

**RESOLUTION NO. 2023 –21**

**A RESOLUTION AUTHORIZING AND DIRECTING THE ADMINISTRATION TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER POLLUTION CONTROL LOAN FUND (WPCLF) AGREEMENT ON BEHALF OF THE CITY OF PARMA HEIGHTS FOR THE DESIGN SERVICES OF THE BLOSSOM AND SUTHERLAND AVENUES SEWER IMPROVEMENT PROJECT, AND AUTHORIZING THE SIGNING OF THE CONTRACTS AND OTHER DOCUMENTS RELEVANT THERETO, AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Parma Heights seeks to improve the existing common trench sewer system to reduce the basement back-ups and provide capacity enhancements near the Blossom and Sutherland Avenue areas; and

**WHEREAS**, the City of Parma Heights intends to apply for a 2023 Water Pollution Control Loan Fund (WPCLF) Principal Forgiveness loan for design services of the Blossom and Sutherland Avenues Sewer Improvement Project; and

**WHEREAS**, the WPCLF requires the governing authority to pass legislation for application of a loan and the execution of an agreement; and

**WHEREAS**, the City of Parma Heights is a local government eligible to receive Funding for an eligible activity through the Water Pollution Control Loan Fund Program Year 2023 Final Program Management Plan; and

**WHEREAS**, the 2023 WPCLF Principal Forgiveness funds may be available through the Ohio EPA’s Division of Environmental and Financial Assistance (DEFA) and the Ohio Water Development Authority (OWDA) in an amount not exceeding One Million, Four Hundred Thousand Dollars and Zero Cents (\$1,400,000.00) to fund the Blossom and Sutherland Avenues Sewer Improvement Project.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1: That the Administration is hereby authorized and directed to make application, sign, and file all necessary contracts and documents with the Ohio EPA’s Division of Environmental and Financial Assistance (DEFA) for funding through the 2023 WPCLF Principal Forgiveness loan program for the Blossom and Sutherland Avenues Sewer Improvement Project in cooperation with the OWDA under the provisions, terms and conditions set forth in the “Cooperative Agreement for State Planning Project” as set forth in Exhibit A (the “Cooperative Agreement”) and hereby authorizes the Administration to execute the Cooperative Agreement with the OWDA as forth in Exhibit “A”, attached hereto and incorporated by reference.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a

majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3: This Resolution is declared to be an emergency measure immediately necessary for the public peace, health, and safety of the Municipality, and for the further reason that the City must seek funding and commence the Blossom and Sutherland Avenues Sewer Improvement Project in a timely manner; wherefore, this Resolution shall be in full force and effect from and immediately after its passage by Council and approval by the Mayor.

PASSED: 3-27-2023 Thomas Rounds  
PRESIDENT OF COUNCIL

ATTEST: Barbara Allen 3-27-2023  
CLERK OF COUNCIL APPROVED

FILED WITH  
THE MAYOR: 3-27-2023 Marie Gallo  
MAYOR MARIE GALLO

September 14, 2023

Division of Environmental and Financial Assistance  
Ohio Environmental Protection Agency  
P. O. Box 1049  
Columbus, Ohio 43216-1049

and

Ohio Water Development Authority  
480 South High Street  
Columbus, Ohio 43215-3516

Executive Director:

The undersigned is the duly appointed and serving Director of Law for the City of Parma Heights, Ohio, and as such has examined the documents, or copies thereof certified to his satisfaction, referred to in the following paragraphs. As said Director of Law, the undersigned advises you that:

1. Resolution No. 2023-21 passed on March 27, 2023 by the Council of the City of Parma Heights, Ohio (the "Borrower") authorizing the execution and delivery of the Water Pollution Control Loan Fund (WPCLF) was duly and lawfully passed by the Legislative Authority on said date, is in full force and effect and has not been withdrawn or repealed as of this date.
2. All formal actions of the Borrower concerning or relating to the enactment of the legislation described in paragraph 1 were taken in an open meeting of the Borrower and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including section 121.22 of the Ohio Revised Code.
3. The Water Pollution Control Loan Fund (WPCLF) has been duly executed and delivered and constitutes a valid, legal and binding obligation of the Legislative Authority enforceable in accordance with its terms, subject to the provisions of federal bankruptcy laws and other laws affecting creditor's rights.

