



MEMORANDUM

TO: Mayor and Board of Commissioners

FROM: Bryan Gruesbeck, Town Manager

SUBJECT: Resolution Accepting Offer for State Loan (Project No. CS370413-05) for Sewer Rehabilitation and Replacement

DATE: August 24, 2015

Background: The Town of Pittsboro was approved to receive a loan of \$494,500 from the North Carolina Department of Environment and Natural Resources (NCDENR) Clean Water Revolving Fund to “find and fix” stormwater infiltration into its waste water collection system. The project will involve a number of rehabilitation methods: smoke testing, video camera of approximately 4,842 linear feet of sanitary sewer, rehabilitation/replacement of approximately 2,943 linear feet of 8-inch gravity pipe, rehabilitation/replacement of approximately 1,899 linear feet of 8-inch gravity pipe and rehabilitation of 20 manholes and replacement of 4 manholes.

Staff is currently discussing engineering consultation services for design and data collection associated with the project.

Attached please find the Offer and Acceptance letter from NCDENR. Also attached please find the Resolution to accept the offer from the State subject to the terms and conditions outlined in the Offer and Acceptance materials. As previously discussed, NCDENR requires a “closing fee” of 2%. This amount has been budgeted in the FY 2015-2016 Annual Budget.

Action Requested: Approve the Resolution Accepting the Offer for State Loan (Project No. CS370413-05) for Sewer Rehabilitation and Replacement.

**A RESOLUTION ACCEPTING OFFER FOR STATE LOAN (PROJECT NO. CS370413-05) FOR
SEWER REHABILITATION AND REPLACEMENT**

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collections systems, water supply systems, and water conservation projects, and

WHEREAS, the North Carolina Department of Environment and Natural Resources has offered a State Revolving Loan in the amount of \$494,500 to the Town of Pittsboro for the location and remediation of stormwater infiltration into its wastewater collection system, and

WHEREAS, the Town of Pittsboro intends to construct said project in accordance with the approved plans and specifications.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro:

1. The Town of Pittsboro does hereby accept the State Revolving Loan offer of \$494,500.
2. That the Town of Pittsboro does hereby give assurance to the North Carolina Department of Environment and Natural Resources that all items specified in the loan offer, Section II – Assurances, will be adhered to.
3. That Bryan Gruesbeck, Town Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
4. That the Town of Pittsboro has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.
5. That this Resolution is hereby adopted on August 24, 2015 and placed on file with the Town Clerk.

William G. Terry, Mayor

ATTEST:

Alice F. Lloyd, CMC, NCCMC, Town Clerk



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

July 16, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bryan Gruesbeck, Town Administrator
Town of Pittsboro
PO Box 759
Pittsboro, NC 27312

SUBJECT: Offer and Acceptance for a State Loan
Project No. CS370413-05
Sewer Rehabilitation and Replacement
Project

Dear Mr. Gruesbeck:

The Town of Pittsboro has been approved for loan assistance from the Clean Water State Revolving Fund. Enclosed are two (2) copies of an Offer and Acceptance Document extending a State Revolving loan in the amount of **\$ 494,500**. This offer is made subject to the assurances and conditions set forth in the Offer and Acceptance Document.

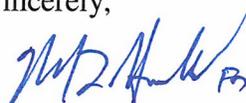
Please submit the following items to the Division of Water Infrastructure, 1633 Mail Service Center, Raleigh, North Carolina 27699-1633 within forty-five (45) days of receipt addressed to Mark Hubbard, PE.

1. A resolution adopted by the governing body accepting the loan offer and making the applicable assurances contained therein. (Sample copy attached)
2. One (1) copy of the original Offer and Acceptance Document executed by the authorized representative for the project, along with the signed "Standard Conditions for the Federal SRF loans". **Retain the other copy for your files.**
3. Federal Identification Number and DUNS # of the Recipient (Memo attached)
4. Sales Tax Certification(attached)

Reimbursement requests (printed form attached to this letter) should be sent to Pam Haven at the address noted.

On behalf of the Department of Environment and Natural Resources, I am pleased to make this offer of State Revolving Loan funds made available by North Carolina Water Infrastructure Fund and the Federal Clean Water Act Amendments of 1987.

