State of California—Health and Human Services Agency
California Department of Public Health

MARK B HORTON, MD, MSPH
Director

ARNOLD SCHWARZENEGGER
Governor

September 29, 2009

Mr. James L. Armstrong
City Administrator/Clerk/Treasurer
City of Santa Barbara
630 Garden Street
Santa Barbara, California 93102

Dear Mr. Armstrong:

SAFE DRINKING WATER STATE REVOLVING FUND PROJECT FUNDING FOR CITY OF SANTA BARBARA, PROJECT NO. 4210010-004

Your application for funding under the Safe Drinking Water State Revolving Fund (SDWSRF) has been reviewed by the California Department of Public Health (CDPH) and its agent, Department of Water Resources (DWR). We have determined that project number **4210010-004**, as proposed by the City of Santa Barbara, is eligible for a construction loan in the amount of $29,920,000. The proposed funding is provided in part from a Federal Capitalization Grant for Drinking Water State Revolving Fund (California) CFDA number 66.468.

This letter serves as our Notice of Acceptance of Application (NOAA). Funds in the amount of $29,920,000 have been reserved for this project provided the terms and conditions as set forth herein are met, subject to availability of funds.

The funding agreement when issued and executed will provide for a $29,920,000 loan to be repaid over 20 years at a 2.5017 percent interest rate. Once the City of Santa Barbara begins drawing loan funds, CDPH will invoice you semiannually during construction for interest accrued on funds disbursed. (Section 116761.65 of the Health and Safety Code prohibits deferral of interest on loans.) Your semiannual principal and interest payments will be approximately $955,240 and will normally begin after project completion. An accumulation of approximately $95,524 semiannually during the first 10 years of the loan repayment period is required in order to build a loan repayment reserve fund equal to two semiannual payments.

Funding is contingent upon your **timely** compliance with all terms and conditions of this NOAA, including those set forth in the "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" attached hereto and incorporated herein by this reference. Compliance shall be determined at the sole discretion of CDPH or its authorized representative.

This NOAA is not an authorization to begin construction. Unless prior written approval from CDPH is received, initiation of construction of this project prior to the execution of a funding agreement may result in this project being ineligible for financing from the SDWSRF. Therefore, if you plan to start construction early, you should immediately contact your District Office of CDPH.

In order to maintain the reservation of funds in the SDWSRF account for your project, you must sign the attached "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" at the space provided and return it within **60 days** of receipt. **We have provided two originals. Please sign and return one full document to:**

Department of Water Resources
Safe Drinking Water Office
Attention: Dennis Woods
1416 Ninth Street, Room 816
Post Office Box 942836
Sacramento, California 94236-0001

Your signature will indicate your acceptance of the terms and conditions and your intention to proceed with the project. It does not constitute any obligation on your part to enter into the loan funding agreement. **Failure to sign and return the attachment to this NOAA within the time period will result in the withdrawal of the NOAA and the bypassing of your project.**

The State commends the City of Santa Barbara for taking steps to enhance the provision and protection of the drinking water supplied to your consumers. If you have any questions regarding this NOAA, please contact either your CDPH Santa Barbara District Office at (805) 566-1326 or Dennis Woods, DWR Associate Analyst, at (916) 653-9724, or by e-mail at dwoods@water.ca.gov.

Sincerely,

Scott A. Woods

for Gary H. Yamamoto, P.E., Chief
Division of Drinking Water
and Environmental Management

Enclosures

cc: (See Attached list.)

Honorable Pedro Nava
Member of the Assembly
State Capitol, Room 2148
Sacramento, California 94249-0035

Honorable Tony Strickland
Member of the Senate
State Capitol, Room 4062
Sacramento, California 94248-0001

Honorable Marty Blum
Mayor of the City of Santa Barbara
735 Anacapa Street
Santa Barbara, California 93101

Ms. Rebecca Bjork, Water Resources Manager
City of Santa Barbara
630 Garden Street
Santa Barbara, California 93102

Mr. Kurt Souza, Regional Engineer
Division of Drinking Water and
Environmental Management
Carpinteria Section
California Department of Public Health
1180 Eugenia Place, Suite 200
Carpinteria, California 93013