Very truly yours,



Director of Law

**WATER POLLUTION CONTROL LOAN FUND LOAN AGREEMENT**

This Agreement made and entered into as of the Effective Date, by and among the Director of Environmental Protection ("the Director" as hereinafter more fully defined), the Ohio Water Development Authority<sup>1</sup>, a body corporate and politic organized and existing under the provisions of Chapter 6121 of the Revised Code of Ohio, ("the OWDA") and, together with the Director, (sometimes collectively known as the "State"), and the governmental body specified as the "Borrower" on Exhibit 1, a governmental body organized and existing under the laws of the State of Ohio and hereinafter more fully defined, acting pursuant to an ordinance or resolution passed by the legislative authority thereof on the date specified on Exhibit 1 as the "Resolution Date;"

**WITNESSETH:**

WHEREAS, Title 33, Chapter 26, Subchapter VI of the Clean Water Act, as amended ("the CWA"), authorizes the Administrator of the United States Environmental Protection Agency to make capitalization grants to states which have established a state water pollution control revolving loan fund; and,

WHEREAS, Pursuant to the CWA, states can provide loans and other types of financial assistance from a water pollution control revolving loan fund to local communities, municipal or intermunicipal and interstate or state agencies for Project Activities relating to publicly-owned wastewater treatment facilities as defined in Section 212 of the CWA, 33 U.S.C.A. 1292; and,

WHEREAS, The Ohio General Assembly has created a Water Pollution Control Loan Fund (the "WPCLF") pursuant to Ohio Revised Code Section 6111.036 to provide loans and other types of financial assistance as set forth in said Section; and,

WHEREAS, To assist the Director in providing loans and other types of financial assistance from the WPCLF, and to assist in the administration and operation of the WPCLF as authorized by Ohio Revised Code Section 6111.036, the Director has entered into an Interagency Agreement with the OWDA and has annually entered into a renewal of that Agreement; and,

WHEREAS, The Borrower is desirous of obtaining financing for necessary Project Activities using funds from the WPCLF; and,

WHEREAS, The State is willing to provide financing to the Borrower, and the Director has determined that the Borrower has complied with the requirements of Ohio Revised Code Section 6111.036, and is therefore eligible for financial assistance under the CWA and said Section;

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto do hereby agree as follows:

**ARTICLE I - DEFINITIONS**

Section 1.1. Except where the context clearly indicates otherwise, the following terms as used in this Agreement shall have the meaning ascribed to them in this Article:

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<sup>1</sup> The approval and execution of this Agreement by the OWDA is required only if this Agreement provides for a loan and if the payments of the principal or interest on the loan are or are expected to be pledged to secure payment of bonds issued or expected to be issued by the OWDA.

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(a) "Application Fee" means a charge levied and paid by the Borrower at the time of the execution of this Agreement to partially offset administrative costs of the State occasioned by the Agreement. This fee is ineligible for inclusion in this Agreement. The fee is equal to thirty-five hundredths of one percent (.35%) of the estimated Eligible Project Costs, or four hundred dollars (\$400.00), whichever is the greater.

(b) "Approved Application" means the application submitted to the Director dated as shown on Exhibit 1 as the "Application Date," together with all attachments, supporting documentation, amendments and supplements thereto as approved by the State, together with any amendments thereto approved by the Borrower and the State after the date of this Agreement.

(c) "Approved Repayment Plan" means the document prepared by the Borrower and approved by the State showing the distribution of Eligible Project Costs from a Dedicated Repayment Source, how the Eligible Project Costs will be collected, and identification of the legal document authorizing the dedicated source of repayment. The Approved Repayment Plan is noted in Exhibit 1, fully incorporated herein and made a part hereof.

