b><u>Crosscutters: Social Policy Authorities</u></b>			
Equal Employment Opportunity E.O. 11246 (1965)		Yes	Yes
Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations E.O. 12898 (2003)		Yes	-
Disadvantaged Business Enterprises (DBEs)	40 CFR Part 33	Yes	-
<b><u>Crosscutters: Economic &amp; Misc. Authorities</u></b>			
Administration of CAA (§306) & CWA (§508) with respect to Federal contracts, grants, or loans: E.O. 11738 (1973)	42 U.S.C. 7606 et seq. 33 U.S.C. 1368 et seq.	Yes	-
Build America, Buy America Act (BABA)	PL 117-58, §§ 70901-70927	Yes	-
Federal Funding Accountability and Transparency Act (FAFTA)	PL 109-282	Yes	-
Intergovernmental Review: Demonstration Cities and Metropolitan Development Act	42 U.S.C. 3331 et seq. PL 89-754	Yes	-
Intergovernmental Review: Intergovernmental Cooperation Act of 1968	42 U.S.C. 4201 et seq.	Yes	-
Intergovernmental Review: E.O. 12372, as amended (1983)	40 CFR Part 29	Yes	-
Prohibition on Certain Telecom and Video Surveillance Services/Equipment (National Defense Authorization Act)	2 CFR 200.216 PL 115-232 §889	Yes	-
Debarment and Suspension E.O. 12549 (1986)	2 CFR Part 180 2 CFR Part 1532	Yes	-
Uniform Grant Guidance Subaward Procurement and Monitoring ( <i>Grants only</i> )	2 CFR 200.317-327 2 CFR 200.331-333	Yes	Yes



<b><u>CATEGORY</u></b>	<b><u>FEDERAL CITATION</u></b>	<b><u>EQUIV.</u></b>	<b><u>NON-EQUIV.</u></b>
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)	42 U.S.C. 4601 et seq.40 CFR Part 449 CFR Part 24PL 91-646	Yes	-
Water Supply Cost Savings Self-Certification ( <i>DWSRF only</i> )	42 U.S.C. 300j-3d(b)	Yes	-

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