



Appomattox Regular Council meeting Agenda

Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia 24522

Monday, July 10, 2023

6:30 PM – Regular Council meeting

(Location: Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia 24522)

Call to Order and Welcome to Visitors

Public Hearing:

NOTICE is hereby given of a public hearing before Town Council on the issuance of the Town's \$1,156,000 Water System Improvement General Obligation Bond, Series 2023 to be held at the Town Hall, 210 Linden St., Appomattox, Virginia on July 10, 2023, at 6:30 PM. This is the second in a series of Water System Improvement General Obligation Bonds issued for improvements to the Town's Church Street water distribution system. The first bond in the series was approved by Town Council on October 26, 2021. Interested persons may attend and express their views.

Prayer & Pledge of Allegiance to the Flag of the United States of America

Mayor's Comments

Scheduled Public Appearances

Adoption of the Consent Agenda - July 10, 2023

All matters listed under consent agenda are considered routine by the council and will be approved or received by one motion in the form listed. Items may be removed from the consent agenda for discussion under the regular agenda upon motion of any council member and duly seconded.

- [1.](#) Minutes of the June 12, 2023 Regular Council meeting and Minutes of the June 27, 2023 Workshop meeting

Unfinished Business

New Business

- [2.](#) Consideration to adopt a Resolution Authorizing the Issuance, Sale, and Award Of An Up To \$1,156,000 Water System Improvement General Obligation Bond, Series 2023B and Providing for the Form, Details, and Payment Thereof
3. Consideration to cancel the July 25, 2023 Workshop meeting due to vacation schedules.

Council Standing Committee Reports

Citizen Comment

Town Manager's Report

Council Comment

Adjournment

File Attachments for Item:

1. Minutes of the June 12, 2023 Regular Council meeting and Minutes of the June 27, 2023 Workshop meeting

1 | **Appomattox Town Council**
Regular Council Meeting
June 12, 2023

The Appomattox Town Council held a Regular Council meeting on Monday, June 12, 2023, at 6:30 p.m. at the Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia with Mayor Conner presiding.

Members present: Jane T. Allen, James J. Boyce, Sr., Claudia G. Puckette, Mary Lou G. Spiggle, and Timothy W. Garrett.

Absent - Nathan A. Simpson

Others present: Reverend Carlton Duck, Charles Conrad, Michelle Romanac, Kenny Ford, Jeff Elder, Facilities Director; Kim Ray, Treasurer; R. Terry McGhee, Town Manager; Roxanne W. Casto, Clerk of Council.

Mayor Conner called the meeting to order.

Public Hearing: Mayor Conner opened the public hearing by reading the purpose:

The purpose of this public hearing will be to receive public comments concerning the following:

Amendment to the FY 2023 Budget for the Town of Appomattox - In accordance with §15.2-2506 Code of Virginia, the following is a brief synopsis of the budget amendment by the Town of Appomattox for FY 2023:

General Fund Expenditures Amendments	\$501,311.00
Total Expenditures Amendments	\$501,311.00
General Fund Revenue Amendments	\$501,311.00
Total Revenue Amendments	\$501,311.00

Documentation is available at the Appomattox Municipal Building, Town Office, 210 Linden Street from 8:30 a.m. until 4:30 p.m., Monday through Friday. If there are any questions, please contact R. Terry McGhee, Town Manager at 434-352-8268.

There were no public comments made or received during the public comment period.

Mayor Conner closed the public hearing.

Reverend Duck led the Prayer and Pledge of Allegiance to the Flag of the United States of America.

Mayor's Comments: "Welcome everyone and one note, Wednesday, June 14, 2023, is Flag Day. The Flag of the United States represents our country, our commonwealth, and our community and all that we have achieved and all that we stand for. May we as a body do more to improve each aspect of our lives in our community, commonwealth, country."

Scheduled Public Appearances:

Michelle Romanac, 219 North Avenue, Appomattox – Citing she has lived at the address listed since she was 18 years old. She had repairs done last year (to her pool) and it wasn't done properly. She had hired a new company this year. It is a very large pool, and she averages about 9 pool fillings per year. She is requesting an amendment to the policy for repairs, etc. She also cited confusion in the mail delivery as there is 219 North Avenue and 219 Plant Drive. The sewer bill is over \$600.00. Citing she is single, works hard, cannot afford \$600 for sewer.

Mrs. Puckette asked for clarification on the policy. Mr. McGhee responded that the sewer charges were adjusted for the first three (3) fillings. Mr. Elder suggested an irrigation meter for the pool fillings. The connection would require a meter, backflow, and RPZ device.

Ms. Romanac thanked Council for their time. Mayor Conner will advise of a future decision.

Adoption of the Consent Agenda:

On a motion by Mr. Garrett, seconded by Mrs. Puckette, Council voted to adopt the consent agenda for June 12, 2023 as presented. All members present voting aye. Motion carried 5-0.

Unfinished Business: none

New Business:

On a motion by Mr. Garrett, seconded by Ms. Spiggle, Council voted to adopt Resolution 2023-003 to amend the FY 2023 Budget for the Town of Appomattox.

1. Consideration to adopt a resolution amending the FY 2023 Operating Budget for the General Fund for the Church Street Sidewalk project, litter grant, VRSA grant, and Aid to the Police Department.
2. WHEREAS, Section 15.2-2507, Code of Virginia, allows that a governing body may amend the budget from time to time.
3. NOW THEREFORE, BE IT RESOLVED, that the Appomattox Town Council does hereby amend the FY 2023 Operating Budget for the General Fund:

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General Fund Expenditures

10-5000-7091	Capital Improvements – General	\$	500,000.00
10-4800-6300	Litter Grant	\$	-264.00
10-4700-7081	VRSA Grant	\$	<u>1,575.00</u>
Net Increase in Budget		\$	<u>501,311.00</u>

General Fund Revenues

10-3901-0000	Use of Undesignated Revenue	\$	495,369.00
10-3811-0000	Litter Grant	\$	-264.00
10-3812-0000	VRSA Grant	\$	1,575.00
10-3604-0000	Aid to Police Grant	\$	<u>4,631.00</u>
Net Increase in Budget		\$	<u>501,311.00</u>

SECTION XIII: BE IT FURTHER RESOLVED, by the Town Council of Appomattox, Virginia that the Fiscal Year 2023 budget amendments are hereby adopted, and the monies necessary to fund it are hereby appropriated and shall be certified by the Clerk of Council and maintained as an archive document with the official minutes of the Town Council of Appomattox, Virginia.

Amended this ____ day of _____ 2023.

Attest:

Roxanne Casto, Town Clerk

Roll Call Vote: Garrett – yes, Spiggle – yes, Puckette – yes, Boyce – yes, Allen – yes. Motion carried 5-0.

On a motion by Mr. Boyce, seconded by Ms. Puckette, Council voted to adopt a Resolution adopting the FY 2024 Budget for the Town of Appomattox:

**AN APPROPRIATIONS RESOLUTION OF THE APPOMATTOX TOWN COUNCIL
ADOPTING THE FISCAL YEAR 2023-2024 BUDGET FOR THE TOWN OF
APPOMATTOX, VA.**

SECTION I:

WHEREAS, Section 5-72, Appomattox Town Code and Section 15.2-2503, Code of Virginia, require that the governing body shall approve the budget and fix a tax rate for the budget year no later than the date on which fiscal year begins; and,

SECTION II:

WHEREAS, the proposed Fiscal Year 2023-2024 Budget was published on May 3, 2023 and May 10, 2023 in the *Times-Virginian*, Appomattox, Virginia, pursuant to Section 15.2-2506, Code of Virginia, and public hearing was subsequently held on the proposed budget on Tuesday, May 23, 2023;

SECTION III:

NOW, THEREFORE, BE IT RESOLVED, that the Appomattox Town Council meeting in a Regular Council Meeting on Monday, June 12, 2023, does hereby approve the following General Fund Expenditures by Category for Fiscal Year 2023-2024;

GENERAL FUND; EXPENDITURES BY CATEGORY:

Council	58,925.
Administrative & Town Office	649,830.
Professional	150,000.
Police	126,985.
Tourism	87,500.
Fire Department	46,000.
Public Works & Town Shop	1,180,643.
Sanitation	159,000.
Property Maintenance & Construction	611,361.
Town Shop	0.
Events & Contributions	25,000.
Zoning	58,150.
Town Office	0.
TOTAL GENERAL FUND EXPENSES	3,153,394.

SECTION IV:

BE IT FURTHER RESOLVED, that the Appomattox Town Council hereby establishes the property tax rate at \$.11 per \$100.00 of assessed value for real estate, \$.45 per \$100.00 of assessed value for personal property, \$.45 per \$100.00 of assessed value for machinery and tools, and \$.11 per \$100.00 of assessed value for mobile homes; and,

BE IT FURTHER RESOLVED, in accordance with the requirements set forth in Section 58.1-3524(C)(2) and Section 58.1-3912(E) of the Code of Virginia, as amended by Chapter 1 of the Acts of Assembly (2004 Special Session 1) and as set forth in Item 503.E (Personal Property Tax Relief Program) of Chapter 951 of the 2005 Acts of Assembly any qualifying vehicle sitused within the Town commencing January 1, 2023, shall receive personal property tax relief in the following manner:

- Personal use vehicles valued at \$1,000 or less will be eligible for 100% tax relief;
- Personal use vehicles valued at \$1,001 to \$20,000 will be eligible for 44.1% tax relief;
- Personal use vehicles valued at \$20,001 or more shall only receive 44.1% tax relief on the first \$20,000 of value; and
- All other vehicles which do not meet the definition of “qualifying” (business use vehicles, farm use vehicles, motor homes, etc.) will not be eligible for any form of tax relief under this program.

