

PENNVEST Funding Offer

This Funding Offer is based upon the information submitted for consideration. This offer includes the amount of PENNVEST funding, interest rate, repayment term, as well as the standard terms and conditions that accompany the offer. You must review the offer in order to continue on to the settlement checklist and information collection process.

Description

Contact: Vahe Hovsepian

Project Number: 512033052107-CW

Status: Loan Closing

Project Title: Philadelphia - Lead - Linear Assets Drinking Water Line Replacement

Company: City of Philadelphia

Funding Offer

Board Approval Date:	10/20/2021
Loan Amount:	\$35,861,985.00
Non-Repayment Amount:	\$0.00
Credit Enhancement Amount:	\$0.00
Estimated Monthly Payments for Years 1 through 5:	\$164,927.23
Estimated Monthly Payments for Years 6 through Maturity:	\$174,089.43
Amortization Period in Months:	240
Interest Only Period:	(up to) 36
Interest Rate of Loan for Years 1 through 5:	1.000
Interest Rate of Loan for Years 6 through Maturity:	1.743
Credit Enhancement Type:	None
Credit Enhancement Fee:	\$0.00

Cost Break Down

PHASE	PENNVEST	LOCAL	TOTAL
Administrative	\$0.00	\$0.00	\$0.00
Legal	\$0.00	\$0.00	\$0.00
Financial/Accounting	\$0.00	\$0.00	\$0.00
Interest	\$0.00	\$0.00	\$0.00
Engineering	\$0.00	\$0.00	\$0.00
Permits	\$0.00	\$0.00	\$0.00
Lands	\$0.00	\$0.00	\$0.00
Construction	\$34,154,257.00	\$0.00	\$34,154,257.00
Contingency	\$1,707,728.00	\$0.00	\$1,707,728.00
Other	\$0.00	\$0.00	\$0.00
TOTAL	\$35,861,985.00	\$0.00	\$35,861,985.00

Collateral

Collateral

1. The bond of the City of Philadelphia secured by a parity first lien on its water and sewer revenues and the amounts in all of the funds and accounts (other than the Rebate Fund), established under the City's Restated General Water and Wastewater Revenue Bond Ordinance of 1989 (Bill No. 544 approved by the Mayor on June 24, 1993), as amended and supplemented (the "General Ordinance"). All rights of the Authority in and to the System Revenues, System Authorizations, Accounts, Account Collateral and Proceeds shall be subject to the rights of U.S. Bank National Association, as successor fiscal agent under the City's General Ordinance (the "Fiscal Agent"), or its successors in trust or assigns, for the equal and ratable benefit of the holders of all revenue bonds outstanding under the General Ordinance.

Special Conditions

2. Receipt of the annual audited financial statements of the City of Philadelphia or the Philadelphia Water Department for the term of the PENNVEST water construction loan.

3. The Paragraph entitled "Real Estate" in the PENNVEST Funding Offer shall be deleted in its entirety and replaced with the following: Real Estate. For all components of the Project not related to private service connections containing lead, Funding Recipient agrees to acquire all easements, rights-of-way, or other interests in real property needed for the construction of the project prior to Settlement on this Funding Offer, and to have its attorney opine that all real property interests are free and clear of all liens and encumbrances other than those liens and encumbrances which will not adversely interfere with the project. If property interests are being acquired through condemnation and appeal rights have not been waived, PENNVEST will not conduct Settlement until the appeal period has expired and any preliminary objections have been satisfactorily resolved. If PENNVEST assumes an interest in real estate as part of its collateral securing the PENNVEST funding, Funding Recipient agrees to obtain an appraisal and survey of the real estate and title insurance on the real estate on terms and conditions satisfactory to PENNVEST. For all components of the Project related to private service connections containing lead, Funding Recipient agrees to acquire or obtain all easements, licenses, rights-of-way, or other interests in real property, prior to the commencement of construction on a particular parcel, that are necessary to a) construct the project and b) maintain the improvements through Project Completion, as defined in Section D.1 (Completion of Construction) of the PENNVEST Funding Agreement.