Sincerely,



Kim H. Colson, P.E., Director
Division of Water Infrastructure, NCDENR

Enclosures:

Resolution to accept Loan offer (suggested format)
Loan Offer and Acceptance Document (2 copies)
Fed ID and DUNS Request Form
Sales Tax Certification Form
Guidance Document
Reimbursement Request form

c: Jennifer House
Pam Haven
SRF

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER INFRASTRUCTURE**

Funding Award Offer and Acceptance

Legal Name and Address of Award Recipient

Town of Pittsboro
P.O. Box 759
Pittsboro, NC 27312

Account

- Drinking Water State Revolving Fund (SRF)
- Clean Water State Revolving Fund (SRF)
- State General Loan (SRL)
- State Emergency Loan (SEL)
- High Unit Cost Grant (HUC)
- Technical Assistance Grant (TAG)

State Project Number: E-SRF-T-15-0406
Federal Project Number: CS370413-05
CFDA Number: 66.458

Amendment	Date	Additional Amount
Original		
1		
2		

Project Description:

Sewer Rehabilitation and Replacement Project

Total Financial Assistance Offer: **\$494,500**
Principal Forgiveness: **\$0**
Total Project Cost: **\$494,500**
Interest Rate: **0% Per Annum**
Maximum Loan Term: **20 Years**
Estimated 2% or 1.5% Closing Fee: **\$9,890**

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environment and Natural Resources as having sufficient priority to receive financial assistance,

The Department of Environment and Natural Resources, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina: **Kim H. Colson, P.E., Director, Division of Water Infrastructure
North Carolina Department of Environment & Natural Resources**

Signature:  Date: 7/15/15

On Behalf of: _____
Name of Representative in Resolution: _____
Title (Type or Print): _____

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and make the Assurances and accept the Standard Conditions.

Signature: _____ Date: _____

STANDARD CONDITIONS FOR FEDERAL SRF LOANS

1. The following “super cross cutters” apply to SRF projects and may be found in the Public Policy Requirements section of the EPA General Terms and Conditions for each year’s appropriation. This document can be found at www.epa.gov/ogd/tc.htm. Please note that nothing is submitted to the State’s SRF program offices regarding compliance with these items.
 - (a) Title VI of the Civil Rights Act of 1964
 - (b) Section 504 of the Rehabilitation Act of 1973
 - (c) The Age Discrimination Act of 1975
 - (d) Section 13 of the Federal Water Pollution Control Act Amendments of 1972
2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification from provided by DENR.
3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Recipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, “Responsibilities of Participants Regarding Transactions Doing Business with Other Persons,” as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled “Covered Transactions,” includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment. Recipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. The construction contract(s) requires the contractor to adhere to Davis Bacon and Related Acts Provisions and Procedures as listed in the Code of Federal Regulations Chapter 29 Part 5 Section 5 (29 CFR 5.5). Public Law pertaining to this is also enacted in Title 40, United States Code, Subtitle II Section 3141 through Section 3148.
6. As required by H.R. 3547, “Consolidated Appropriations Act, 2014” Section 436, Division G, Title IV, this project is subject to American Iron and Steel provisions. The State provides detailed requirements to be included in the construction contract specifications.

ASSURANCES

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division.
The recipient acknowledges that in the event a milestone contained in the most recent Clean Water State Revolving Fund Intended Use Plan and/or the Letter of Intent to Fund will cause the Department of Environment and Natural Resources to rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for SRF funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. As of the acceptance of this Funding Award Offer, steps A-D in the SRF Guidance will be complete. These Assurances, likewise, incorporate the most recent version of the SRF Guidance, and the Applicant hereby certifies by accepting this Funding Award Offer that it will adhere to the subsequent steps in the SRF Guidance document. The remaining steps generally govern project design, bidding, contracting, inspection, reimbursements, closeout and repayment.
5. The Applicant will provide and maintain adequate engineering supervision and inspection.
6. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
7. All SRF funds loaned shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
8. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.

Acknowledgement of Standard Conditions and Assurances

The Applicant hereby gives assurance to the Department of Environment and Natural Resources that the declarations, assurances, representations, and statements made by the Applicant in the Application; and all documents, amendments, and communications filed with the Department of Environment and Natural Resources by the Applicant in support of its request for financial assistance will be fulfilled.

.....
Signature

.....
Date

North Carolina SRF Program Overview and Guidance

Division of Water Infrastructure Website: <http://portal.ncdenr.org/web/wi/home>

A) Application Filing

- Deadlines are currently September 1st, and March 1st of each year but may change.
- Please ensure you are filling out the current application.
- Letter of Intent to Fund (LOIF) letters are mailed after DWI evaluation and State Water Infrastructure Authority approval. Recipients of LOIF letters are placed on a schedule for completing the rest of the steps to start construction.
- The following forms, constitute a complete application package:
 - Common Application (5 pages).
 - Complete signed DENR Appendix with appropriate boxes checked
 - Resolution with Certification of Recording Officer (sample included with Appendix).
 - Water and Sewer Rate Form (Included with Appendix).
 - Priority Point sheet with supporting documentation for the SRF program.
 - Form LGC 108A (Download all LGC forms separately from the DENR website).
 - Form LGC 108 C (Wastewater Projects) or LGC 108D or 108E (Stormwater Projects).