SECTION V:

BE IT FURTHER RESOLVED, that the Appomattox Town Council does hereby approve the following General Fund revenue estimates for Fiscal Year 2023-2024;

GENERAL FUND; REVENUES BY CATEGORY:

Current Taxes – Real Estate	165,000.
Current Taxes – Personal Property	85,000.
Delinquent Taxes	1,000.
Penalties & Interest	5,000.
Public Service Corporation	7,000.
Bank Stock Tax	190,000.
Meals Tax	1,300,000.
Lodging Tax	70,000.
Consumption Tax	7,000.
Cigarette Tax	140,000.
Vehicle License Tax	25,000.
Business License	200,000.
Zoning	1,000.
Communications Tax	4,000.
Interest	10,000.
Rental of Misc. Property	6,000.
Rolling Stock Tax	3,000.
Sales Tax	90,000.
Aid to Police Department (HB599)	50,631.
Fire Programs	15,000.
Personal Prop Tax Relief Act State Funds	23,107.
Visitor Center	0.
Mobile Home Titling Tax	200.
Trash Can Fees	4,500.
Miscellaneous	1,000.
State DMV Fees	2,500.
Town DMV Fees	2,000.
Downtown Revitalization Grant	380,161.
Litter Grant	1,500.
Transfer from Reserve	363,295.
Other Reimbursable	500.
TOTAL GENERAL FUND REVENUES	3,153,394.

SECTION VI:

BE IT FURTHER RESOLVED, that the Appomattox Town Council does hereby approve the following Water Fund Expenditures for Fiscal Year 2023-2024;

WATER FUND; EXPENDITURES BY CATEGORY:

Water Department	2,937,927.
TOTAL WATER EXPENDITURES	2,937,927.

SECTION VII:

BE IT FURTHER RESOLVED, that the Appomattox Town Council does hereby approve the following Water Fund Revenue estimates for Fiscal Year 2023-2024;

WATER FUND; REVENUES BY CATEGORY:

Water Sales	380,000.
Connection Fees	8,000.
Penalty Fees	20,000.
Availability Fees	10,000.
Reconnect Fees	0.
Miscellaneous	500.
Interest	4,000.
Interest Revenue (GASB87)	8,700.
Lease Revenue (GASB87)	8,800.
Rental of Misc. Property	20,000.
Intergovernmental Revenue	35,000.
Use of Undesignated Fund Balance	147,927.
Church Street Waterline Grant – DHCD	670,000.
Church Street Grant Proceeds – Rural Dev.	1,125,000.
Church Street Loan Proceeds – Rural Dev.	500,000.
TOTAL WATER REVENUES	2,937,927.

SECTION VIII:

BE IT FURTHER RESOLVED, that the Appomattox Town Council does hereby approve the following Sewer Fund Expenditures for Fiscal Year 2023-2024;

SEWER FUND; EXPENDITURES BY CATEGORY:

Sewer Department	1,851,803.
TOTAL SEWER EXPENDITURES	1,851,803.

SECTION IX:

BE IT FURTHER RESOLVED, that the Appomattox Town Council does hereby approve the following Sewer Fund Revenue estimates for the Fiscal Year 2023-2024;

SEWER FUND; REVENUES BY CATEGORY:

Sewer Sales	880,000.
Connection Fees	2,500.
Availability Fees	7,500.
Interest	5,000.
Intergovernmental Revenue	2,500.
Use of Undesignated Funds	84,304.
USDA Grant Proceeds 1	869,999.
TOTAL SEWER REVENUES	1,851,803.

SECTION X:

The salaries, wages and allowances set out in said Budget are hereby authorized as per the terms of the town's classification and merit system as approved compensation for officers and employees for services rendered, unless hereafter otherwise provided by ordinance; provided however, that the Town Manager is authorized to make such rearrangement of positions in the several departments named in the Budget, in respect to officers and employees appointed by his/her as may best meet the needs and interests of the Town and after approval by Council.

SECTION XI:

BE IT FURTHER RESOLVED, that the Appomattox Town Council may amend the Fiscal Year 2023-2024 Town Budget from time to time pursuant to Section 15.2-2507, Code of Virginia; and,

SECTION XII:

BE IT FURTHER RESOLVED, by the Town Council of Appomattox, Virginia that the Fiscal Year Budget for 2023-2024 is hereby adopted, effective July 1, 2023 and the monies necessary to fund it are hereby appropriated and shall be certified by the Clerk of Council and maintained as an archive document with the official minutes of the Town Council of Appomattox, Virginia.

Adopted this 12th day of June, 2023.

Attest:

Roxanne W. Casto, Town Clerk

Richard C. Conner, Mayor

Roll Call Vote: Garrett – yes, Spiggle – yes, Puckette – yes, Boyce – yes, Allen – yes. Motion carried 5-0.

On a motion by Mrs. Puckette, seconded by Ms. Spiggle, Council voted to award the 2023 Contract for Grass Mowing to RSG Landscaping, LLC for \$43,788.22 for the FY 2024.

Roll Call Vote: Garrett – yes, Spiggle – yes, Puckette – yes, Boyce – yes, Allen – yes. Motion carried 5-0.

On a motion by Mrs. Puckette, seconded by Mr. Garrett, Council voted to proceed with the exterior historic paint colors of the Appomattox Train Depot in the amount of \$21,696.95.

Roll Call Vote: Garrett – yes, Spiggle – yes, Puckette – yes, Boyce – yes, Allen – yes. Motion carried 5-0.

Council Standing Committee Reports:

American Rescue Plan Act (ARPA):

On a recommendation of the American Rescue Plan Act committee, Council voted to award the generators for the Town Office and Town Shop to Woodridge Heating & Air, Inc., and the propane tanks to Foster Fuels. Roll Call Vote: Garrett – yes, Spiggle – yes, Puckette – yes, Boyce – yes, Allen – yes. Motion carried 5-0.

Finance and Planning Committee - none

Physical Development Committee – none

Town Manager's Report:

Mr. McGhee provided an update on the following items:

- A complete copy of his self-assessment was provided to all Council members. The first portion is his self-assessment, and the remainder is a planning tool.
- Dominion Seven is progressing on the Town Hall Feasibility Study.
- Tiger Fuel accepted the Town's offer to purchase land adjacent to the Public Works property.
- The remainder of the funding needed for the Church Street Waterline will be in the form of a low interest loan from Rural Development.
- Employees and Visitors are back to using the regular entrances at the depot. The roof, decking and soffits are all either complete or nearly complete.
- June 13 – 15, he will be attending a Brownfield Conference in Danville, VA.
- Twelve letters for an urgent care provider were mailed on June 7, 2023.

Council Comment:

Mrs. Allen inquired about a Goodwill location returning to Appomattox or a donation box for residents for unwanted clothing.

Mr. Boyce - none

Ms. Spiggle reminded everyone of the event on July 1, 2023. The Appomattox Volunteer Fire Department and Liberty Baptist Church will be holding events at Liberty Field on Lee Grant Avenue from 5:30 p.m. – 10:00 p.m. Fireworks will be displayed at 9:30 p.m.

Mr. Garrett - none

Mrs. Puckette stated the Town is in a good place with the Church Street Waterline and Depot projects. The Town will be celebrating its 100-year anniversary on June 2, 2025.

Mr. McGhee commented on the need to schedule the Town picnic in Abbitt Park.

Adjournment:

On a motion by Mr. Garrett, seconded by Mrs. Puckette, Council voted to adjourn at 7:18 pm. All members present voting aye. Motion carried 5-0.

Roxanne W. Casto, MMC
Clerk

Richard C. Conner
Mayor

1 | **Appomattox Town Council
Workshop Meeting
June 27, 2023**

The Appomattox Town Council held a Workshop meeting on Tuesday, May 23, 2023 at 6:30 p.m. at the Appomattox Town Hall, Council Chambers, 210 Linden Street, Appomattox, Virginia with Mayor Conner presiding.

Members present: Jane T. Allen, James J. Boyce, Sr., Mary Lou Spiggle, Timothy W. Garrett, Claudia G. Puckette, and Nathan A. Simpson (via phone).

Others present: Carlton Duck; Jeff Elder, Facilities Director; Kim Ray, Town Treasurer; R. Terry McGhee, Town Manager and Roxanne W. Casto, Clerk of Council.

Mayor Conner called the meeting to order.

DISCUSSION:

On a motion by Mr. Garrett, seconded by Mr. Boyce, Council voted to approve an out-of-town water connection at 460 Somerset Drive in Woodchase Subdivision. All members present voting aye. Motion carried 6-0.

Staff discussed with Council the request for a sewer connection at 117 Sunrise Street. By the consensus of Council, Staff will continue to price and research the project for the customer.

COUNCIL COMMENTS:

Jane T. Allen wished everyone a happy 4th of July – Be safe!

James J. Boyce is so glad to see the fence disappearing on Church Street. In light of the action by the Appomattox County Board of Supervisors, it would be incumbent upon this Town Council to adopt a resolution of support.

Timothy W. Garrett – none

Claudia G. Puckette commented that the depot is looking fantastic.

Nathan A. Simpson – none

Mary Lou Spiggle – invited the public to the July 1, 2023 events sponsored by the Appomattox Volunteer Fire Department and Liberty Baptist Church beginning at 5:30 p.m. at the Liberty Field on Lee Grant Avenue. Fireworks will begin at 9:30 p.m.

Mayor Conner commented if you see any bears in the Town, please get in touch with the game warden.

STANDING COMMITTEE REPORTS:

Finance and Planning/ARPA – None

STAFF REPORTS:

Mr. Elder-none

Kim Ray-Provided the May 2023 financial report. The truck identified in the Capital Improvement Plan arrived yesterday. The new water rate increases are effective July 1, 2023. The ACH option for vendors may be available in the 2nd quarter of FY 2024. An inventory audit is scheduled for July 5, 2023.