4. The Paragraph entitled "Real Property Interests" in Section C (Representations and Warranties) of the PENNVEST Funding Agreement shall be deleted in its entirety. The following Paragraph shall be added to Section D (Covenants) of the PENNVEST Funding Agreement: REAL PROPERTY INTERESTS For all components of the Project not related to private service connections containing lead, the Funding Recipient has acquired sufficient interest in all Real Property to complete the Project. No real property interest pledged as part of the Project Collateral under the Project Specific Terms, attached hereto as Exhibit A, is subject to any lien, charge or encumbrance, other than those identified in the List of Liens, attached hereto as Exhibit B. All Easements necessary to complete the Project have been obtained and recorded in the applicable County Recorder of Deeds Office. All valid and binding leasehold interests necessary to complete the Project have been obtained for terms that exceed the term of the Debt Obligation. A complete list of all Real Property, including recording information and adequate information to demonstrate that all condemnation actions and preliminary objections to such action have been resolved, if applicable, has been provided by the Funding Recipient in the List of Real Property, attached hereto as Exhibit H and incorporated herein by reference. For all components of the Project related to private service connections containing lead, the Funding Recipient agrees to acquire or obtain all easements, licenses, rights-of-way, or other interests in real property, prior to the commencement of construction on a particular parcel, that are necessary to a) construct the project and b) maintain the improvements through Project Completion, as defined in Section D.1 (Completion of Construction) of the PENNVEST Funding Agreement. Prior to submitting the final request for the disbursement of funds, the Funding Recipient shall provide to PENNVEST a list of all properties where [lead laterals/lead private service laterals, lead-contaminated private service lines have been replaced], including the location of the property, the name of the current homeowner(s), the date all necessary real property interests were obtained, and any other information relevant to the identification of the properties where work has been performed (the "Real Property Information"). The parties hereby agree that each submission of Real Property Information will be considered an amendment to Exhibit H to the Funding Agreement (the "List of Real Property"). This Special Condition shall be deemed a representation and warranty of the Funding Recipient under this Funding Agreement and the Funding Recipient shall represent, warrant and certify compliance with the same upon the date of each request for the disbursement of funds.

5. At the time of Settlement, the Funding Recipient shall furnish to PENNVEST an opinion of the Funding Recipient's counsel, in a form satisfactory to PENNVEST, that among other things, the Funding Recipient has acquired, and has good and marketable title to, all real property interests necessary to complete this project. With regard to any real property interests related to the portion of the project that includes private service connections containing lead, PENNVEST will accept an opinion that the forms to be used by the Funding Recipient will be adequate to acquire good and marketable title to all real property interests necessary to a) construct the project and b) maintain the improvements through Project Completion, as defined in Section D.1 (Completion of Construction) of the PENNVEST Funding Agreement.

Terms And Conditions

General Financial Terms & Conditions

Funding Recipient

For purposes of this Funding Offer, Company may be referred to herein as Funding Recipient.

Funds Availability

Funding Recipient agrees that this Funding Offer is subject to the availability of PENNVEST funds.

Repayment

Funding Recipient agrees to repay PENNVEST in accordance with the terms set forth in this Funding Offer.

Settlement Date

Funding Recipient agrees to make every effort to confirm the contractual obligations with PENNVEST and to provide consideration for this Funding Offer ("Settlement") within one hundred eighty-two (182) days from the date the Board approved the original funding for this project ("Settlement Date"). In any event, if a Settlement Date does not occur within two hundred seventy-six (276) days from the date the Board approved the original funding for this project, this Funding Offer will terminate on the last day of the month in which the funding offer reaches two hundred seventy-six days after Board approval, unless there are extenuating circumstances which in PENNVEST's sole discretion require an extension.

Collateral

Funding Recipient agrees, if applicable, to secure repayment by providing the collateral set forth in this Funding Offer. Any change to the collateral set forth in the Funding Offer shall require a written request from the Funding Recipient and the consent of PENNVEST.

General Financial Terms & Conditions

Revenue Stream

If applicable, Funding Recipient agrees to provide, in a form satisfactory to PENNVEST, evidence that Funding Recipient has a revenue stream sufficient to repay the debt service on the financial assistance provided by PENNVEST, unless PENNVEST has approved the use of other collateral independent of the revenue stream to secure repayment. In addition, the Funding Recipient shall enact an ordinance, adopt a resolution, or take other such official action as may be appropriate, prior to Settlement, which provides for the implementation of sufficient rates or revenues to cover all operational and maintenance costs, the debt service on any PENNVEST loan and the debt service on all other outstanding debt of the Funding Recipient at least three (3) months prior to the scheduled amortization date (as defined in the Funding Agreement). In any event, Funding Recipient shall provide, in a form satisfactory to PENNVEST, a plan for repayment of any PENNVEST loan. If Funding Recipient is regulated by the Public Utility Commission ("PUC"), Funding Recipient agrees to take all necessary actions to obtain PUC approval of revenue stream rates.

Payment of Costs

Funding Recipient agrees, without condition, to pay all reasonable fees, expenses, taxes, costs and charges associated with the financial assistance being provided by PENNVEST, including but not limited to, title insurance premiums and search fees, survey costs, and recording and filing fees, if any.

Additional Information

Funding Recipient agrees that PENNVEST can require additional information or documentation and impose further conditions if PENNVEST deems necessary based upon review of the information submitted by the Funding Recipient.