(d) "Borrower" means any entity eligible to receive assistance under Section 603(C) of the CWA and ORC Section 6111.036.

(e) "Capitalized Interest Rate" means the effective rate of interest at which interest accrues on amounts disbursed under this Agreement from the date of such disbursement.

(f) "Contract Interest Rate" means the rate shown on Exhibit 1 as "Interest Rate."

(g) "Contract Period of Years" means the period commencing with the Effective Date of this Agreement and ending on the earlier of (i) at the end of the number of years as defined under "Term in Years" as noted on Exhibit 1 or, (ii) the date on which the Borrower obtains long-term financing for any project resulting from the Project Activities financed with the proceeds of the loan provided for herein.

(h) "Director" means the Director of Environmental Protection, including the Director's representative(s), if any, designated in accordance with the effective Interagency Agreement.

(i) "Effective Date" means the most recent date of signature of this Agreement by the authorized representative of each of the parties, as indicated herein.

(j) "Eligible Project Costs" shall include, whether incurred before or after the date of this Agreement, costs disbursed out of funds from the WPCLF, a description, estimated total, and distribution of which, subject to paragraph 3.1. hereof, is shown on Exhibit 1. Revision to this Exhibit can only occur with the agreement of the State and Borrower.

(k) "Facilities Plan" means all materials developed by the Borrower and the Director, including the Director's approval and any applicable conditions, in satisfaction of Ohio Revised Code Section 6111.036 (K)(7).

(l) "Loan Payment Amount" means the semi-annual payment amount as shown on Exhibit 1. A portion of Loan Payment Amount will be deposited into an account to offset Ohio EPA administrative expenses.

(m) "Pledged Revenues" means the one or more dedicated sources of revenue for payment of the Semi-Annual Payment, all as described in Exhibit 1, which shall include, unless otherwise indicated on Exhibit 1, Wastewater Service Charges and other revenues derived by the Borrower from the ownership and operation

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of its wastewater system (including without limitation, and Special Assessment Funds), net of the costs of operating and maintaining the system and paying all amounts required to be paid under any Mortgage, Indenture of Mortgage, Trust Agreement or other instrument heretofore or hereafter issued or incurred by the Borrower to secure debt obligations heretofore or hereafter issued or incurred by the Borrower of the system. These Pledged Revenues shall constitute a Dedicated Repayment Source, as defined in the CWA.

(n) "Project Activities" means the product to be completed under the terms of the Agreement, including but not limited to production of a Facilities Plan, Detailed Design Drawings, or purchase of equipment, as described in "Project Description" on Exhibit 1.

(o) "Project Schedule" means the schedule of tasks necessary to fulfill the Project Scope, shown as "Project Schedule" on Exhibit 1.

(p) "Project Scope" means the tasks necessary to complete the Project Activities, as detailed on Exhibit 1 and any attachments as identified thereto.

(q) "Special Assessment Funds" means the proceeds from the special assessments to be hereafter levied, if any, by the Borrower to pay all or a portion of the cost of the Project Activities, including repayment of the loan provided for herein. In such cases where assessments are to be levied, Exhibit 1 sets out the Resolution of Necessity adopted by the legislative authority.

(r) "Wastewater Service Charge" means a charge against the user payable to the Borrower for the collection or collection and treatment of wastewater and for the provision of the facilities therefor.

**ARTICLE II - COMPLETION OF PROJECT ACTIVITIES AND  
PAYMENT OF COSTS THEREOF**

Section 2.1. In connection with the project activities, the Borrower agrees that:

(a) It will proceed expeditiously with, and complete, the Project Activities in accordance with the specific terms and conditions of: the approved Project Scope and the approved Project Schedule, or amendments thereto as approved by the Director. The Borrower accepts such performance as an essential element of this Agreement.