Mr. McGhee also reported on the following items:

- On July 10, 2023, Town Council will hold a public hearing and pass a resolution to borrow funds at a low interest rate for the Church Street Waterline project.
- Downtown Revitalization Grant is ongoing. The Town is receiving many compliments from residents regarding how friendly the contractors are being.
- The historical paint colors of the Town Depot will begin once all the other work is complete.
- Spoke with the Superintendent of the National Park Service and no agreement is in effect to take care of the historical outlook along the connector road at Walmart.
- Four responses have been received from the letters sent to urgent care providers.
- Provided an update on the Virginia Brownfield Conference held in Danville, Virginia.
- Received a request from Bruce Boone for \$7,000 for streetlights in front of the old elementary school. Council asked who would own the lights and who would provide maintenance. Mr. McGhee will seek answers to those questions.

CLOSED SESSION:

On a motion by Ms. Spiggle, seconded by Mrs. Puckette, the Council voted to convene in Closed Session, pursuant to Section 2.2-3711 (A) 1 of the Code of Virginia, 1950, as amended, for the purpose of discussion of the performance of a specific public appointee of the Town, specifically being Appointee A.

Roll call vote: Boyce – yes, Simpson – yes, Spiggle – yes, Allen – yes, Puckette – yes, Garrett – yes. Motion carried 6-0.

The meeting was reopened to the public.

Certification:

To the best of each member's knowledge, the only subjects just discussed or considered in the preceding closed meeting were those: (i) lawfully exempted from the FOIA Act's open-meeting requirements and (ii) properly identified in the motion that convened the closed meeting, pursuant to the Virginia Code Section 2.2-3712 (D).

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Workshop Meeting
June 27, 2023

Roll call vote: Boyce – yes, Simpson – yes, Spiggle – yes, Allen – yes, Puckette – yes, Garrett – yes. Motion carried 6-0.

ADJOURNMENT:

On a motion by Mr. Garrett, seconded by Mrs. Puckette, Council voted to adjourn at 7:50 p.m. All council members present voting aye. Motion carried 6-0.

Roxanne W. Casto, MMC
Clerk

Richard C. Conner
Mayor

File Attachments for Item:

2. Consideration to adopt a Resolution Authorizing the Issuance, Sale, and Award Of An Up To \$1,156,000 Water System Improvement General Obligation Bond, Series 2023B and Providing for the Form, Details, and Payment Thereof

**A RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND AWARD OF AN UP TO
\$1,156,000.00 WATER SYSTEM IMPROVEMENT GENERAL OBLIGATION BOND,
SERIES 2023B AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT
THEREOF**

WHEREAS, the Town of Appomattox, Virginia (the “Town”), is a public body politic and corporate of the Commonwealth of Virginia duly created under charter by Order of the Circuit Court of Appomattox County, Virginia, dated June 2, 1925; and

WHEREAS, the Town has determined to replace certain of its water lines on Church Street in the Town and to finance such in part through the issuance of its general obligation bonds (the “Project”);

WHEREAS, by Resolution, dated October 26, 2021, (the “2021 Resolution”) the Town Council authorized to be issued the Town’s up to \$500,000 Water System Improvement General Obligation Bond, Series 2021 (“Series 2021 Bond”) to finance the Project;

WHEREAS according to the 2021 Resolution the Town Council hereby changes the series designation on the Series 2021 Bond to the “Town of Appomattox \$500,000 Water System Improvement General Obligation Bond, Series 2023A” (the “Series 2023A Bond”);

WHEREAS, the United States of America acting through the Rural Utilities Service (the “Government”), has offered to purchase the Town’s up to \$1,156,000.00 Water System Improvement General Obligation Bond, Series 2023B Bond, bearing interest at the rate and on the terms and conditions otherwise described in Section 2.2 below, to purchase the Series 2023A Bond, to further provide a Rural Development Grant not to exceed \$1,125,000 (the “RUS Grant”), which together with a Community Development Block Grant of \$650,000 (the “CDBG Grant”) (together the “Grants”) on the terms described in a Letter of Conditions, dated May 20, 2021, as amended by a Letter of Conditions, dated June 20, 2023, attached hereto as Exhibit A (the “Letter of Conditions”) will result in a total project financing of \$3,431,000,000; and

WHEREAS, the Town has determined to satisfy the terms of the Letter of Conditions and award the bonds to the Government, and to accept the Grants;

NOW, THEREFORE, BE IT RESOLVED BY TOWN COUNCIL OF THE TOWN OF APPOMATTOX, VIRGINIA:

**ARTICLE 1
AUTHORIZATION OF PROJECT**

Section 1.1 The Project: In order to improve the Town’s water lines on Church Street serving the citizens of the Town, the Project has been duly authorized by Loan Resolutions (RUS Bulletin 1780-27) of the Town Council, dated April 6, 2021 and July 10, 2023 copies of which are attached hereto as Exhibit B and which are hereby ratified, confirmed and approved. The

Town hereby ratifies confirms and approves the RUS Grant Agreement (RUS Bulletin 1780-12), a copy of which are on file with the Town, and the CDBG Grant.

ARTICLE 2
AUTHORIZATION, FORM, EXECUTION, DELIVERY,
REGISTRATION AND PREPAYMENT OF BOND

Section 2.1 Authorization of Bond; Acceptance of Grants: There is hereby authorized to be issued the general obligation bond of the Town in the principal amount of up to \$1,156,000.00 to provide funds to finance the Project. The bond shall be designated “Town of Appomattox, Virginia \$1,156,000.00 Water System Improvement General Obligation Bond, Series 2023B” (the “Series 2023B Bond”) and shall be sold to the Government upon the terms set forth in the Letter of Conditions. The acceptance of the Grants is hereby approved. The proceeds from the issuance and sale of the Series 2023B Bond and the Grants shall be used to pay the costs of the Project.

Section 2.2 Details of Series 2023B Bond: The Series 2023B Bond shall be issued as follows:

(a) A single fully registered Series 2023B Bond without coupons in the denomination of \$1,156,000.00, registered in the name of United States of America, Rural Utilities Service, which shall be numbered R-1, shall be dated the date upon which the Series 2023B Bond is delivered to the Government upon payment of the purchase price (the “Closing Date”) and shall bear interest at the rate not to exceed Two and One Quarter (2.25%) Per Cent per year on the unpaid principal balance; provided, however, that should the Government offer a lower rate of interest on the Series 2023B Bond, such lower rate shall be conclusively accepted by the Town, including the associated lower installment amount for payment thereof, it being the intent of the Town to obtain to lowest cost of borrowed funds for the permanent financing for the Project. The Series 2023B Bond shall be in substantially the form set forth on Exhibit C hereto.

(b) The Series 2023B Bond shall provide for monthly payment of combined principal and interest beginning one month following the Closing Date and continuing each month thereafter for a period of 479 months until paid. If not sooner paid, the final installment shall be due and payable 480 months from the Closing Date. The payment of every installment shall be applied first to interest accrued to the payment date and then to principal. In the event the Closing Date occurs on the 29th, 30th or 31st day of a month, the installment payment date shall be the 28th day of the month.

(c) Installments shall be payable in lawful money of the United States of America in accordance with the Preauthorized Debit System described in the Letter of Conditions at such address as shall be provided from time to time by the registered owner, except that the final installment shall be payable upon presentation and surrender of the Series 2023B Bond at the office of the Registrar.

Section 2.3 Execution of Series 2023B Bond: The Series 2023B Bond shall be signed by the Mayor of the Town and countersigned by its Clerk and its seal shall be affixed thereto.

{3080947-4, 705417-00008-07}

The Mayor is expressly authorized and directed to finally determine and approve the details of the Series 2023B Bond except that (a) the maximum principal shall not exceed \$1,156,000,000 (b) the maximum interest rate shall not exceed Two and One Quarter Per Cent (2.25%) per annum and (c) the final maturity date shall be a date no later than forty (40) years from the date of issuance. Such determination and the execution and delivery of the Series 2023B Bond on the closing date and delivery to the Government shall constitute conclusive evidence of approval and no further action by the Town shall be required.

Section 2.4 Registration and Exchange of Series 2023B Bond: The Treasurer of the Town is hereby appointed Registrar. Transfer of the Series 2023B Bond may be registered upon books maintained for that purpose at the office of the Registrar. The initial address of the registered owner of the Series 2023B Bond shall be Finance Office, USDA Rural Development, 1520 Market Street, St. Louis, Missouri 63103-2696. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner. The Series 2023B Bond shall initially be registered in the name of Rural Utilities Service with an address of 1520 Market Street, St. Louis, Missouri 63103-2696.

Section 2.5 Delivery of Series 2023B Bond: The Mayor and the Clerk are hereby authorized and directed to take all proper steps to have the Series 2023B Bond prepared and executed in accordance with its terms and to deliver the Series 2023B Bond to the Government upon payment therefor. The Mayor and the Clerk are further authorized and directed to agree to and comply with, on behalf of the Town, all further conditions, and requirements of the Government not inconsistent with this resolution in connection with its purchase of the Series 2023B Bond.

Section 2.6 Prepayment of Series 2023B Bond: Installments of principal due on the Series 2023B Bond may be prepaid at the option of the Town at any time as a whole or in part from time to time (and if in part in inverse order of their maturities), without premium, from any source. Prepayments of installments of principal shall not affect the obligation of the Town to pay the remaining installments payable as provided in Section 2.2.

Section 2.7. Form of the Series 2023A Bond: The form of the Series 2023A Bond is attached hereto as Exhibit D.

ARTICLE 3 REVENUES AND FUNDS; BOND PROCEEDS; RESERVE

Section 3.1 Revenue Fund: All rates, fees and other charges or other revenue derived from the ownership or operation of the Town's water utility system (the "System") shall be collected and so far as may be practicable, deposited not less frequently than weekly in a special account designated the Revenue Fund. Moneys on deposit in the Revenue Fund shall be used only in the manner and priority set out below.