B) Engineering Report Submission and Approval (See website for guidance and details)

- From the Date of the LOIF letter an Engineering Report must be submitted within 4 months.
- From the Date of the LOIF Letter the Engineering Report must be approved within 9 months.

C) Application Approval by the Local Government Commission

- Terms:
 - Interest rates for loans are set on March 31st of each year at ½ the 20-year municipal bond buyers index. Any applications received during the year will receive the standard interest rate effective for that application deadline. Certain, qualifying applications may receive 0% interest loans.
 - The LGC sets the loan term with a maximum term of 20 years. Applications are reviewed by the LGC after the Engineering Report is approved. Applicants may want to contact the LGC earlier than this to ensure they are able to meet LGC approval requirements. This approval is required to ensure that the unit of government has the ability to repay borrowed funds. Currently the LGC is not allowed to review applications for \$1,000,000 or more unless a letter to the Joint Legislative Committee on Local Government and the Fiscal Research Division has been provided.

D) Loan Offer

- After approval of the Loan Application by the LGC, a formal Loan Offer is prepared which includes the loan terms and conditions.
- Two copies of the Loan Offer are mailed to recipients. Return the following to DWI:
 - One signed copy (keep the other copy) of the Loan Offer.
 - Resolution accepting the loan offer.
 - Federal ID and DUNS # form.
 - Sales Tax Certification.

- In the event of bids that exceed the project budget, a loan increase for up to 10% but not over \$500,000 dollars can be authorized without additional approval of the LGC. Amounts above these require a modified application to be approved by the LGC.
- The SRF 2% Closing Fee is invoiced at the time the Authority to Award letter is issued (paragraph F below). The Loan Offer contained an estimated closing fee but actual closing costs are based on the total costs after bids are received.

E) Plans and Specifications Approval (see website for guidance and details)

- Complete Plans and Specifications must be submitted within **15 months** of the LOIF letter
- Plans and Specifications must be approved within **19 months** of the LOIF letter. This includes issuance of all permits.
- The project's plans and specifications must be approved by the Division prior to advertising for bids. Changes by addendum must be submitted to the Division for approval. Changes by change order must also be submitted for approval.

F) Bidding and Issuance of Authority to Award (ATA) the Construction Contract

The contracts may be advertised as soon as plans & specifications are approved and permits are issued. NC General Statutes require the project to be advertised for 7 days, however DWI requires projects to be advertised for 30 days. For the initial advertisement period, three bids must be received in order for an award to be made. The Plans & Specifications approval letter has the Project Bid Information form attached. It and the other information described in it must be submitted to and approved by this office **before contracts can be awarded**. This information is:

- Project Bid Information Form, signed by authorized representative
- Bid tabulation, sealed by the consulting engineer
- Proposals of the successful bidders
- Tentative award resolution from loan recipient subject to DWI approval
- Engineer's recommendation
- Proof of Advertisement
- Contractor Table (Listing Prime, subs and consultants)
- MBE/WBE requirements. (Detailed guidance on the website)

Issuance of the ATA letter must be within **23 months** of the LOIF letter. Awarding contracts before issuance of the ATA letter is at the risk of the owner.

G) Construction Phase of Project

1) Inspections

- Site Inspections will be conducted for all funded projects. Coordinate the Preconstruction Conference with the Inspector assigned to project. The number of inspections performed will be determined based on the length of the

project, type of project, amount of funding involved and other factors. Any duly authorized representative of the State will have access to the work site and the contractor will provide proper facilities for such access and inspection. Further, any authorized representative of the State shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the applicant that are pertinent to funds.

- A primary duty of the administering State agency is to guard against fraud, waste and abuse of Federal funds. To ensure proper use of Federal funds, State personnel may review submittals, daily logs, testing reports, as-builts and other appropriate construction documentation in order to verify that project elements meet approved specifications. Generally, any changes to unit quantities or changes in specifications that result in substantial monetary savings for the owner, will need to be documented by change order. Approved change orders and potential future change orders may be reviewed in the field as well to verify their necessity and resultant changes to the project.
- Conformance with SRF standard conditions is a primary program responsibility. These include Davis-Bacon and American Iron and Steel currently.
- Additionally, inspections may uncover unsafe construction practices and environmental compliance violations. While not necessarily in SRF staff jurisdiction, deficiencies may be referred to appropriate enforcement agencies. Expedious and timely use of SRF funds is a program goal and avoidance of any delay in construction is a concern, particularly delays associated with public health or worker safety which are of concern in their own right.