Assignment

Funding Recipient agrees not to assign the proceeds from the financial assistance provided by PENNVEST without the prior written consent of PENNVEST. Any attempt at assignment without consent shall be void.

Modification

Funding Recipient agrees that no change or modification to this Funding Offer shall be valid unless and until PENNVEST initiates an amended Funding Offer and the Funding Recipient views the changes or modifications and elects to proceed with Settlement on the Funding Offer.

Entire Agreement

Funding Recipient further agrees that this Funding Offer represents the entire funding offer agreement between the parties. To the extent this offer represents an increase funding approval this offer integrates and includes any and all prior or contemporaneous agreements between the parties relating to this project.

General Financial Terms & Conditions

Survival

Funding Recipient agrees that the obligations set forth in this Funding Offer shall survive Settlement on the financial assistance and shall be continuing obligations until all required payments, including applicable interest and fees, have been made in full and all other obligations have been fully completed and discharged.

Outstanding Financial Assistance

Funding Recipient agrees that, to the extent that financial assistance requiring repayment was previously provided to funding recipient by PENNVEST and has not been fully repaid, Funding Recipient is in compliance with obligations under the prior funding documents and is not delinquent on repayment.

Refinancing

Funding Recipient shall not use PENNVEST funds to replace long-term financing that has been offered or committed to the Funding Recipient at reasonable rates as of the date of this Funding Offer.

Independent Audits

Funding Recipient agrees, if required by PENNVEST, to obtain independent audits of its financial documents and condition and to submit certified copies of such audits to PENNVEST.

Other Obligations

Funding Recipient agrees that accepting funding from PENNVEST will not result in a default by Funding Recipient on any other obligation of Funding Recipient, including but not limited to, a default pursuant to the terms of any bond offering, indenture, mortgage, restriction, lease, or other agreement. Funding Recipient agrees to provide PENNVEST with evidence that no such default will occur, in a form satisfactory to PENNVEST, prior to the Settlement Date.

Insurance

Funding Recipient agrees to maintain, or cause to be maintained, adequate business insurance coverage on its business assets for the term of the financial assistance including the construction period and to provide PENNVEST with evidence of such insurance, in a form satisfactory to PENNVEST, prior to the Settlement Date. In the event of a Brownfields project, Funding Recipient also agrees to obtain and cause to be maintained environmental cost cap and remediation liability insurance until such time that Funding Recipient receives a letter from DEP releasing the Funding Recipient from liability of known contaminants under Act 2, a later defined term. In the event PENNVEST obtains a mortgage as collateral, Funding Recipient also agrees to obtain a lenders title insurance policy and endorsements on terms and conditions acceptable to PENNVEST.

General Financial Terms & Conditions

Tax-Exempt Financing

Funding Recipient agrees not to report any funding received from PENNVEST as a tax-exempt financing.

Automatic Debit/Credit

Funding Recipient agrees to comply with any automated debit or credit system that PENNVEST may institute.

Attorney

Funding Recipient agrees, if applicable, to retain an attorney, licensed to practice law in the Commonwealth of Pennsylvania, to provide legal assistance and advice to the Funding Recipient with regard to the terms and conditions of this Funding Offer and to provide the requisite opinions of counsel at Settlement. Funding Recipient agrees to provide PENNVEST with a copy of its engagement letter, which shall include the attorney's total anticipated fee with respect to the project, in a form satisfactory to PENNVEST, prior to the Settlement Date. At Settlement, the Funding Recipient shall furnish to PENNVEST an opinion of the Funding Recipient's counsel, in a form satisfactory to PENNVEST, that, among other things, the Funding Recipient is duly organized and authorized to enter into the transaction; that the transaction and its terms do not violate any rules, regulations, laws, orders or agreements by which the Funding Recipient is bound; that there is no litigation threatened or pending that will affect the Funding Recipient's ability to enter into the transaction or complete this project; and that the Funding Recipient has acquired, and has good and marketable title to, all real property interests necessary to complete this project. The opinion letter will also address any other matters to which PENNVEST wishes the Funding Recipient's counsel to opine.

Conference Calls

As a condition of this Funding Offer, Funding Recipient, its licensed engineer and its attorney, if applicable, shall be available to participate in conference calls with PENNVEST to work through the Settlement process effective immediately after approval of this Funding Offer, unless such condition is expressly waived by PENNVEST. All conference call attendees should have electronic access to the PENNVEST Online Funding Request website during all scheduled conference calls.

Funds Disbursement Process

As a condition of this Funding Offer, Funding Recipient understands that it will be required to participate in PENNVEST's funds disbursement process.