Section 3.2 Rates and Charges: The Town covenants that it shall establish and collect rates and charges with respect to the System sufficient to pay the principal of and interest on the Series 2023A Bond and Series 2023B Bond (together the "Bonds"). Further, as required under

the Letter of Conditions, the Town hereby approves and confirms that a Ten Percent (10%) penalty shall be assessed on all user accounts with respect to the System that are not paid, in full, within twenty (20) days from the date of billing therefor. To the fullest extent allowed under Virginia law, the Town shall discontinue service to any user if such billing invoice is not paid within sixty (60) days after the due date thereof, and further, such service shall not be restored until all past charges have been paid and all accrued penalties, including a reconnection charge, have been paid to the Town, in full.

Section 3.3 Debt Service Fund: Each month the Town shall transfer from the Revenue Fund to a separate account designated the Debt Service Fund an amount equal to the installments of interest, or principal and interest coming due on the Bonds that month. If there should be insufficient moneys in the Revenue Fund for this purpose, the deficit shall be added to the required payment for the month or months next ensuing until such deficit is eliminated. When the balance in the Debt Service Fund equals the principal of and interest on the Bonds then outstanding to maturity, no further transfers to the Debt Service Fund shall be required. The Town shall pay installments of principal and interest on the Bonds as the same become due from the Debt Service Fund.

Section 3.4 Balance in Revenue Fund: Any balance remaining in the Revenue Fund each month, after making the transfers required by Section 3.3 may be used by the Town for any lawful purpose.

Section 3.5 Pledge of Revenues:

(a) All revenues and receipts derived by the Town from the use of and services furnished by the System (the “Revenues”) and all moneys in the Revenue Fund and the Debt Service Fund are hereby pledged to the payment and performance of the Town’s obligations on the Bonds, such pledge to be on a par with all prior pledges of revenue from the System securing indebtedness incurred for improvement of the System, subject to the rights of the Town to use the Revenues for the operation and maintenance expenses of the System, as provided herein.

(b) The pledge of Revenues pursuant to this Resolution with respect to the Bonds shall be valid and binding from and after the Closing Date. The Revenues, as received by the Town, shall be immediately subject to the lien of such pledge without any physical delivery of them or further act. Such pledge of the Revenues to secure the payment and performance of the Town's obligations under the Bonds shall be on a par with all prior pledges of revenue from the System securing indebtedness incurred for improvement of the System and have priority over all obligations and liabilities of the Town. The lien of this pledge of the Revenues with respect to the Bonds shall be valid and binding against all parties having claims against the Town regardless of whether such parties have notice thereof.

NEITHER THE BONDS NOR THE OBLIGATIONS OF THE TOWN UNDER THE LETTER OF CONDITIONS OR THIS BOND RESOLUTION CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY OTHER POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRIGNIA.

Section 3.7 Construction Fund; Account Pledge: All amounts from the proceeds of the Bonds shall be deposited in a separate account with a qualifying depository designated the Construction Account and shall be used solely for the purpose of paying authorized costs of the Project. All amounts in the Construction Fund are hereby pledged to secure the payment of principal and interest on the Bonds.

ARTICLE 4 SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 4.1 Security for Deposits: All moneys on deposit with any bank or trust company shall be secured for the benefit of the Town and the holder of the Bonds in the manner required by the Virginia Security for Public Deposits Act (Chapter 44, Title 2.2, Code of Virginia of 1950, as amended) or any successor provision of law.

ARTICLE 5 MISCELLANEOUS

Section 5.1 Contract with Bondholder: The provisions of this resolution shall constitute a contract between the Town and the holder of the Bonds for so long as the Bonds and interest thereon are outstanding.

Section 5.2 Town Officers and Agents: The officers and agents of the Town shall do all acts and things required of them by this resolution, the Bonds and the Virginia Public Finance Act (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended) for the complete and punctual performance of all the terms, covenants and agreements contained therein.

Section 5.3 Limitation of Rights: Nothing expressed or mentioned in or to be implied from this resolution or the Bonds is intended or shall be construed to give to any person or company other than the parties hereto and the holder of the Bonds any legal or equitable right, remedy or claim under or in respect to this resolution or any covenants, conditions and agreements herein contained; this resolution and all of the covenants, conditions and agreements hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the holder of the Bonds as herein provided.

Section 5.4 Limitation of Liability of Officials of Town: No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of a present or future member, officer, employee or agent of the Town in his individual capacity, and neither the members of the Town Council nor any officer thereof executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, employee, or agent of the Town shall incur any personal liability with respect to any other action taken by him pursuant to this resolution or the Virginia Public Finance Act (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended), provided he acts in good faith.

{3080947-4, 705417-00008-07}

Section 5.5 Conditions Precedent: Upon the issuance of the Bonds all acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia or this resolution to have happened, exist and to have been performed precedent to or in the issuance of such Bonds shall have happened, exist and have been performed.

Section 5.6 Series Designation: In the event the Bonds are not issued during calendar year 2023, the Mayor and Clerk of the Town are hereby authorized and directed to change the series designation to such other year as may be appropriate at the time of their issuance. Thereafter all references in this resolution to the Bonds shall be deemed to refer to the general obligation Bonds issued pursuant to Article 3 under their new series.

Section 5.7 Repeal of Resolutions in Conflict: All other resolutions, or parts thereof, in conflict with this resolution or the 2021 Resolution are hereby repealed except for such resolutions as may have been adopted by the Town at the specific request of the Government as a condition to its purchase of the Bonds.

Section 5.8. Reserves; Audit Requirements, Accounts and Records. The establishment, funding and maintenance of reserves as required by the Government as described in the Letter of Conditions are hereby authorized and approved. The Mayor and Clerk are hereby authorized and directed to coordinate with the Town's outside auditors for the Town to satisfy (and otherwise comply with) the audit requirements and any other accounting and financial reporting terms and conditions as set forth in the Letter of Conditions.

Section 5.9 Successors and Assigns: All the covenants, stipulations, promises and agreements of the Town contained in this resolution shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

Section 5.10 Headings: Any headings in this resolution are solely for convenience of reference and shall not constitute a part of the resolution nor shall they affect its meaning, construction, or effect.

Section 5.11 Severability: If any court of competent jurisdiction shall hold any provision of this resolution to be invalid and unenforceable, such holding shall not invalidate any other provision hereof.

Section 5.12 Filing of Bond Resolution. The Mayor or Clerk Council, either of whom may act, any other appropriate representative or agent of the Town, is hereby authorized and directed to see to the filing of a certified copy of this resolution in the Office of the Clerk of the Circuit Court of the County of Appomattox.

Section 5.13 Effective Date: This resolution shall take effect immediately. The Clerk of the Town is hereby authorized and directed to file a certified copy of this resolution in the office of the Town.

This Resolution was passed by a vote of the Appomattox Town Council on the 10th day of July, 2023.

Mayor, Town of Appomattox

(SEAL)

ATTEST:

Clerk of Council

Exhibit A: Letter of Conditions

Exhibit B: RUS Bulletin 1780-27, Loan Resolution

Exhibit C: Form of Bond

CERTIFICATE OF VOTES

The undersigned hereby certifies that the foregoing constitutes a true and correct copy of the foregoing Bond Resolution, duly adopted by the members of the Appomattox Town Council by a roll call vote at a regular meeting duly held and called on the date hereof, as follows:

Name	Aye	Nay	Abstain	Absent
James J. Boyce, Sr				
Jane T. Allen				
Timothy W. Garrett				
Claudia G. Puckette				
Mary Lou Spiggle				
Nathan A. Simpson				

(SEAL)

ATTEST:

Roxanne Casto
Clerk of Council

EXHIBIT A
LETTER OF CONDITIONS



Rural Development

June 20, 2023

RD Satellite Office

650 North Lee
Highway, Suite 3
Lexington, VA 24450

Voice: 540-319-6466
Fax: 855-636-4613

Mr. Terry McGhee, Town Manager
Town of Appomattox
P.O. Box 705
Appomattox, VA 24522

Dear Mr. McGhee:

The purpose of this letter is to amend the Letter of Conditions dated May 20, 2021, which was previously delivered to the Town of Appomattox for improvements to the Church Street water distribution system. Any conditions not specifically changed by this amendment remain the same.

The second paragraph of the letter of conditions dated May 20, 2021, is hereby replaced with the following:

This letter is not to be considered as approval of financial assistance or as a representation as to the availability of funds. The financial package may be completed on the basis of a Rural Development initial loan not to exceed \$500,000, a Rural Development grant not to exceed \$1,125,000, a Rural Development subsequent loan not to exceed \$1,156,000, and other funding in the amount of \$650,000, for a total project cost of \$3,431,000. The other funding is planned in the form of a Community Development Block Grant (CDBG) from the Department of Housing and Community Development.

Item numbers 1, 2, 7, 8, 9, and 15 of the letter of conditions dated May 20, 2021, are hereby replaced with the following:

1. Project Description and Budget - Funds will be used to replace approximately 6,225 linear feet of 4" water line with 8" water line in the Church Street area. Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER) as concurred in by Rural Development.

Funding from all sources has been budgeted for the estimated expenditures as follows:

<u>Project Costs</u>	<u>Total Budgeted</u>
Construction	\$ 2,689,000
Project Materials	400,088
Legal Fees	20,000
Bond Counsel Fees	15,000
Engineering Fees:	
Basic	55,400
Inspection	94,000

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Additional - Permitting	5,000
Project Contingency	<u>152,512</u>

TOTAL PROJECT COSTS \$ 3,431,000

2. Project Funds - Project funding is planned from the following sources and amounts:

<u>Project Funding Source</u>	<u>Funding Amount</u>
Rural Development Initial Loan	\$ 500,000
Rural Development Grant	1,125,000
Rural Development Subsequent Loan	1,156,000
CDBG Grant	<u>650,000</u>

TOTAL PROJECT FUNDING \$ 3,431,000

Prior to closing, any increase in non-Rural Development funding will be applied first as a reduction to Rural Development grant funds (up to the total amount of the grant) and then as a reduction to Rural Development loan funds.

Any changes in funding sources following obligation of Rural Development funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. You must assure that all project funds are expended only for the eligible items included in the project budget of this letter of conditions or as amended by Rural Development in writing at a later date.