(b) The Project Activities, including the letting of contracts in connection therewith, will conform to applicable requirements of Federal, State and local laws, ordinances, rules and regulations and will be performed in compliance with all applicable federal, state and local environmental laws and regulations.

(c) All contractors' estimate forms will be prepared so that documents furnished to the Borrower may be readily itemized by the Borrower and identified, if necessary, as to Eligible Project Costs and non-Eligible Project Costs.

(d) The Borrower will not submit requests for disbursement of non-Eligible Project Costs. If, based on a payment request submitted by the Borrower, the State disburses funds from the WPCLF which are subsequently determined to be for non-Eligible Project Costs, the State will be under no obligation to provide WPCLF funding beyond the Eligible Project Costs as shown on Exhibit 1, and as may be defined in any attachments thereto.

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(e) The Borrower will comply with all certifications and assurances as agreed to in the Application Compliance Certification, signed and dated by the Authorized Representative of the Borrower.

(f) The Borrower shall be precluded from submitting to the OWDA payment requests for Eligible Costs unless the Borrower is in full compliance with the certifications and assurances made in the above referenced Application Compliance Certification.

(g) In any year in which disbursements to the Borrower under this Agreement exceed \$750,000 the Borrower shall comply with the Single Audit Act (SAA) Amendments of 1996, 31 U.S.C.A. § 7501 and have an audit of its use of Federal financial assistance (see 2 CFR Part 200). The Borrower agrees to keep a copy of the SAA audit available for review, if requested, by the State for the life of the loan period.

Section 2.2. The Borrower shall keep accurate records of the Eligible Project Costs. These records must be kept in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets, in accordance with generally accepted accounting principles as issued by the Governmental Accounting Standards Board. The Borrower shall permit the State, acting by or through its designated representatives, to inspect all books, documents, papers and records relating thereto at any and all reasonable times for the purpose of said audit and examination, which examination may include examination for compliance with the CWA and Ohio Revised Code Section 6111.036, and the Borrower shall submit to the State such documents and information as they may require in connection therewith.

Section 2.3. Subject to the terms and conditions of this Agreement, and the approval of the Director, and upon compliance by the Borrower with all the requirements of the WPCLF, Ohio Revised Code Section 6111.036, and the CWA, which must be met before the Borrower may receive disbursement of Eligible Project Costs from the OWDA, the Eligible Project Costs shall be disbursed by the OWDA. In the event this Agreement is terminated by the State pursuant to the provisions of this Agreement, or by subsequent agreement of the parties, or in the event this Agreement is terminated by the Borrower, whether or not in breach of the Agreement, the Eligible Project Costs disbursed shall be due and payable in full no later than thirty (30) calendar days after said termination.

Section 2.4. Upon being satisfied that the requirements of this Agreement have been met, the OWDA shall deliver to the Borrower a certificate, signed by the trustee for the WPCLF (hereinafter referred to as the "Trustee," which has entered into a Trust Agreement with the Director and the OWDA to provide for the administration of the WPCLF), certifying that monies in the amount necessary to pay all Eligible Project Costs are available or are within the present WPCLF Federal letter of credit ceiling and have been set aside by the Trustee to pay such Eligible Project Costs. When such Eligible Project Costs have been incurred and payment requested from the OWDA by the Borrower, subject to the terms and provisions of this Agreement and the Interagency Agreement, and in accordance with the requirements above, the OWDA shall cause the trustee to disburse monies of the WPCLF in payment of the invoices, demands for payment, or other evidence of cost incurrence to be made to the persons or entities entitled to payment in conformity with the encumbrance of funds set forth in such certificate to pay such obligated Eligible Project Costs. The Borrower represents and agrees that it will not seek or obtain alternative funding for the Eligible Project Costs of the Project Site and the Project Facilities without the prior written consent of the State.

Section 2.5. Upon completion of the Project Activities, the Borrower shall submit a full and complete written accounting to the State of the final Eligible Project Costs.