General Financial Terms & Conditions

Financial Statements

If applicable, within one hundred eighty (180) days after the end of each fiscal year, the Funding Recipient shall transmit to PENNVEST its financial statements using PENNVEST's DocuSign upload procedure on the PENNVEST website under Services/Loan Servicing/Annual Financial Reporting. The financial statements shall consist of a balance sheet, income statement and statement of source and application of funds. Such financial statements:

- a. Shall be prepared by an independent public accounting firm approved by the Authority;
- b. Shall be prepared in accordance with generally accepted accounting principles and practices consistently applied or generally accepted governmental accounting principles and practices consistently applied, as applicable;
- c. Shall be in a form satisfactory to PENNVEST; and
- d. Shall be certified as true and correct by the chief financial officer of the Funding Recipient.

Confidential Information

The Funding Recipient agrees not to include confidential or proprietary information or trade secrets as part of any submission to PENNVEST in response to this Funding Offer or in preparation for Settlement. If the Funding Recipient determines that it must divulge such information as part of its submissions, the Funding Recipient agrees to submit a signed written statement to that effect in accordance with 65 P.S. § 67.707(b) and agrees to additionally provide a redacted version of its proposal, which removes only the confidential or proprietary information and trade secrets for public disclosure purposes.

Right-to-Know Law

a. The Pennsylvania Right-to-Know Law (hereinafter referred to as the "RTKL"), 65 P.S. §§ 67.101-3104, applies to this Funding Offer and all documents provided to PENNVEST in connection with Settlement (the "Funding Documents"). For the purpose of administering the matters relating to the RTKL set forth in this Section, the applicable "Commonwealth agency" as provided in the RTKL shall be PENNVEST. Capitalized terms used but not otherwise defined herein shall have the same meaning as set forth in the RTKL.

b. If PENNVEST needs the Funding Recipient's assistance in any matter arising out of the RTKL, PENNVEST shall notify the Funding Recipient in writing.

c. Upon written notification from PENNVEST that it requires the Funding Recipient's assistance in responding to a request under the RTKL for information that may be in the Funding Recipient's possession, constituting, or alleged to constitute, a Public Record in accordance with the RTKL, Funding Recipient shall:

1. Provide PENNVEST, within ten (10) calendar days after receipt of such notification, access to, and copies of, any document or information in the Funding Recipient's possession arising out of this Funding Offer or the Funding Documents that PENNVEST reasonably believes may be a Public Record under the RTKL ("Requested Information"), to permit PENNVEST to evaluate whether such Requested Information is, in fact, a Public Record within the scope of the subject RTKL information request; provided, however, that providing such Requested Information not previously in PENNVEST's possession shall not be considered an admission by the Funding Recipient that such records are Public Records under the RTKL; and

2. Provide such other assistance as PENNVEST reasonably may request, in order to comply with the

RTKL.

If the Funding Recipient fails to provide the Requested Information within ten (10) calendar days after receipt of such request, the Funding Recipient shall indemnify and hold PENNVEST harmless for any damages, penalties, detriment or harm that PENNVEST may incur under the RTKL as a result of the Funding Recipient's failure, including any statutory damages assessed against PENNVEST.

d. If the Funding Recipient considers the Requested Information not to be a Public Record, or exempt from production due to the inclusion of trade secret, confidential proprietary information, or any other reason for exemption from production as a Public Record under the RTKL, the Funding Recipient shall provide a written statement to PENNVEST within seven (7) days of receipt of PENNVEST's request for the Requested Information. This statement shall be signed by a representative of the Funding Recipient, explaining why the Funding Recipient considers the Requested Information exempt from public disclosure.

e. If such a written statement is timely provided, PENNVEST will rely upon it in denying a RTKL request for the information. However, if PENNVEST reasonably determines that such written statement is patently flawed or the Requested Information is, on its face, clearly not protected from disclosure under the RTKL, the Funding Recipient shall, subject to its rights of appeal, provide the Requested Information within five (5) business days of notification of PENNVEST's decision.

If the Funding Recipient fails to provide the Requested Information within the five (5) business days, the Funding Recipient shall indemnify and hold PENNVEST harmless from any damages, legal fees, penalties, detriment or harm, including statutory damages assessed against PENNVEST that PENNVEST may incur under the RTKL as a result of the Funding Recipient's failure to provide the records.

f. The Funding Recipient shall be entitled to challenge or appeal any decision of PENNVEST, the Commonwealth Office of Open Records ("OOR") or any applicable court mandating the release of any record to the public which the Funding Recipient believes is not properly subject to disclosure under the RTKL; provided, however, that (i) the Funding Recipient shall be solely responsible for all costs related to such action; and (ii) the Funding Recipient shall indemnify and hold harmless PENNVEST from and against any and all legal fees, damages, penalties, detriment or harm that PENNVEST may incur under the RTKL as a result of such action, including any statutory damages assessed against PENNVEST, regardless of the outcome of such legal challenge. If the Funding Recipient does not appeal or is not successful after final appeal from a determination by the OOR or Pennsylvania courts, the Funding Recipient agrees to waive all rights or remedies that may be available to it as a result of PENNVEST's subsequent disclosure of Requested Information pursuant to such a decision by the OOR or Pennsylvania courts. PENNVEST will reimburse the Funding Recipient for any costs associated with complying with this provision, but only to the extent allowed under the fee schedule established by the OOR, or as otherwise provided by the RTKL, if the fee schedule is inapplicable.