After providing for all authorized costs, any remaining Rural Development project funds will be considered to be Rural Development grant funds and refunded to Rural Development. If the amount of unused Rural Development project funds exceeds the Rural Development grant, that part would be Rural Development loan funds and applied as an extra payment to your loan.

Prior to advertisement for construction bids, you must provide evidence showing the approval of funds from other sources. This evidence should include a copy of the commitment letter. Prior to the award of any contract to a contractor, you must provide written evidence that these funds are available for expenditure. Prior to the start of construction, an agreement should be reached with all funding sources on how funds are to be disbursed.

7. Bond Counsel - **As the initial and subsequent loans were obligated in different fiscal years, it will be necessary to issue two bonds.** The services of a recognized bond counsel are required. In accordance with 7 CFR 1780, Subpart D, bond counsel will prepare the form of Bond Resolution to be used. You should immediately provide your bond counsel with a copy of this letter of conditions.

The final bond transcript must include a copy of the adopted Rate Ordinance/Resolution, along with the rules and regulations of the water utility.

8. Security - The loans must be secured by General Obligation Bonds, a pledge of the net revenues of your water utility on parity with all previous bond issues, a pledge of the full faith and credit of the Town, and other agreements between you and Rural Development as set forth in the Bond Resolution, which must be properly adopted and executed by the appropriate officials of your organization.

The bond and any resolution relating thereto must not contain any provisions in conflict with RUS Bulletin 1780-27, applicable regulations, or authorizing law. In particular, there must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 United States Code (USC) 1983.

Additional security requirements are contained in RUS Bulletin 1780-27, Loan Resolution, and RUS Bulletin 1780-12, Grant Agreement. A copy of the minutes from the meeting at which the Loan Resolution is adopted must be provided to Rural Development.

A draft of all security instruments, including the bond resolution, form of bond, and bond counsel opinion, must be reviewed and concurred in by Rural Development prior to advertising for bids. Both the Bond and Loan Resolutions must be fully executed prior to closing.

As you have issued Bonds secured by water revenues to another lender(s), a Parity/Intercreditor Agreement between Rural Development and that lender(s) must be executed prior to loan closing. A draft of the agreement must be concurred in by Rural Development prior to advertising for bids.

9. Loan Repayment - The initial loan will be scheduled for repayment over a period of 40 years. Payments for the 480 months will be equal amortized monthly installments. For planning purposes, use a 1.375% interest rate and a monthly amortization factor of .00271, which provides for a monthly payment of \$1,355.00.

The subsequent loan will be scheduled for repayment over a period of 40 years. Payments for the 480 months will be equal amortized monthly installments. For planning purposes, use a 2.25% interest rate and a monthly amortization factor of .00317, which provides for a monthly payment of \$3,665.00.

Unless you choose otherwise, the interest rate will be the lower of the rate in effect at the time of loan approval or the time of closing. Should the interest rate outlined above be reduced at closing, your payments will be recalculated based on the lower rate. The payment due dates will be established as the day the loans close. If closing takes place on the 29th, 30th, or 31st, the payment due date will be the 28th.

Payments will be made on the day your payment is due through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, Authorization Agreement for Preauthorized Payments, for all new AND existing indebtedness to Rural Development prior to closing, which will allow for your payment to be electronically debited from your account on the day your payments are due.

15. Proposed Operating Budget and User Rate Analysis - Prior to written authorization from Rural Development to proceed with the bidding phase, you will be required to submit a copy of your proposed annual operating budget and rate analysis which supports the proposed loan repayment. The operating budget should be based on a typical year's cash flow subject to completion of this project in the first full year of operation. The rate analysis will be required to show the number of users, their average consumption based on a twelve-month consecutive average, and a rate structure to support the necessary revenue to make the operating budget cash flow. Form RD 442-7, Operating Budget, or similar form may be utilized for this purpose.

You must establish, adopt, and maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance, debt service, and reserves. This rate schedule must provide for a minimum monthly EDU cost of \$26.62. In addition, it is anticipated a General Fund transfer of \$220,700 will be required in the first full year of operation after construction of this project. When added to the monthly EDU cost of \$26.62 from user rates, the ending result is a total monthly EDU cost of \$40.27.

Prior to requesting authorization to bid, you must provide:

- a. **A draft rate resolution**
- b. **A use and income analysis and operating budget. These documents must be based on the anticipated active customers, and the budget must show repayment ability.**

Prior to closing or the start of construction, whichever occurs first, you must provide evidence that the rate resolution has been adopted, as well as evidence indicating the rates will be placed into effect at the beginning of the first full year of operation after construction of this project.

It is expected that operation and maintenance will change over each successive year, and user rates will need to be adjusted on a regular basis. Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. If you are interested, please contact our office for more information.

The following paragraph is hereby added to the letter of conditions dated May 20, 2021:

48. Build America, Buy America Requirements (BABA)

- a. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it neither applies to tools, equipment, and supplies, such as temporary scaffolding brought to the construction site and removed at or before the completion of the infrastructure project, nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

- b. Waivers - When necessary, recipients may apply for, and the Agency may grant, a waiver from these requirements. The Agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the Agency determines that:

1. Applying the domestic content procurement preference would be inconsistent with the public interest;
2. The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3. The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The Agency will provide instructions on the format, contents, and supporting materials required for any waiver request.

Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

c. Definitions:

1. "Construction materials" includes an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates, such as stone, sand, or gravel, or aggregate-binding agents or additives that are or consist primarily of:
 - a. Non-ferrous metals;
 - b. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - c. Glass (including optic glass);
 - d. Lumber; or
 - e. Drywall
2. "Domestic content procurement preference" means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.
3. "Infrastructure" includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.
4. "Project" means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Owners are ultimately responsible for compliance with the domestic preference requirements as outlined in RUS Bulletin 1780-35 or the Build America Buy America (BABA) Appendix, which is attached to this letter of conditions.

We believe the information herein clearly sets forth the action which must be taken; however, if you have any questions, please do not hesitate to contact my office.

Please complete Form RD 1942-46, Letter of Intent to Meet Conditions, and Form RD 1940-1, Request for Obligation of Funds, if you desire that further consideration be given to your application.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, Rural Development reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of closing within twelve (12) months and it is determined the applicant still wishes to proceed, it may

Mr. Terry McGhee, Town Manager
Town of Appomattox - Church Street Water Line Improvements
RUS Subsequent Loan - \$1,156,000
Amended Letter of Conditions - 6-20-2023

7

be necessary to review the conditions outlined in this letter. If during that review it is determined the conditions are no longer adequate, Rural Development reserves the right to require that the letter of conditions be revised or replaced.

Sincerely yours,


LAURETTE TUCKER
Area Director
USDA, Rural Development

Attachment- BABA Appendix

cc: State Director, Rural Development, Richmond, VA
Attorney
Bond Counsel
Accountant
Engineer

**Interim Guidance for the Implementation of Build America, Buy America (BABA) and
American Iron and Steel (AIS) Domestic Preference Requirements for Projects Receiving
USDA Rural Utilities Service (RUS) Water and Environmental Programs (WEP) Financial
Assistance**

May 14, 2022

Purpose

This document provides USDA Rural Utilities Service (RUS) Water and Environmental Programs (WEP) financial assistance recipients guidance on compliance with the Build America, Buy America (BABA) domestic preference requirements mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58). It is intended to assist WEP program funding applicants with compliance with the new requirements until the guidance can be promulgated in an update to RUS Bulletin 1780-35.

Note that BABA does not supersede the American Iron and Steel (AIS) domestic preference requirements of Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017, Pub.L. 115-31) and subsequent statutes. However, compliance with BABA requirements for iron or steel items as indicated in this guidance will also address the AIS requirements. Additional instructions for AIS compliance are in RUS Bulletin 1780-35 (2017).

Definitions

Agency - USDA Rural Development Rural Utilities Service, as well as Rural Development State and Area offices.

American Iron and Steel (AIS) - Domestic preference requirements for iron and steel mandated in Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes.

Build America, Buy America Act (BABA) - Domestic preference requirements for Iron and Steel Products, Manufactured Products, and Construction Materials mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58, §§ 70901-70953).

Construction materials - items that are or consist primarily of:

1. Non-ferrous metals;
2. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
3. Glass (including optic glass);

4. Lumber; or
5. Drywall

All manufacturing processes for Construction materials must take place in the United States.

Contractor - The individual or entity with which the applicant has contracted (or is expected to contract) to perform construction services. This includes bidders, contractors that have received an award from the applicant and any party having a direct contractual relationship with Owner/applicant.

Contractor's Certification - Documentation submitted upon substantial completion of the project that all Iron and Steel Products, Manufactured Products, and Construction Materials permanently installed on the project were produced in the United States (Attachment 1).

Engineer - An individual or entity with which Owner has contracted to perform engineering/architectural services for water and waste projects funded by the programs subject to the domestic preference requirements.

Engineer's Certification - Documentation that, to the best of Engineer's ability, Engineer commits to prepare plans, specifications, bidding documents, bid addenda, contracts and change orders that comply with these domestic preference requirements (Attachment 2).

Iron and Steel Products - Items that are primarily (>50%) iron or steel, based on materials cost. All iron and steel products used in the project must be produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. The raw materials for iron or steel production, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-U.S. sources. Note that steel-reinforced, precast concrete is specifically listed in the AIS statute and therefore is considered an iron or steel product regardless of whether the steel content meets the 50% cost threshold.

Manufactured Products - Items assembled out of components, or otherwise made or processed from raw materials into finished products. Manufactured products must be manufactured (assembled) in the United States, and the cost of components that were mined, produced, or manufactured in the United States must be greater than 55 percent of the total cost of all components of the product. Note that Pub.L. 117-58 requires the Federal Acquisition Regulatory Council to amend part 25 of the Federal Acquisition Regulation to provide a definition for "end product manufactured in the United States" not later than one year after the enactment of the act (November 15, 2021). In the interim, WEP will consider Manufactured Products to be any products that are not defined as Iron or Steel Products, Construction Materials, or non-BABA Items.