**ARTICLE III - PAYMENTS BY THE BORROWER**

Section 3.1. Subject to the further provisions hereinafter set forth, the Borrower agrees to and shall pay at the time of the execution of this Agreement the Application Fee and thereafter, semi-annually on January 1, and July 1 of each year of the Contract Period of Years to the WPCLF, the Loan Payment Amount, solely from the revenues of the Borrower's Wastewater Service Charges, if available, or if unavailable, from other sources, in accordance with the Approved Repayment Plan.

The obligations of the Borrower under this Agreement to pay the Loan Payment Amount set forth shall not be assignable in accordance with this Agreement, and the Borrower shall not be discharged therefrom, without the prior written consent of the State. In the event that the Project Activities shall cease or be suspended for any reason, unless otherwise agreed to in writing by the State, the Borrower shall continue to comply with this Agreement to pay the Loan Payment Amount pursuant to this Section. In the event the Borrower defaults in the payment of the Loan Payment Amount, the amount of such default shall bear interest at a rate equal to three percent (3%) above the Contract Interest Rate from the date of the default until the date of the payment thereof. All costs incurred by the State in curing such default including, but not limited to, court costs and attorney's fees shall be paid by the Borrower upon demand, and shall not be eligible for inclusion in a WPCLF Agreement.

In the event that the Borrower fails to make a full semi-annual Loan Payment Amount as provided herein, the amount of any such partial payment first shall be applied as interest on the loan, with the remainder being applied toward the payment on outstanding principal. Any failure of the Borrower to make a full semi-annual Loan Payment Amount shall be considered a default, and the requirements of the preceding paragraph shall apply concerning the interest on the amount of the default and the costs of the State in curing such default.

With respect to this Agreement, neither the general resources nor the general credit of the Borrower, but only the Pledged Revenues, shall be required to be used, or pledged for the performance of any duty under this Agreement. This Agreement is a special obligation of the Borrower and does not represent or constitute a debt or a pledge of the faith and credit of the Borrower. However, if otherwise lawful, nothing herein shall be deemed to prohibit the Borrower from using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this Agreement.

Section 3.2. The Borrower hereby agrees that: (a) it will at all times prescribe and charge such rates as shall result in revenues at least adequate, to provide for the payments required by Section 3.1. hereof minus the amount of such payment provided from other Dedicated Repayment Sources, if any; (b) that the Borrower will, for the Contract Period of Years, furnish annually to the State reports of the operation and income from the Project Activities and also an annual report of the accounts and operations of the Project Activities and will permit the designated representative of the State to inspect all records, accounts and data relating to the Project Activities at all reasonable times; and (c) that the Borrower will segregate the revenues, funds and properties of the Project Activities from all other funds and properties of the Borrower.

Section 3.3. It is agreed that, no later than the fifteenth day of June, and December, the OWDA shall invoice the Borrower for the sum owing by the Borrower pursuant to Section 3.1. and that payment of each such invoice shall be made by the Borrower to the OWDA not later than the first day of the following July or January. No failure by the OWDA to send any such invoice and no failure by the Borrower to receive any such invoice shall relieve the Borrower from its obligation to pay the amount due hereunder on the applicable due date.



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Section 3.4. The Borrower hereby agrees that all of the obligations under this Article are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Borrower within the meaning of Ohio Revised Code Section 2731.01.

Section 3.5. The Borrower agrees to provide financing for all non-Eligible Project Costs. To demonstrate its ability to fulfill that commitment, the Borrower has provided evidence that financing is readily available for all non-Eligible Project Costs which will be or may be incurred by the Borrower in connection with the Project Activities.

Section 3.6. The Borrower Agrees that, in the event the Borrower or its contractors receives WPCLF moneys in excess of the Eligible Project Costs, the Borrower shall repay said excess moneys, in addition to the Loan Payment Amount, to the WPCLF at the time of the first semi-annual payment of the Loan Payment Amount, or as mutually agreed to by the Borrower and the State.