2) Reimbursements (\$\$\$)

a) First Reimbursement

- Approval of Construction Contracts must happen with 24 months of the LOIF letter. The following items are required for approval:
 - Contract must be fully executed and bound
 - Notice to Proceed must be executed by owner and contractor
 - The project specifications must include 100% performance and payment bonds. Bonds must be dated on or after contract date
 - Original power of attorney must be dated on or after bonds
 - The contractor must provide current Insurance
 - All documents must be bound with the specifications
 - Davis-Bacon Documents must be present in the specifications
- Capital Project Ordinance submitted as required by G.S. 159-13.2. Alternately a budget ordinance that clearly identifies the project being funded by the SRF can be submitted.
- All items under Item D, second bullet.
- Site Certificate
- Engineering Contracts if payment is sought.
- Closing Fee must have been received
- Promissory note executed and returned to the Local Government Commission (this is requested from the LGC upon receipt of the executed construction contract and is for the amount noted in the ATA letter)

b) General Information

- Forms can be found online. A sample was included with the Loan Offer
- Cleanwater reimbursement requests are sent to Pam Haven and Drinking Water requests to Pam Haven. The Address is :
 - 1633 Mail Service Center; Raleigh NC 27699-1633.
- Reimbursements should be sent to Project Management Branch
- All items must be approved in advance before being reimbursed.
- One copy of the following information is required for reimbursements:
 - Reimbursement request form with original signature.
 - Contractor monthly estimates
 - Engineering invoices
 - Invoices for any other approved costs
 - Eligible land costs will be reimbursed when the land has either been acquired or is under condemnation. In both cases and a copy of an offer to purchase the land must be submitted with the appraisal.
- Indicate cumulative totals on the reimbursement form
- Check the appropriate box regarding whether or not contractors have already been paid. Note, that if the SRF funds are needed to pay the contracts, the funds must be disbursed within 3 banking days of receipt.
- As noted in the Loan Offer Assurances, sales taxes will be deducted from loan proceeds if an applicant indicates they intend to seek reimbursement for them from the Department of Revenue. A certification form is provided on our website to indicate what the owner intends to do regarding sales tax.

c) Project Closeout and Final Disbursement

- Note: Funds are held at 95% until the final payment can be made. Required items for final payment include:
 - The inspector must issue final inspection report signifying that project is complete and all concerns have been satisfied and all change orders must have been submitted.
 - All final invoices showing zero retainage must be submitted with a final reimbursement request.
 - Submit to Pam Whitley
 - ✓ Engineer's certifications.
 - ✓ Owner's Certification of Completion
 - ✓ Signed Closeout Checklist.

H) REPAYMENTS

- Repayments will be reflected in the final promissory note and will be for the actual funds borrowed.
- Repayments by the recipient begin on the May 1st or the November 1st that is between 6 months and 12 months after original project completion in the notice to proceed.
- The May 1st payment includes principal and interest and the November 1st payment is only interest.
- **Interest begins to accrue from the date of completion on the Notice to Proceed.** For multi-prime contracts the General contract will be used to set this date.

Eligible Expenses

The types of projects that can be funded are loosely defined under Sections 212, 319 and 320 of the Clean Water Act. These can be described as publically owned wastewater treatment and transport systems and stormwater pollution treatment and control projects.

I. Construction Projects

- A. Project elements not related to the applied for project, nor essential to the operation of the completed project are not eligible.
- B. If preference is given to a brand, it must be bid as a preferred alternate and any cost increase above the base bid is not eligible.
- C. The SRF will pay to restore project related items such as road patching, sidewalks and seeding. Note that items bonds, insurance or liquidated damages can be expected to cover, will not be covered by the SRF funds.

II. Engineering and Technical Services

- A. Planning and Design Contracts
 - Must include task descriptions and these tasks must be associated with the project being built
- B. Construction Administration and Inspection
 - Construction Inspection is required by the Loan Offer
 - Task Description must be included and tasks must be associated with eligible construction work
 - Typical tasks include but are not limited to: attending meetings, provide plan copies, review testing, review shop drawings, review payment applications, prepare change orders, coordinate with DWI, as-builts
 - Price should be cost plus fixed fee or per diem with a ceiling. This fee schedule should be in the contract.
 - Invoices must included hours, rate and task
 - Contract must be amended to pay beyond the ceiling. Must be accompanied by justification such as a corresponding change order.
- C. Other eligible engineering activities include bidding, O&M manuals, soils reports, hydro-geologic reports, TVing and cleaning of lines etc.

III. Other Eligible Costs

- Legal - Legal fees for contract review and for advertisements etc.
- Real Property and easements associated with the approved project scope are eligible expenses. All cost items associated with acquiring the property may be paid for if properly documented. Costs for appraisals shall be limited to \$1,000. This is based on typical market rates and may be adjusted from time to time. This limit is deemed high enough to account for MAI status, commercial properties, availability of an appraiser, etc.
- Preparation of applications and permits required by Federal, State or local regulations or procedures.
Permits imposed by the local unit such as building permits are not eligible.