Manufacturer's Certification - Documentation provided by manufacturer or fabricator to various entities stating that the products to be used in the project are produced in the United States. This is the primary method to ensure compliance with domestic preference requirements. The Certification

should include the project name, product common name and model number, city and state of manufacture, signature of company representative, and reference to USDA's statutory domestic preference language. If processes have been completed by different companies, each manufacturer should provide a Manufacturer's Certification for the process (or step) they performed (Attachment 3).

Non-BABA items - Cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives are not required to be domestically produced.

Owner - The entity receiving financial assistance to construct, alter, maintain, or repair a public water or waste system from WEP programs. For the purpose of this guidance, this term is synonymous with the term "applicant" as used in 7 CFR 1780.7 (a) (1), (2) and (3).

Produced in the United States -

- For Iron and Steel Products:
 - o All manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - o Note that raw materials including scrap steel, pig iron, direct reduced iron and additives do not need to be produced in the United States.
- For Manufactured Products:
 - o The product was manufactured or assembled in the United States and components of the product that were mined, produced, or manufactured in the United States comprise more than 55 percent of the total cost of the product.
 - o Note that Pub.L.117-58 requires the Federal Acquisition Regulatory Council to amend part 25 of the Federal Acquisition Regulation to provide a definition for "end product manufactured in the United States" not later than one year after the enactment of the act (November 15, 2021).
- For Construction Materials:
 - o All manufacturing processes occurred in the United States.
- For non-BABA items:
 - o Cement and cementitious materials, aggregates, aggregate binding agents and additives do not need to be produced in the United States

Project - The total undertaking to be accomplished for the applicant by Engineer(s), Contractor(s), and others, including the planning, study, design, construction, testing, commissioning, and start-

up, of which the work to be performed under the contract is a part. The intentional splitting of projects into separate and smaller contracts or obligations to avoid domestic preference requirements is prohibited.

I. BACKGROUND:

- a. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017, applied the American Iron and Steel (AIS) domestic preference requirements for iron and steel to all construction-related programs of the USDA, Rural Utilities Service (RUS), Water and Environmental Programs (WEP). This requirement has been included in each subsequent annual appropriation for WEP to date.
- b. The Build America, Buy America (BABA) Act, Title IX of the Infrastructure Investment and Jobs Act of 2021, applied a domestic preference requirement on all Federally assisted infrastructure projects, to include iron and steel, manufactured products, and construction materials. Specifically, the Act states, "...none of the funds made available for a Federal financial assistance program for infrastructure, ... , may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." The White House Office of Management and Budget (**OMB**) issued its Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure (M-22-11) on April 18, 2022, clarifying applicability of BABA to federal funding programs and products used on infrastructure projects.
- c. The following USDA Rural Utilities Service (RUS), Water and Environmental Programs (WEP) programs are specifically listed in the AIS statute and are therefore subject to AIS requirements. To the extent that the programs provide federal assistance for construction of infrastructure, they are also subject to the BABA requirements:
 1. Water and Waste Disposal Loan and Grant program;
 2. Guaranteed Loan Funds;
 3. Revolving Loan Funds;
 4. Emergency Community Water Assistance Grants;
 5. Section 306C Colonias and Tribal Set-Aside Grants;
 6. Rural Alaskan Native Village Grants;
 7. Rural Decentralized Water Systems Program;
 8. Household Water Well System Grants; and
 9. Rural Economic Area Partnership Zone projects.

Note that while Predevelopment Planning Grants (PPG) and Special Evaluation Assistance for Rural Communities and Households (SEARCH) programs are not directly associated with construction funding and are not specifically listed in the AIS statute, the purpose of these programs is to fund development of planning documents for a construction project.

Since these documents are often used in construction projects funded by programs listed above, they should reflect compliance with domestic preference requirements.

- d. Compliance with the domestic preference requirements for Iron and Steel products as described in this guidance satisfies the requirements of both AIS and BABA.

2. APPLICABILITY:

- a. The AIS requirements apply to projects that construct, alter, enlarge, extend, maintain, repair or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities. The BABA requirements apply to all federally assisted infrastructure construction projects. Given the nature of the WEP programs listed in section 1.c, both the AIS and BABA requirements apply to all construction projects funded by WEP.
- b. Any amount of funding from the programs listed in section 1.c requires compliance with these domestic preference requirements. Use of funds from these programs is not allowed unless the requirements for domestic preference are met for the entire project. Projects that leverage funds from other funding sources also must comply with the requirements for the entire project.
- c. The requirements apply to re-used or salvaged products to be incorporated into the project.
- d. The domestic preference requirements for Iron and Steel Products apply to projects for which any funds were first obligated after May 5, 2017. The domestic preference requirements for Iron or Steel products do not apply to contracts which were executed prior to or on May 5, 2017, regardless of the date of obligation.
- e. The domestic preference requirements for Manufactured Products and Construction Materials apply to projects for which any funds were obligated after May 14, 2022.
- f. AIS does not apply to projects for which contracts were executed and/or construction is already underway and/or completed prior to applying to USDA for funding. As of the writing of this guidance, there is no similar exception or waiver in place for BABA. This exception should not be used to circumvent the statutory requirement. Contact the State Engineer for guidance.
- g. All iron or steel products, Manufactured Products, and Construction Materials permanently incorporated into the project must be Produced in the United States, as defined above. The requirements do not apply to any items that are at the construction site temporarily, such as scaffolding, trench boxes, or equipment temporarily used or stored on site. In addition, the requirements do not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of or permanently affixed to the structure.

- h. The domestic preference requirements supersede any requirement of full and open competition in 7 CFR 1780.70 (b) and 2 CFR Part 200.319.
- i. The domestic preference requirements may be waived by the Agency under limited circumstances. Only waivers that are granted specifically for the project and general waivers that are in effect at the time of obligation may be utilized for a project.
- j. The requirements do not apply to expenditures for assistance authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 100-707, as amended) relating to a major disaster or emergency declared by the President under the Act, or to pre- and post-disaster or emergency response expenditures.

3. WAIVERS:

a. General

- 1. Each entity that receives financial assistance for water and waste infrastructure from WEP programs must use Iron and Steel products, Manufactured Products, and Construction Materials produced in the United States. A waiver is a legal document allowing a project to use a non-domestic product. More than one waiver could apply to a project.
- 2. Both the AIS and BABA statutes authorize the Agency to waive their respective domestic preference requirements if:
 - i. Applying the requirements would be inconsistent with the public interest;
 - ii. Products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - iii. The domestic preference requirement will increase the cost of the overall project by more than 25 percent.

b. National Waivers

- 1. National waivers are those that apply to all WEP projects. As of the date of this guidance, two national waivers of AIS are in force. They are:
 - i. De Minimis and Minor Components waiver.
 - ii. Pig Iron and Direct Reduced Iron waiver.
- 2. As of the date of this guidance, there are no national waivers of BABA.
- 3. Details on applicability and implementation of the national waivers can be found on the USDA domestic preference website. As of the date of this guidance, this is:

<https://www.rd.usda.gov/water-and-waste-disposal-programs-american-iron-and-steel-requirement>.

c. Application for Project-Specific Waivers

1. To request a project-specific public interest waiver, the project Owner, with the assistance of the Engineer, must submit a detailed justification of how the public interest would be served by waiving the domestic preference requirement for the item(s) or project.
2. To request a project specific waiver for products not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, the Contractor, Owner or Engineer must first contact at least five manufacturers, distributors, or suppliers. If the project cannot find a domestic source for the product, meeting the project's specifications, they may request Agency assistance with market research. If the Agency's market research, coupled with the project's research, demonstrates that the item sought is not domestically produced, or a compliant item cannot be located, or the lead time for a compliant item is significantly longer than for a non-compliant item - and this difference is going to cause the project to miss a project milestone or deadline, the project Owner may submit a request for a non-availability waiver.
3. To request a project specific waiver when the domestic preference increases total project cost by 25 percent, the Engineer must compile cost information from Contractor (or bidders) and Owner (for project soft costs), evaluate the cost impacts, and provide a detailed analysis to the Agency for review.
4. Proper and sufficient documentation (see Attachment 4) must be provided by Owner and their Engineer to the Agency. Consult with the State Engineer for specific information on documentation needed for a waiver request before submitting to the National Office via WEPEngineering@usda.gov.

d. Evaluation and Approval by the Agency

1. All information in waiver requests is subject to verification.
2. The Agency will review the request and will decide how to proceed.
3. If the Agency (in consultation with the Office of Management and Budget) decides to pursue the waiver, it will publish the waiver request on USDA's domestic preference website for a minimum of 15 calendar days for public comment.
4. After reviewing the merits of the case, including any public comments received and consistency determination by the Office of Management and Budget (OMB) Made in

America Office (MIAO), the Secretary of Agriculture or designee will determine whether or not to grant the waiver.

5. Approved and disapproved waivers will be posted on the USDA's domestic preference website.

e. Timing

1. The waiver process should be initiated as early as possible, to ensure that projects are not delayed. Contractors and Engineers are encouraged to research sources early.
2. All approved waivers applicable to the project, including general applicability waivers, must be included in the bidding documents and bid addenda.
3. For sole-source items, a waiver must be approved by the Agency prior to bidding and a copy of the waiver must be included in the bidding documents.