g. Notwithstanding the foregoing, nothing set forth herein is intended, nor shall it be construed, to expand the Funding Recipient's obligations, or PENNVEST's authority, beyond those obligations and authority, respectively, as are set forth in the RTKL, and the sole remedy for any failure by the Funding Recipient to perform any obligation arising hereunder, or under the RTKL, shall be limited to those specifically provided for pursuant to the RTKL, and the failure of the Funding Recipient to comply with the provisions of this Section shall not constitute a default or Event of Default under the Funding Offer or the Funding Documents.

Construction-Related Terms & Conditions

Construction Start

Funding Recipient agrees that construction shall not be initiated prior to the Settlement Date unless Funding Recipient has obtained prior written authorization from PENNVEST.

Construction-Related Terms & Conditions

Engineering

Funding Recipient agrees, if applicable, to retain a licensed engineer competent to design and/or implement the project and provide construction oversight. Funding Recipient agrees to provide PENNVEST with evidence of such engineer's agreement, including the engineer's total fee to complete the project, in a form satisfactory to PENNVEST, prior to the Settlement Date.

Continuing Education

Funding Recipient agrees to comply with the continuing education requirements set forth in the Pennsylvania Infrastructure Investment Authority Act, March 1, 1988, P.L.82, No. 16, as amended, 35 P.S. § 751.10(j).

Steel Products

Funding Recipient agrees to comply with the provisions of the Steel Products Procurement Act, March 3, 1978, P.L. 6, No. 3, 73 P.S. § 1881 et seq., in every construction contract awarded for this project.

Real Estate

Prior to Settlement on this Funding Offer, Funding Recipient agrees to acquire all easements, rights-of-way, or other interests in real property needed for the construction of the project, and to have its attorney opine that all real property interests are free and clear of all liens and encumbrances other than those liens and encumbrances which will not adversely interfere with the project. If property interests are being acquired through condemnation and appeal rights have not been waived, PENNVEST will not conduct Settlement until the appeal period has expired and any preliminary objections have been satisfactorily resolved. If PENNVEST assumes an interest in real estate as a part of its collateral securing the PENNVEST funding, Funding Recipient agrees to obtain an appraisal and survey of the real estate and title insurance on the real estate on terms and conditions satisfactory to PENNVEST.

Permits

Funding Recipient agrees to obtain all permits needed for the construction of the project prior to Settlement on this Funding Offer. PENNVEST will not conduct Settlement until all appeal periods for such permits have expired. If an appeal is filed, PENNVEST, in its sole discretion, may choose not to conduct Settlement on this Funding Offer until the appeal is satisfactorily resolved.

Compliance

Funding Recipient agrees to comply with all local, state and federal statutes, regulations, and permit requirements applicable to the construction of the project and the operation of the project or system of which the project is a component part.

Construction-Related Terms & Conditions

Bid Requirement

Funding Recipient agrees that no specification for bids in connection with the project financed by this Funding Offer shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment and, if available, Funding Recipient shall include at least two brand names or trade names of comparable quality or utility followed by the words "or equal". Notwithstanding the forgoing, the "or equal" requirement is categorically waived for supplies and equipment being purchased under the Commonwealth's Cooperative Purchasing Program (COSTARS) or projects being constructed under the Guaranteed Energy Savings Act (GESA).

Construction Contracts

Funding Recipient agrees to enter into written contracts with parties constructing the project and to require insurance, performance bonds and payment bonds covering the work to be performed. Funding Recipient agrees to provide PENNVEST with evidence of such contracts, insurance and bonds, in a form satisfactory to PENNVEST, prior to the Settlement Date.

Performance Certification

On the one-year anniversary of completion of the project, Funding Recipient agrees, if applicable, to provide PENNVEST with certification from a licensed engineer or other designated professional that the design, construction, maintenance and operation of the project system is consistent with the plans and specifications, as approved by PENNVEST and DEP.

Funding Additional Costs of Construction

Prior to Settlement on this Funding Offer, Funding Recipient agrees to provide evidence to PENNVEST of all other sources of funding which will be used to finance any portion of the construction costs for this project. Funding Recipient further acknowledges that this Funding Offer does not obligate PENNVEST to finance any increase in the cost of the construction for this project.