Section 3.7. Notwithstanding anything contained herein to the contrary, should the Borrower obtain long-term financing for any project resulting from the project activities undertaken in this Agreement within the Contract Period of Years, the Borrower agrees to repay to the WPCLF all remaining Eligible Project Costs plus the interest accrued at the Contract Interest Rate on each disbursement. This repayment shall take place within thirty (30) days of obtaining the long-term financing.

**ARTICLE IV - GENERAL REPRESENTATIONS AND AGREEMENTS;  
EVENTS OF DEFAULT AND REMEDIES**

Section 4.1. The Borrower hereby represents and warrants that:

(a) It is and shall remain in compliance, and shall take whatever actions are necessary to assure compliance during the Contract Period of Years, with all applicable federal, state, and local laws, ordinances, rules, regulations, and provisions of this agreement, including without limitation the CWA and Ohio Revised Code Section 6111.036, and

(b) There is no litigation or administrative action or proceeding pending or, to the best of its knowledge, threatened against the Borrower, wherein a result adverse to the Borrower could reasonably be expected to have a materially adverse effect on the ability of the Borrower to meet its obligations under this Agreement, and

(c) Except as heretofore disclosed in writing to the State no judgment or consent order has been rendered against the Borrower, and the Borrower is not a party to any agreement, which imposes, will impose, or has imposed any fines or monetary penalties upon the Borrower for the violation of any federal, state, or local law, ordinance, or regulation, which fines or monetary penalties have not heretofore been paid in full.

Section 4.2. Each of the following shall be an event of default ("Event of Default") under this Agreement:

(a) The Borrower shall fail to make any Loan Payment Amount to the OWDA required pursuant to this Agreement when the same is due and payable, including, without limitation, any amount due and payable pursuant to Article III hereof.

(b) The Borrower shall fail to observe and perform any obligations, agreements, or provisions of this Agreement, which failure shall continue for thirty (30) days after receipt of written notice thereof from the Director or OWDA.

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(c) Any representations made by the Borrower in Section 4.1. or 5.1. shall at any time during the Contract Period of Years prove to be false.

Section 4.3. The Director may terminate, suspend, or require immediate repayment of financial assistance from the Borrower in the event of a default due to failure to make any required Loan Payment Amount, or due to any violation of the terms or conditions of this Agreement. The Director may also prescribe corrective action, or direct that corrective action be undertaken, to remedy the event or violation, and the Borrower agrees to perform such corrective action.

Section 4.4. Whenever an Event of Default of payment shall have occurred and be continuing, in addition to any other rights or remedies provided herein, by law or otherwise, the State may to the extent permitted under any judgment, consent order, or agreement affecting the Borrower, require the Borrower to agree to, and the Borrower hereby agrees to, effect the subordination of the payment of any fine or penalties imposed for the violation of any federal, state, or local environmental law or regulation to the payment of the Eligible Project Costs and the interest due thereon.

Section 4.5. No right or remedy conferred upon the State or the Director under Sections 4.3. or 4.4. hereof is intended to be exclusive of any other right or remedy given herein, by law, or otherwise. Each right or remedy shall be cumulative and shall be in addition to every other remedy given herein, by law, or otherwise.

Section 4.6. The Borrower releases the State from, agrees that the State shall not be liable for, and agrees, to the fullest extent permitted by law, to hold the State, its officers, employees and agents harmless against, any loss or damage to property, or any loss or injury to or death of any person, or any other loss or damage, that may be occasioned by any cause whatsoever pertaining to the Project Activities, or the use thereof; provided that such indemnity under this Section shall not be effective for damages that result from negligent or intentional acts of the State, its officers, employees and agents. The Borrower further agrees, to the fullest extent permitted by law, to indemnify and hold harmless the State, its officers, employees and agents against and from any and all cost, liability, expenses and claims arising from any breach or default on the part of the Borrower in the performance of any covenant or agreement on the part of the Borrower to be performed pursuant to the terms of this Agreement, arising from the acquisition, construction, installation, or improvement of the Project Activities or arising from any act or negligence of or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees, or arising from any accident, injury or damage whatsoever caused to any person, firm, or corporation resulting from the Project Activities (other than any accident, injury, or damage that results from negligent or intentional acts of the State, its officers, employees and agents), and from and against all cost, liability and expenses incurred in or in connection with any such claim or action, arbitration or proceeding brought thereon.