4. RESPONSIBILITIES:

a. Agency's Responsibilities

1. Determine whether AIS and/or BABA applies to Project.
2. Provide a determination as to whether AIS and/or BABA applies to specific product(s) upon request from Owner, Engineer, Contractor, Manufacturer or Supplier.
3. Upon request, determine whether a manufacturer's certification meets Agency requirements. Note that Agency's review is only to verify that the certification contains the necessary information to indicate the product certified complies with the domestic preference requirements. Agency review does not attest that the item complies with the requirements.
4. Provide AIS and BABA training and guidance to Owners, Engineers, and manufacturers on overall requirements, categories of products with the requirements for each, and certifications.
5. In response to a non-availability claim made by Contractor, reviewed by Engineer, and submitted to Agency, perform market research to assist in locating domestically produced items. If this research indicates the item is not domestically available, the Agency will determine if a waiver is justified and process the waiver.
6. In response to a project cost-based waiver claim, evaluate cost data provided by Engineer (requesting additional information if necessary). The Agency will determine

if a waiver is justified and process the waiver. If a cost-based waiver is granted, the Agency will assist the project with implementation.

7. If a project requests a waiver based on the 'public interest,' the Agency will evaluate to determine if the waiver is justified and process the waiver.
8. Perform other oversight roles as may be required, including requesting additional information from Owner, manufacturers, Contractors and Engineers; conducting informational site visits or off-site training; conducting site inspections; or auditing Contractor, Engineer, or Owner BABA records.

b. Owner's Responsibilities

Owner is ultimately responsible for compliance with these domestic preference requirements.

1. Sign loan resolutions, grant agreements and letters of intent to meet conditions which include domestic preference language, accepting domestic preference requirements in those documents and in the letter of conditions.
2. Sign agreements for engineering services, construction contracts, and all other appropriate and necessary documents which include domestic preference language.
3. Acknowledge responsibility for compliance with domestic preference requirements by signing change orders (EJCDC C-941), work change directives (EJCDC C-940), field orders (C-942) and partial payment applications (EJCDC C-620).
4. Obtain all Certifications from Engineer at substantial completion of the project and maintain this documentation for a minimum of three years.
5. If the project is seeking a waiver of domestic preference requirements, provide any requested information to assist the Agency in reviewing the waiver request.
6. Special Cases:
 - a. Where Owner provides their own engineering, Owner's responsibilities will include items listed in the Engineer's Responsibilities section.
 - b. Where Owner performs their own construction, Owner's responsibilities will include items listed in the Contractor's Responsibilities Section.
 - c. Where Owner directly procures products, Owner must include domestic preference language into any procurement contract documents, obtain Manufacturers' Certifications, and provide copies to Engineer and Contractor.

c. Engineer's Responsibilities

1. Assists owner in compliance with the domestic preference requirements.
2. Includes consideration of domestic preference requirements in design, as appropriate. This may include:
 - a. if facilitating pre-bid procurement, obtaining Manufacturer's Certification(s) for compliant items or obtaining a waiver for noncompliant items;
 - b. if sole-sourcing an item, obtaining Manufacturer's Certification(s) for compliant items or obtaining a waiver for noncompliant items before bid;
 - c. including costs of compliance with AIS and BABA in cost estimates.
3. Reviews Manufacturers' Certifications submitted by Contractor with shop drawings and proposals for substitutes or equals. Engineer will inform Contractor if there's a problem with any certification, and may not approve until the Certification has been corrected.
4. As part of the approval process for payment applications, confirms that Manufacturers' Certifications meeting Agency requirements have been received for all items requested for payment. By recommending for payment, Engineer certifies that they reviewed the Manufacturers' Certifications for all items included in the payment application and that they meet Agency requirements.
5. In the case that Contractor notifies Engineer that they can't find a source for domestically produced items, evaluates non-availability documentation submitted by Contractor and passes along to the Agency along with a recommendation. If the Agency determines a non-availability waiver may be justified, Engineer will assist Owner in preparing a formal waiver request.
6. Notifies the Agency of the potential cost waiver if it becomes apparent, either through cost estimating or through evaluation of the bids, that the domestic preference requirements will increase overall project costs by 25% or more. The Engineer will submit any cost analyses, supporting documentation, and any additional information requested by Agency for review. If, based on review of the cost data, the Agency determines a cost waiver may be justified, Engineer will assist Owner in preparing a formal waiver request.
7. Assists Agency with any site visits, providing any additional information requested.
8. Certifies that they have, to the best of their ability, followed this guidance and will continue to follow this guidance to ensure compliance with domestic preference requirements. This certification is to be submitted with the bid package to the State Engineer for concurrence for authorization to bid by Agency. See sample certification in Attachment 2.

d. Contractor's Responsibilities

1. Uses and installs products that are compliant with domestic preference requirements. If a non-compliant product is installed, Contractor is responsible for replacing the item at their own cost.
2. Obtains Manufacturers' Certifications and submits to Engineer with any proposed substitutes or equals, with shop drawings, and at latest, with applications for payment.
3. Ensures that Engineer has approved Manufacturers' Certifications prior to the delivery of covered items to the site.
4. Coordinates with Manufacturers, distributors, or suppliers to correct deficiencies found in Manufacturers' Certifications
5. Notifies Engineer as soon as possible if difficulty obtaining project items that comply with domestic preference requirements is encountered. The Contractor must contact a minimum of five Manufacturers, suppliers, or distributors, and provide documentation of responses obtained, including quoted lead times. The Contractor may propose a domestically produced substitute or equal.
6. Participates in any Agency site visits, providing additional information if requested.
7. Certifies at substantial completion that all products used on the project complied with these domestic preference requirements. See sample certification in Attachment 3.

5. NON-COMPLIANCE:

- a. The AIS and BABA statutes mandate that no federal funds be used for infrastructure projects unless all of the Iron and Steel Products, Manufactured Products, and Construction Materials used in the project are produced in the United States.
- b. Noncompliance occurs when funds are used to purchase or install non-domestic Iron or Steel Products, Manufactured Products, or Construction Materials, which are not covered by either a project-specific or a national waiver.
- c. Noncompliance Process:
 1. Noncompliant product is identified.
 2. Whoever discovers the non-compliance, whether Owner, Contractor, Engineer, or third party, notifies State Engineer.

3. State Engineer gathers information and provides it to National Office via WEPEngineering@usda.gov.
4. National Office provides recommendations for corrective actions for noncompliance per 2 CFR 200 §§339 - 342.
5. State Office applies corrective actions as recommended by National Office.

6. ATTACHMENTS:

- Attachment 1: Contractor's Certification of Compliance
- Attachment 2: Engineer's Construction Certifications (Includes Certification of Compliance)
- Attachment 3: Manufacturer's Certification of Compliance
- Attachment 4: Information to Include in Project Specific Waiver Requests

CONTRACTOR'S CERTIFICATION OF COMPLIANCE

Notes to User: This is a sample Contractor's Certification of Compliance with the Build America, Buy America domestic preference requirements. A certification is to be provided by Contractor to Engineer for delivery to the Owner at Substantial Completion.

CONTRACTOR'S CERTIFICATION OF COMPLIANCE with the Build America, Buy America (BABA) domestic preference requirements mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58).

DATE:

RE: PROJECTNAME:
APPLICANT:
CONTRACT NUMBER:

I hereby certify that to the best of my knowledge and belief all Iron and Steel Products, Manufactured Products, and Construction Materials installed for this project by my company and by any and all subcontractors and Manufacturers my company has contracted with for this project comply with the Build America, Buy America (BABA) domestic preference requirements mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58, §§ 70901-70953), or are the subject of a waiver approved by the Secretary of Agriculture or designee.

Name of Construction Company (PRINT)

By Authorized Representative (SIGNATURE)

Title

ENGINEER'S CERTIFICATIONS

Notes to User: This certification consists of four statements to be initialed and signed by the Engineer initialed and signed and submitted with the bid package to the State Engineer for concurrence for authorization to bid by Agency. This certification should not be included in the bid package sent to bidders.

PROJECT NAME AND CONTRACT NUMBER: _____
ENGINEER'S NAME: _____

ENGINEER'S CERTIFICATION

The final Drawings and Specifications, construction Contract Documents, Bidding Documents, procurement documents, and any other final design phase deliverables, comply with all applicable federal requirements including the Build America, Buy America (BABA) domestic preference requirements mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58, §§ 70901-70953) and the American Iron and Steel requirements (AIS) referenced in Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. This includes the following:

D The Engineers Joint Contract Documents Committee (EJCDC) documents have been used, and all revisions identified in this Bulletin have been made using bold and strikethrough, clearly indicating additions and deletions. Any revisions outside of Agency required text are included as bold and strikethrough and additionally listed in a separate attachment to be concurred in by State Engineer.

LJ Any building(s) designed for this Project will comply with the requirements of the Architectural Barriers Act (ABA) of 1968, the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and any state or local accessibility standards.

LJ All referenced Iron and Steel Products, Manufactured Products, and Construction Materials in the Drawings, Specifications, and Bidding Documents for this Project comply with AIS and BABA.

D All Iron and Steel Products, Manufactured Products, and Construction Materials to be referenced in the Addenda, executed Contracts, and Change Orders will comply with AIS and BABA.

Note: This certification is not intended to be a warranty in any way, but rather the designer's professional opinion that to the best of their knowledge the documents comply.

Engineer signature

Date

Printed name and title

MANUFACTURER'S CERTIFICATION OF COMPLIANCE

MANUFACTURER'S CERTIFICATION OF COMPLIANCE with the Build America, Buy America (BABA) domestic preference requirements mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58, §§ 70901-70953). For USDA Rural Development Water Environmental Programs-funded projects

Date:

Company Name:

Company Address:

Subject: Build America, Buy America (BABA) Certification for **[Project Name include City, State)], [Owner's Name]**

I, (company representative), certify that all manufacturing processes for the following product(s) and / or material shipped or provided for the subject project occurred in the United States and the product or material is in full compliance with the Build America, Buy America (BABA) domestic preference requirements mandated by Title IX of the Infrastructure Investment and Jobs Act, 2021 (Pub.L. 117-58, §§ 70901-70953).

Common Name of Items, Products and/or Materials:

- 1.
- 2.
- 3.