Project Scope

Funding Recipient agrees not to change the scope of the project as presented to PENNVEST in its application, and any associated plans and specifications, without the express written consent of PENNVEST. If prior to Settlement a change of scope affects the project priority ranking previously assigned to this project to the extent that it would not have been approved by the PENNVEST Board of Directors, this Funding Offer, and any acceptance thereof, shall be null and void.

Construction-Related Terms & Conditions

Land Acquisition Costs

To the extent this Project will be funded in whole or in part with monies obtained by PENNVEST from the Unconventional Gas Well Fee Act, February 14, 2012, P.L. 87, No. 13, 58 Pa.C.S. §2301 et seq. and Funding Recipient is an authorized organization as defined in 27 Pa.C.S. §6103, the Funding Recipient agrees not to use funds provided through this offer for land acquisition unless the Funding Recipient has obtained the written consent of the county and municipality in which the land is situated in accordance with 58 Pa.C.S. §2315(b)(2).

Management Terms & Conditions

Discrimination

Funding Recipient agrees not to discriminate on the basis of race, color, religious creed, ancestry, age, sex, natural origin, non-job related handicap or disability, or the use of a guide or support animal because of the blindness, deafness or physical handicap against any individual or independent contractor in activities funded by this Funding Offer, and shall be in compliance with the Pennsylvania Human Relations Act, Oct. 27, 1955, P.L. 744, No. 222, as amended, 43 P.S. § 951 et seq.

Contractor Responsibility

Consistent with Commonwealth Management Directive 215.9, Contractor Responsibility Program, dated April 16, 1999, Funding Recipient certifies that neither Funding Recipient nor any contractor or supplier providing services on this project are under suspension or debarment by the Commonwealth of Pennsylvania, any other state, or the federal government. Funding Recipient further certifies that it has no delinquent tax liabilities or other Commonwealth obligations. If any suspension, debarment or delinquent obligation arises during the term of the agreement with PENNVEST for financial assistance, Funding Recipient agrees to notify PENNVEST within 15 days. Moreover, Funding Recipient agrees that failure to provide such notice shall constitute a default of the agreement. Funding Recipient agrees to be responsible for all necessary and reasonable costs incurred by the Office of Inspector General in investigating compliance with this provision when such investigation results in suspension or debarment of Funding Recipient or a contractor providing services on this project.

Contractor Integrity

Funding Recipient agrees to comply, and to require compliance by any contractors providing services on this project, with the contractor integrity provisions set forth in Management Directive 215.8, Contractor Integrity Provisions for Commonwealth Contracts, dated December 20, 1991.

Inspection/Audit

Funding Recipient agrees that PENNVEST, or its agents and representatives, shall have the right to inspect the project and audit the financial condition of Funding Recipient at any and all reasonable times. Funding Recipient further agrees to allow PENNVEST, or its agents and representatives, to examine and make copies of its drawing, plans, books, records, accounting data and other documents pertaining to the project or the financial condition of Funding Recipient.

Management Terms & Conditions

Default

Funding Recipient agrees that PENNVEST, upon the occurrence of any of the following events, may declare Funding Recipient in default and exercise any available rights or remedies as PENNVEST deems necessary and appropriate:

- a. **Material Change.** A material adverse change in conditions represented to PENNVEST at or prior to Settlement on this Funding Offer relating to: (1) the financial condition of the Funding Recipient or any guarantor, (2) the Funding Recipient's ownership interest in or physical condition of the real property required for the project, or (3) the nature/scope of the project;
- b. **Bankruptcy.** The filing by or against the Funding Recipient or any guarantor of a petition in bankruptcy or insolvency, for reorganization or the appointment of a receiver or trustee; or the making by the Funding Recipient or any guarantor of an assignment for the benefit of creditors, or in the event of any similar act or ordinance; or
- c. **Suspension/Debarment.** Failure to notify PENNVEST within 15 days of any suspension or debarment of the Funding Recipient, its contractors or suppliers by the Commonwealth of Pennsylvania, any other state or the federal government, or failure to notify PENNVEST within 15 days of any delinquent tax liability or other Commonwealth obligation of the Funding Recipient.

This provision shall apply from the date of the issuance of this Funding Offer through the Settlement Date.

Public Relations, Lobbying, Litigation

Funding Recipient agrees not to use funds provided through this offer for the purpose of public relations, outreach not directly related to project implementation, communications, lobbying or litigation costs.

Additional Terms & Conditions For Federally-Funded Projects

Recycled Materials

Funding Recipient agrees to comply with Section 6002 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6962, and regulations set forth in 40 C.F.R. Part 247, which require that preference be given in procurement programs to the purchase of specific products containing recycled material.

Purchase of Real Property

Funding Recipient agrees not to use PENNVEST funds for the acquisition of real property or interests therein, unless the acquisition is integral to the project (i.e., is needed for the purpose of locating eligible project components), and the purchase is from a willing seller (i.e., not acquired through the use of eminent domain).