Mr. Kurt Souza, Acting District Engineer
Santa Barbara District
Division of Drinking Water and
Environmental Management
California Department of Public Health
1180 Eugenia Place, Suite 200
Carpinteria, California 93013

Ms. Linda Ng, Chief
Safe Drinking Water Office, Room 816
Department of Water Resources
Post Office Box 942836
Sacramento, California 94236-0001

Mr. Dennis Woods, Associate Analyst
Safe Drinking Water Office, Room 816
Department of Water Resources
Post Office Box 942836
Sacramento, California 94236-0001

Mr. Kelvin Yamada, Chief
Drinking Water Infrastructure Financing Section
Division of Drinking Water and
Environmental Management
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

Ms. Lorri Silva
Drinking Water Infrastructure Financing Section
Division of Drinking Water and
Environmental Management
Safe Drinking Water State Revolving
Fund Program
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

Ms. Natalia Deardorff, ERU HQ
Environmental Unit
Division of Drinking Water and
Environmental Management
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

Ms. Nadine Feletto
Technical Support Unit
Division of Drinking Water and
Environmental Management
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

CITY OF SANTA BARBARA
Project No. 4210010-004

SAFE DRINKING WATER STATE REVOLVING FUND
NOTICE OF ACCEPTANCE OF APPLICATION
TERMS AND CONDITIONS

Unless otherwise expressly directed herein, items indicated as DWR Requirements must be submitted to DWR at the address provided below, and CDPH Requirements must be submitted to your District Office of CDPH.

Copies of all documents referenced below are enclosed. You are encouraged to share these documents with your legal and financial advisor(s) and governing body. Any concerns or comments should be directed to DWR.

I. Prior to issuance of the funding agreement for signature by your authorized representative, the following items must be provided:

DWR Requirements

1. A written designation, by resolution or as otherwise appropriate, of individual(s) with legal authority to:
   a. Sign the SDWSRF funding agreement;
   b. Approve the Claims for Reimbursement;
   c. Sign the Budget and Expenditure Summary;
   d. Sign the Final Release form; and
   e. Sign the certification that the project is complete and ready for final inspection.

   Person(s) signing the Budget and Expenditure Summary and certification that the project is complete and ready for final inspection must be a registered engineer(s) or person(s) approved by CDPH.

2. A written statement, resolution, or ordinance (as appropriate) adopted by the water system's governing body identifying a source of revenue and pledging/dedicating such source of revenue for repayment of the loan. When identifying the source of repayment, the identification should be as specific as possible, for example if using: assessments provide assessment name, date or number; user water rates, fees, or charges; CPUC authorized surcharge provide identity of CPUC order; or provide identity of accounts receivable as appropriate. The document shall also include a statement agreeing to increase rates as appropriate whenever necessary to satisfy debt service over the term of the loan.

You are encouraged to submit a draft of the statements, resolutions, or ordinances to DWR for review **prior** to taking it to your board or governing body for adoption or approval. DWR will review the draft and recommend to you any required modifications, thus avoiding unnecessary delays in issuance of your funding agreement. A resolution that does not meet program requirements will not be accepted.

3. Provide the identity of your Contract Manager.

4. The City of Santa Barbara shall certify to CDPH that any fees or charges needed to construct, operate and/or maintain the proposed project, including revenues dedicated for repayment of a SDWSRF loan, have been approved in accordance with Article XIII C and XIII D of the California Constitution (Proposition 218), or provide the written opinion of its legal counsel that Proposition 218 procedures are not applicable or required.

Note: <u>You are encouraged to commence satisfaction of the above DWR Requirements immediately. Any concerns or comments should be directed to DWR.</u>

<u>CDPH Requirements</u>

1. If property will be purchased for this project, the City of Santa Barbara shall provide documentation of conformance of land acquisition with the federal Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act) requirements to the Uniform Act coordinator at CDPH Sacramento Office, SRF Program no later than September 1, 2010. Please refer to the enclosed letter dated March 12, 2009, from Mr. Stephen Woods of CDPH.

2. The City of Santa Barbara shall submit final plans and specifications with a detailed cost breakdown for the entire project (including non-SRF funded portions) to CDPH's Santa Barbara District Office no later than September 1, 2010.