Such processes took place at the following location:

(City, State)

Authorized Company Representative Signature

USE LETTERHEAD OF SENDING OFFICE

INFORMATION TO INCLUDE IN PROJECT-SPECIFIC WAIYER REQUESTS

General information to include in all waiver requests, including Public Interest Waivers:

- Waiver request includes the following information:
 - Description of the foreign and domestic products
 - Unit of measure
 - Quantity
 - Price
 - Date that product is needed
 - Location of the construction project
 - Name and address of the proposed Supplier
 - A detailed justification for the use of foreign product
- A statement that waiver request was submitted according to the instructions in the memorandum.
- Evidence that assistance recipient made a good faith effort to solicit bids for domestically produced products, as demonstrated by language in requests for proposals, contracts, and communications with suppliers.
- Statement of impacts to the project and the community if a specified product is not utilized.

Additional information for cost waiver requests:

- Comparison of overall cost of project with domestic products to overall cost of project with foreign products.
- Relevant excerpts from the bidding documents used to complete the comparison.
- Supporting documentation indicating that the Contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers.

Additional information for non-availability waiver requests:

- Documentation demonstrating how the availability, quantity, and/or quality of the materials is insufficient:
 - Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability and delivery date of product(s).
 - Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers.
 - Date that product is needed, including justification (for example, project milestone or compliance deadline).
 - Relevant excerpts from project drawings, specifications, and permits indicating the required quantity and quality of the product(s).
- A statement confirming the non-availability of the domestic product(s) for which the waiver is sought.

EXHIBIT B
LOAN RESOLUTION
RUS 1780-27

{3080947-4, 705417-00008-07}

LOAN RESOLUTION
(Public Bodies)A RESOLUTION OF THE **Town Council**OF THE **Appomattox, Town of**

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the **Appomattox, Town of**

(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

One Million One Hundred Fifty-Six Thousand & 00 100pursuant to the provisions of **Code of Virginia**; and**WHEREAS**, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ _____

under the terms offered by the Government; that the _____

and _____ of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the _____ of the

Appomattox, Town of _____ has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _____, _____ day of _____

(SEAL)

Attest:

By **Terry McGhee**
Title **Town Manager**

Title _____

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as _____ of the **Appomattox, Town of** _____

hereby certify that the _____ of such Association is composed of

_____ members, of whom , _____ constituting a quorum, were present at a meeting thereof duly called and

held on the _____ day of _____ ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of _____ ,
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been
rescinded or amended in any way.

Dated, this _____ day of _____

Title _____

EXHIBIT C TO RESOLUTION OF
TOWN OF APPOMATTOX
Dated July 10, 2023

No. R-1

\$1,156,000.00

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
TOWN OF APPOMATTOX
WATER SYSTEM IMPROVEMENT GENERAL OBLIGATION BOND,
SERIES 2023B

The Town of Appomattox (the “Town”), a public body politic and corporate of the Commonwealth of Virginia duly created under charter by Order of the Circuit Court of Appomattox County, Virginia, dated June 2, 1925, for value received, hereby promises to pay to the United States of America, Rural Utilities Service, (the “Government”), or registered assigns, the principal sum of

ONE MILLION ONE HUNDRED FIFTY-SIX THOUSAND DOLLARS
(\$1,156,000.00)

and to pay to the registered owner hereof interest on the unpaid principal from the date hereof until payment of the entire principal sum at the rate of Two and One Quarter Percent (2.25 %) per year in monthly payments of combined principal and interest of Three Thousand Six Hundred Sixty-five (\$3,665.00) Dollars and No Cents beginning on the first (1st) monthly anniversary of the date hereof and continuing monthly thereafter for Four Hundred Seventy Nine (479) consecutive months until the principal of this bond is paid in full, each installment to be applied first to interest accrued to such payment date and then to principal. The final installment, if not sooner paid, of all amounts owed hereunder shall be due and payable Four Hundred Eighty (480) months from the date hereof. Such installments shall be payable in lawful money of the United States of America by pre-authorized electronic debit for the account of the registered owner of the bond at such address as shall be provided from time to time by the registered owner, except that the final installment shall be payable upon presentation and surrender hereof at the office of the Registrar.

This bond has been authorized by a resolution adopted by the Town Council on July 10, 2023 (the “Bond Resolution”) and is issued pursuant to the Charter and the Virginia Public Finance Act (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended) to provide funds to finance improvements to the Town’s water utility system. A copy of the Bond Resolution is on file at the Town Hall, Appomattox, Virginia. Reference is hereby made to the Bond Resolution and any amendments thereto for the provisions, among others, describing the pledge and covenants securing

the bond, the nature and extent of the security, the terms, and conditions upon which the bond is issued, the rights and obligations of the Town and the rights of the bondholder.

All taxable property in the territory of the Issuer is subject to ad valorem taxation without limitation regarding rate or amount to pay the bond. All revenues derived by the Town from its water utility system are hereby pledged to the payment of the principal of and interest on the bond.

Installments of principal due on this bond may be prepaid at the option of the Town at any time as a whole or in part from time to time (but if in part, in inverse order of their maturities), without premium. Prepayments of installments of principal shall not affect the obligation of the Town to pay the remaining installments payable as provided above.

This bond is fully registered as to both principal and interest. Transfer of this bond may be registered upon books maintained for that purpose by the Registrar. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Any amount expended or advanced by the Government for the collection hereof or to protect any security therefor, at the option of the Government, shall become a part of and bear interest at the same rate as the principal hereof and be immediately due and payable by the Town to the Government without demand.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist, or be performed precedent to and in the issuance of this bond have happened, exist and have been performed.

IN WITNESS WHEREOF, the Town has caused this bond to be signed by its Mayor, to be countersigned by its Clerk, its seal to be affixed hereto and this bond to be dated July [] 2023.

(CORPORATE SEAL)

ATTEST:

TOWN OF APPOMATTOX,
VIRGINIA

Clerk, Town of Appomattox

Mayor, Town of Appomattox

TRANSFER OF BOND

Transfer of this bond may be registered by the registered owner or his duly authorized attorney upon presentation hereof to the Registrar who shall make note of such transfer in books kept by the Registrar for that purpose and in the registration blank below.

**Date of
Registration**

_____ 2023

**Name of
Registered Owner**

United States of America
Rural Utilities Service

**Signature
of Registrar**

EXHIBIT D TO RESOLUTION OF
TOWN OF APPOMATTOX
Dated July 10, 2023

No. R-1

\$500,000.00

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
TOWN OF APPOMATTOX
WATER SYSTEM IMPROVEMENT GENERAL OBLIGATION BOND,
SERIES 2023A

The Town of Appomattox (the “Town”), a public body politic and corporate of the Commonwealth of Virginia duly created under charter by Order of the Circuit Court of Appomattox County, Virginia, dated June 2, 1925, for value received, hereby promises to pay to the United States of America, Rural Utilities Service, (the “Government”), or registered assigns, the principal sum of

FIVE HUNDRED THOUSAND DOLLARS
(\$500,000.00)

and to pay to the registered owner hereof interest on the unpaid principal from the date hereof until payment of the entire principal sum at the rate of One and Three Eighths Percent (1.375 %) per year in monthly payments of combined principal and interest of One Thousand Three Hundred Fifty-five (\$1,355.00) Dollars and No Cents beginning on the first (1st) monthly anniversary of the date hereof and continuing monthly thereafter for Four Hundred Seventy Nine (479) consecutive months until the principal of this bond is paid in full, each installment to be applied first to interest accrued to such payment date and then to principal. The final installment, if not sooner paid, of all amounts owed hereunder shall be due and payable Four Hundred Eighty (480) months from the date hereof. Such installments shall be payable in lawful money of the United States of America by pre-authorized electronic debit for the account of the registered owner of the bond at such address as shall be provided from time to time by the registered owner, except that the final installment shall be payable upon presentation and surrender hereof at the office of the Registrar.

This bond has been authorized by a resolution adopted by the Town Council on October 26, 2021 (the “Bond Resolution”) and is issued pursuant to the Charter and the Virginia Public Finance Act (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended) to provide funds to finance improvements to the Town’s water utility system. A copy of the Bond Resolution is on file at the Town Hall, Appomattox, Virginia. Reference is hereby made to the Bond Resolution and any amendments thereto for the provisions, among others, describing the pledge and covenants securing the bond, the nature and extent of the security, the terms, and conditions upon which the bond is issued, the rights and obligations of the Town and the rights of the bondholder.

{3080947-4, 705417-00008-07}

All taxable property in the territory of the Issuer is subject to ad valorem taxation without limitation regarding rate or amount to pay the bond. All revenues derived by the Town from its water utility system are hereby pledged to the payment of the principal of and interest on the bond.

Installments of principal due on this bond may be prepaid at the option of the Town at any time as a whole or in part from time to time (but if in part, in inverse order of their maturities), without premium. Prepayments of installments of principal shall not affect the obligation of the Town to pay the remaining installments payable as provided above.

This bond is fully registered as to both principal and interest. Transfer of this bond may be registered upon books maintained for that purpose by the Registrar. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Any amount expended or advanced by the Government for the collection hereof or to protect any security therefor, at the option of the Government, shall become a part of and bear interest at the same rate as the principal hereof and be immediately due and payable by the Town to the Government without demand.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist, or be performed precedent to and in the issuance of this bond have happened, exist and have been performed.

IN WITNESS WHEREOF, the Town has caused this bond to be signed by its Mayor, to be countersigned by its Clerk, its seal to be affixed hereto and this bond to be dated _____ 2023.

(CORPORATE SEAL)

ATTEST:

TOWN OF APPOMATTOX,
VIRGINIA

Clerk, Town of Appomattox

Mayor, Town of Appomattox

TRANSFER OF BOND

Transfer of this bond may be registered by the registered owner or his duly authorized attorney upon presentation hereof to the Registrar who shall make note of such transfer in books kept by the Registrar for that purpose and in the registration blank below.

**Date of
Registration**

_____2023

**Name of
Registered Owner**

United States of America
Rural Utilities Service

**Signature
of Registrar**