Bonding

Funding Recipient agrees to require bid guarantees, performance bonds and payment bonds in accordance with 40 C.F.R. § 31.36(h) and shall provide PENNVEST with evidence of compliance prior to the Settlement Date.

Additional Terms & Conditions For Federally-Funded Projects

Relocation/Real Property Acquisition

Funding Recipient agrees to comply with Section 305 of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, January 2, 1971, P.L. 91-646, Title III, § 305, as amended, 42 U.S.C. § 4655 and Funding Recipient may use funds provided through this Funding Offer for costs associated with such compliance provided such costs are otherwise eligible.

Debarment/Suspension

Funding Recipient agrees to comply with 2 C.F.R. Part 180, Subpart C and shall certify that no contractor or subcontractor retained to perform work on this project has been debarred or suspended by the United States Environmental Protection Agency. The Funding Recipient may access the federal suspension and debarment information at <http://www.sam.gov>.

Criminal Offenses

Funding Recipient agrees to certify that no person convicted of a criminal offense pursuant to Section 113 (c) of the Clean Air Act, 42 U.S.C. § 7413(c), or Section 309(c) of the Clean Water Act, 33 U.S.C. § 1319 (c), will provide any goods, materials or services on this project from the facility that gave rise to such offense if the facility is owned, leased or supervised by the convicted person.

Coordination

Funding Recipient agrees to coordinate the review of this project with areawide planning agencies or local governments in accordance with Executive Order 12372, Intergovernmental review of Federal programs, issued July 14, 1982.

Lobbying

Funding Recipient agrees to comply with restrictions on lobbying set forth in 31 U.S.C. § 1352 and 40 C.F.R. Part 34, which prohibit the use of federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action.

Drug-Free Workplace

Funding Recipient agrees to comply with the provisions in 40 C.F.R. Part 32, Subpart F, Drug-Free Workplace Requirements.

Single Audit

Funding Recipient agrees to comply with all applicable federal and state grant requirements including the Single Audit Act Amendments of 2016, P.L. 114-301, § 2(a)(2), 31 U.S.C. §§ 7501-7506; 2 CRF Part 200 as amended, and any other applicable law or regulation, and any amendment to such other applicable law or regulation that may be enacted or promulgated by the federal government.

Additional Terms & Conditions For Federally-Funded Projects

Race, Color or National Origin Discrimination

Funding Recipient agrees not to discriminate on the basis of race, color or national origin in any activity funded by this Funding Offer in accordance with Title VI of the Civil Rights Act of 1964, July 2, 1964, P.L. 88-352, Title VI, 42 U.S.C. § 2000d.

Age Discrimination

Funding Recipient agrees not to discriminate on the basis of age in any activity funded by this Funding Offer in accordance with the Age Discrimination Act, Nov, 28, 1975, P.L. 94-135, as amended, 42 U.S.C. § 6101 et seq.

Disability Discrimination

Funding Recipient agrees not to discriminate on the basis of disability in any activity funded by this Funding Offer in accordance with the Section 504 of the Rehabilitation Act of 1973, Sept. 26, 1973, P.L. 93-112, Title V, § 504, 29 U.S.C. § 794.

Additional Disability Discrimination Requirement

Funding Recipient agrees not to discriminate on the basis of disability in any activity funded by this Funding Offer in accordance with the Americans With Disabilities Act of 1990, P.L. 101-336, 42 U.S.C. § 12101 et seq., as amended, and federal regulations set forth at 28 C.F.R. Part 35.

Sex Discrimination

Funding Recipient agrees not to discriminate on the basis of sex in any activity funded by this Funding Offer in accordance with Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Oct. 18, 1972, Pub.L. 92-500, § 13, and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., as amended.

Environmental Justice

In accordance with Executive Order 12898, dated February 11, 1994, Funding Recipient agrees not to fund any action with this Funding Offer that will have disproportionately high and adverse human health or environmental effects on minority or low-income populations.

Equal Employment Opportunity

Funding Recipient agrees to provide an equal opportunity for employment in all contracts and subcontracts funded by this Funding Offer in accordance with Executive Order 11246, dated September 24, 1965, as amended, and as supplemented in Department of Labor regulations set forth at 41 C.F.R. Part 60.

Additional Terms & Conditions For Federally-Funded Projects

Federal Participation

Funding Recipient agrees to inform all parties that this project is being supported in part by Federal funding when issuing statements, press releases, requests for proposals, bid solicitations and other documents related to the project.

CFDA Number

This Project will be funded in whole or in part with federal monies obtained by PENNVEST from the U.S. Environmental Protection Agency, awarded by PENNVEST to the Funding Recipient through the Drinking Water State Revolving Loan Fund carrying a Catalog of Federal Domestic Assistance (CFDA) number of 66.468.