3. The City of Santa Barbara shall submit a permit amendment application to CDPH's Santa Barbara District Office no later than September 1, 2010.

4. The City of Santa Barbara shall prepare and submit the Worksheet for CEQA/NEPA Determinations to CDPH's Environmental Review Unit (ERU) for federal coordination no later than September 1, 2010.

5. The City of Santa Barbara shall the Federal Cross-cutters Worksheet to assist in federal coordination in accordance with the CDPH "NEPA-like" requirements no later than September 1, 2010.

6. The City of Santa Barbara shall complete its CEQA documentation and file such documentation, including any applicable Notices with the Santa Barbara County Clerk's Office and the Governor's Office of Planning and Research State Clearinghouse and send a copy of such documentation to CDPH's ERU no later than September 1, 2010.

All requirements under **I** must be satisfied before a funding agreement will be issued for signature by your authorized representative, and all such requirements must be satisfied within 1 year following the date of your signature of this "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS".

II. Prior to final execution of the funding agreement by State, the following items must be provided:

DWR Requirements

1. The services of a Fiscal Agent must be secured to assist in administering repayment of the loan. Complete and return to DWR a Fiscal Services Agreement form, in triplicate with original signatures on all copies.

2. Complete and sign a Payee Data Record (STD 204). This form is to be returned with the signed funding agreement. DWR will forward it with the final funding agreement to CDPH.

CDPH Requirements

1. The City of Santa Barbara shall have a Labor Compliance Program for this project prior to construction bid solicitation. Appropriate provisions related to the Labor Compliance Program shall be included in all construction bid solicitation(s).

2. The City of Santa Barbara shall certify to CDPH that it is in compliance with Labor Code Section 1771.8 requirements. (Information is available on the Department of Industrial Relations website: http://www.dir.ca.gov/lcp.asp) The certification shall be sent to CDPH Sacramento Office, SRF Program no later than September 30, 2010. Enclosed is an acceptable certification form which may be used to satisfy this requirement.

All items under II must be provided before final execution of the funding agreement by State.

Failure to timely comply with DWR and CDPH Requirements **I and II** may result in a withdrawal of the Notice of Acceptance of Application. Should this occur, your project will be bypassed but will remain on the project priority list. You may submit a new application for future funding only after receiving another letter of invitation from CDPH. If for any unforeseen reason you are unable to comply with any of the above requirements, you should contact your District Office of CDPH as soon as possible.

III. Prior to disbursement of funds, the following items must be provided:

DWR Requirements

1. Evidence that a separate checking account or a separate ledger has been established to account for funds received from the State.

   Please indicate the name and address of the financial institution, exact name of account holder, and the account name and number. If this checking account is not used solely to account for funds received from the State, you must establish a ledger within your accounting system in accordance with generally accepted accounting principles. The ledger must identify the project number and SRF funding agreement number. You must provide documentation showing that the ledger has been established. **(Please note all accounts are subject to audit at any time.)**

2. Detailed account information where funds collected to repay the loan are held before being transferred to your Fiscal Agent.

   Please indicate the name and address of the financial institution, exact name of account holder, and the account name and number. You must establish a ledger within your accounting system in accordance with generally accepted accounting principles to account for the receipt of funds collected to repay the loan. The ledger must identify the project number and SRF funding agreement number. You must provide documentation showing that the ledger has been established. **(Please note all accounts are subject to audit at any time.)**

3. Complete and return to DWR a Security Agreement (Deposit Account) form, on the accounts in items 1 and 2 above. For account verification by the State, please provide one of the following: a voided blank check, voided deposit slip, or a copy of your most recent bank statement on this account.

4. A Financing Statement (form UCC-1) will be completed and filed with the Secretary of State of California by DWR. A copy of the form is enclosed. This document is filed to provide security in items of personal property including the accounts as referenced in items 1 and 2 above.

CDPH Requirements

1. The City of Santa Barbara shall submit an initial budget of eligible project costs approved by CDPH on a DWR Budget and Expenditure Summary form.

All items under III must be provided before any disbursement of funds will be made.

IV. General Requirements

CDPH Requirements

1. City of Santa Barbara **must complete all technical, environmental and financial conditions of the Notice of Acceptance of Application including this** "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" **within a time frame such that a funding agreement can be issued within 1 year from the date you sign this** "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS".