In case any action or proceeding be brought against the State by reason of any claim described in this Section, the State agrees to cause written notice of such action or proceeding to be given to the Borrower, and the Borrower upon notice from the State covenants to resist or defend such action or proceedings at the Borrower's expense including all legal and other expenses (including reasonable attorneys' fees).

**ARTICLE V - PRIVATE BUSINESS USE RESTRICTIONS**

Section 5.1. With respect to the financing of Project Activities by the WPCLF as provided herein, the Borrower agrees as follows:

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(a) At no time will ten percent (10%) or more of any of the Project Activities to be financed with WPCLF funds under this Agreement be used for any private business use (as hereinafter defined) while at the same time the payment of the principal of, or the interest on, the WPCLF funds is directly or indirectly (i) secured by any interest in (A) property used or to be used for a private business use or (B) payments made with respect to such property or (ii) derived from (A) payments with respect to such property (whether or not made to the WPCLF) or (B) borrowed money used or to be used for private business use.

(b) No portion of the WPCLF funds will be used to make or finance loans to persons other than other governmental units.

Section 5.2. For purposes of this Agreement, "private business use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit (as hereinafter defined). Use of any of the Project Activities by a member of the general public will not be considered a private business use. Any activity carried on by a person other than a natural person shall be treated as a trade or business. Use by an organization which qualifies under 26 U.S.C.A. Section 501(c)(3) of the Internal Revenue Code of 1986, as it may be amended from time to time, shall be considered a private business use.

Section 5.3. For purposes of this Agreement, "governmental unit" means a political subdivision within the United States, including any political subdivision within the State of Ohio, but does not mean the United States or any of its governmental branches, departments, or agencies.

Section 5.4. If there is any question about the application of the foregoing restrictions relating to private business use or loans, the Borrower agrees to immediately write the OWDA requesting assistance prior to entering into any agreement which may be prohibited as provided hereinabove.

**ARTICLE VI - MISCELLANEOUS PROVISIONS**

Section 6.1. Any invoice, accounting, demand, or other communication under this Agreement by any party to this Agreement to any other party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- (a) in the case of the OWDA, is addressed to or delivered personally to the OWDA at:  
Ohio Water Development Authority  
480 South High Street  
Columbus, Ohio 43215  
Attn: Executive Director

and,

- (b) in the case of the Director, is addressed to or delivered personally to the Director at:  
Ohio Environmental Protection Agency  
Lazarus Government Center  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Chief, Division of Environmental and Financial Assistance

and,

Water Pollution Control Loan Fund Agreement

(c) in the case of the Borrower, is addressed to or delivered personally to the Borrower at the address listed on Exhibit 1, or at such other addresses with respect to any such party as that party may from time to time, designate in writing and forward to the other parties as provided in this Section.

Section 6.2. Any approval of the State required by this Agreement shall not be unreasonably withheld. Any provision of the Agreement requiring the approval of the State or the satisfaction or evidence of satisfaction of the State shall be interpreted as requiring a response by the Director and the OWDA granting, authorizing, or expressing such approval or satisfaction, as the case may be, unless such provision expressly provides otherwise.

Section 6.3. Upon request of the OWDA, the Borrower agrees to execute the information report required by 26 U.S.C.A. Section 149 of the Internal Revenue Code of 1986, as it may be amended from time to time, with respect to this Agreement, such form to be completed by the OWDA on the basis of information provided by the Borrower. The Borrower hereby agrees that the OWDA may file such information report for and on behalf of the Borrower with the Internal Revenue Service.