Davis-Bacon Act Wage Rates

All laborers and mechanics employed by contractors and subcontractors providing services on this project shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United State Secretary of Labor in accordance with Title 40, Chapter 31, Subchapter IV of the United States Code. The Funding Recipient agrees to follow the requirements set forth in Attachment I, found at the link below, in complying with Davis-Bacon Wage Rate requirements, which terms and conditions are fully incorporated herein by reference.

Click the link or copy and paste URL below into browser:

<https://www.pennvest.pa.gov/SiteCollectionDocuments/Project%20Management%20Documents/Davis%20Bacon%20-%20Governmental%20Entities.pdf>

Reporting Requirements

The Funding Recipient agrees to comply with all reporting requirements and requests for information or materials related to this Project which may be required by PENNVEST in order to comply with its reporting requirements under the Federal Funding Accountability and Transparency Act.

Additional Terms & Conditions For Federally-Funded Projects

American Iron and Steel

If the plans and specifications for this project were reviewed and approved by DEP after January 17, 2014, the Funding Recipient agrees to comply with the requirements for the purchase of American Iron and Steel ("AIS") in accordance with the provisions of the Federal Consolidated Appropriations Act, January 17, 2014, P.L. 113, No. 76, §436, in every construction contract awarded for this project.

(a) Definitions. As used in this term and condition—

(1) "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(2) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

(1) This term and condition implements the Water Resources Reform and Development Act of 2014 (WRRDA) by requiring that all iron and steel products used for a project for the construction, alteration, maintenance or repair of a public water system or treatment work are produced in the United States except as provided in paragraph (b)(2) and (b)(3) of this section and condition.

(2) This requirement does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to January 17, 2014.

(3) This requirement shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency finds that:—

(i) applying the requirement would be inconsistent with the public interest;

(ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) Request for a Waiver under (b)(3)

(1) Any Funding Recipient request to use foreign iron or steel products in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron or steel products cited in accordance with paragraph (b)(3) of this section.

(2) If the Administrator receives a request for a waiver under this section, the waiver request shall be made available to the public for at least 15 days prior to making a finding based on the request.

(3) Unless the Administrator issues a waiver of this term, use of foreign iron and steel products is noncompliant with the FY 2015 Water Resource Reform and Development Act.

(d) This term and condition shall be applied in a manner consistent with United States obligations under international agreements.

Additional Terms & Conditions For Federally-Funded Projects

Brownfields Projects

If the project receiving PENNVEST funding is being performed on a Brownfields site, then Funding Recipient shall certify and provide evidence satisfactory to PENNVEST that the purpose of the Brownfields project is to encourage the cleanup or reuse of contaminated property pursuant to Pennsylvania's Land Recycling and Environmental Remediation Standards Act ("Act 2"), 35 P.S. § 6026.101 et seq., as administered under the Pennsylvania Department of Environmental Protection ("DEP") Land Recycling Program. Such evidence shall include, but not be limited to, DEP review and approval of the project under Act 2 standards and DEP review and approval of the means and methods of remediation at the time of application, DEP review and approval of any changes in the means and methods of remediation at the time of Settlement and DEP review of the completed remediation project and release of the Funding Recipient from liability at the time of project completion. For purposes of this Funding Offer, the term construction includes remediation work on Brownfields sites.

Disadvantaged Business Enterprise Solicitation Requirements

Funding Recipient has taken and will continue to take all necessary affirmative steps to solicit, and document its solicitation efforts of, minority business enterprises and women's business enterprises, individually and collectively referred to as Disadvantaged Business Enterprises (DBE), in accordance with the Six Good Faith Efforts, as more particularly described on DEP's Disadvantaged Business Enterprises Resources Website found at <https://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/DisadvantagedBusiness.aspx>.

Additional Terms & Conditions For Federally-Funded Projects

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

As required by 2 CFR 200.216, the Funding Recipient, its subcontractors or anyone hired by its subcontractors, are prohibited from obligating or expending any portion of the PENNVEST funding to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services 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). Funding Recipient, its subcontractors or anyone hired by its subcontractors, may not use any portion of the PENNVEST funding 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 any portion of the PENNVEST funding 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://sam.gov/SAM/>.

On behalf of the PENNVEST Board, I Brion Johnson, am hereby authorized to make this Funding Offer.



Brion T. Johnson
Executive Director

Disclaimer

PENNVEST recognizes that there may be aspects of this offer that the applicant may need to discuss during the loan closing process. In particular, the applicant may wish to request modifications to some of the terms and conditions contained in this offer. By signing this offer, the applicant is not precluded from raising such issues and making such requests during the loan closing process. PENNVEST will consider the merits of any such issues that the applicant raises during this process.