2. Subsequent to funding agreement execution you may request a **one-time** increase in funding. Such request must be **based upon competitive bids** and shall be submitted to the Santa Barbara District Office of CDPH. Approval of your request may be granted or denied at the sole discretion of the State, subject to funding availability and your financial qualifications.

3. Pursuant to Government Code Section 8546.7 the contracting parties shall be subject to the examination and audit of the State or any agent thereof, and the State Auditor. Parties are also subject to examination and audit of the U.S. Environmental Protection Agency, the Comptroller General of the United States, and Office of the Inspector General.

4. As a signatory to the California Urban Water Conservation Council – Memorandum of Understanding (MOU), the City Of Santa Barbara is responsible for the implementation of the urban water conservation "best management practices" of the MOU.

5. The City of Santa Barbara shall submit an Operations Plan amendment for the proposed facilities to the Santa Barbara District Office no later than December 31, 2013.

6. The City of Santa Barbara shall not initiate project construction activities unless and until the environmental review process is complete and all applicable Notices are filed.

7. The City of Santa Barbara shall complete construction of the project no later than December 31, 2013.

8. Any significant changes in the project design, subsequent to the issuance of this NOAA and prior to issuance of a funding agreement, may be subject to further environmental review.

9. Cross-cutting Federal Authorities apply to your project; see enclosed list. In order to conform to the federally mandated Disadvantaged Business Enterprise (DBE) good faith effort requirements, you must include the appropriate DBE "good faith effort" provisions in any bid documents. (You must meet the "good faith effort" requirements even if you do not utilize a formal bid process.). In order to demonstrate conformance with the federally mandated DBE good faith effort requirements, you must submit the construction bid solicitation package and the Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) good faith effort documentation from the construction funding agreement award, to the CDPH DBE coordinator.

The United States Environmental Protection Agency has established a good faith effort process to assure DBE have the opportunity to compete to participate in federally funded procurement. To comply with this requirement, you must:

- Perform the six affirmative steps required to meet the good faith effort requirements on procurement of construction, equipment, supplies and services for this project. (**You will be required to demonstrate that you have complied with the six "good faith" steps**.)
- Include EPA forms 6100-2, (DBE Program Subcontractor Participation Form), EPA forms 6100-3 (DBE Program Subcontractor Performance Form), and EPA Form 6100-4 (DBE Program Subcontractor Utilization Form) in each bid solicitation.

- Report semiannually on or before April 15 and October 15 on the CDPH MBE/WBE Utilization Report, enclosed.

- **Create and maintain a bidders list** if the recipient of the funding is subject to, or chooses to follow, competitive bidding requirements. The list, of all firms that bid or quote on prime contracts, or bid or quote subcontracts, must be kept until the project completion has been certified to CDPH.

- Include "Good Faith Effort" language in all contracts and subcontracts requiring compliance with the above.

Enclosed you will find a copy of the **Disadvantaged Business Enterprise (DBE) – Guidance for Public Water Systems (June 2009)** concerning conformance with the federal regulations for Participation by Disadvantaged Business Enterprise in USEPA funded projects. Should you have any questions regarding MBE/WBE, please contact Nadine Feletto with CDPH at (916) 449-5621.

Under the Federal Drinking Water State Revolving Fund Guidelines, the City of Santa Barbara is required to comply with the Single Audit Act. This Act requires entities to conduct an audit in accordance with the Office of Management and Budget (OMB) Circular A-133 Act if the entity expends $500,000 or more (or as said threshold amount may be amended by the federal government) in federal awards from any funding source, during the entity's fiscal year. A copy of the audit is to be submitted to CDPH. Information regarding the Single Audit Act can be found on the Internet at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

Address for DWR:

Department of Water Resources
Safe Drinking Water Office
Attention: Dennis Woods
1416 Ninth Street, Room 816
Post Office Box 942836
Sacramento, California 94236-0001

The terms and conditions set forth in the Notice of Acceptance of Application dated September 29, 2009, including those set forth in this "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" are acceptable to the City of Santa Barbara and it is City of Santa Barbara's intent to continue with this project as proposed.

Signature: _____ Date: _____

Print Name: _____

Title: _____

Address: _____

_____