Section 6.4. This Agreement is made subject to, and conditional upon, the approval of this Agreement as to form by the General Counsel of the OWDA and Counsel to the Director and upon the certification of availability of funds as provided in Section 2.4. hereof.

Section 6.5. This Agreement shall become effective as of the Effective Date and shall continue in full force and effect until the final day of the Contract Period of Years.

Section 6.6. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to any person, office, board, department, agency, municipal corporation, or body politic and corporate succeeding by operation of law to the powers and duties of any of the parties hereto. This Agreement shall not be assigned by the Borrower without the prior written consent of the State. The State, at its option, may assign this Agreement without the consent of the Borrower.

Section 6.7. As its record of this Agreement, the Borrower agrees to receive an electronic copy pursuant to R.C. 1306.06(C).

The remainder of this page is intentionally left blank.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers.

APPROVED AS TO FORM

OHIO ENVIRONMENTAL PROTECTION AGENCY

By \_\_\_\_\_  
Ohio EPA Counsel

By \_\_\_\_\_  
Anne M. Vogel, Director

Print Name \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM

OHIO WATER DEVELOPMENT AUTHORITY<sup>2</sup>

By \_\_\_\_\_  
General Counsel

By \_\_\_\_\_  
Ken J. Heigel, Executive Director

Print Name \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM

BORROWER

By Mark A. Schneider  
Borrower's Counsel

By Marie Gallo  
Authorized Representative

Print Name Mark A. Schneider

Print Name Marie Gallo

Title MAYOR

Date 9/14/23

<sup>2</sup> If the execution of this Agreement on behalf of the OWDA is not required for the reason stated in note 1 on page 1 hereof, then "N/A" shall be inserted on the signature lines for the OWDA and its General Counsel.

## Water Pollution Control Loan Fund

Exhibit 1

**Project Name:** Blossom & Sutherland Avenues Sewer Improvements

**Borrower:** Parma Heights

**Address:** 6281 Pearl Road

**City & State:** Parma Heights, OH

**Borrower's Authorized Representative:** Marie Gallo

**Loan Number:** CS390737-0002

**Zip Code:** 44130

**Phone:** (440) 884-9604

### Project Description

This project will provide design to improve local sewer capacity in Parma Heights around Blossom and Sutherland Avenues to address basement backups in Parma Heights.

### Cost Data

Activities	Eligible	Total Project Cost
<b>Other Costs</b>		
Design	\$1,400,000.00	\$1,400,000.00
<b>Total Estimated Cost</b>	<b>\$1,400,000.00</b>	<b>\$1,400,000.00</b>

### WPCLF Loan Information

Interest Rate:	0.0%	Principal Amount:	\$0.00
Term in Years:	5.0	Interest:	\$0.00
Number of Payments:	10	Total Cost of Borrowing:	\$0.00
Participation Rate:	0.0	Payment:	\$0.00
Principal Forgiveness Amount	\$1,400,000.00		

### Project Schedule

Application Date:	07/03/2023	Project Completion:	12/01/2024
Resolution Date:	05/22/2023	Date of Initial Payment:	N/A

### Pledged Revenues

Section 603(d)(1)(C) of the Clean Water Act requires one or more dedicated sources of revenue for repayment of the loan. The following information specifies those sources

Revenue Source	
Special Assessments	
General Taxes	
Wastewater Service Charge	
Other:	
<b>Total</b>	<b>\$0.00</b>

To the best of my knowledge and belief, the information contained on this exhibit represents the actual project costs being requested from the WPCLF. I hereby acknowledge that the non-eligible and not funded costs identified above, if any, will be provided from sources other than the WPCLF as to allow the project to be fully implemented.

Marie Gallo

Marie Gallo

9/14/23

Date