Resolution No. PWC2023.38

RESOLUTION OF THE FAYETTEVILLE PUBLIC WORKS COMMISSION TO ACCEPT AN AMENDED STATE LOAN OFFER UNDER THE NORTH CAROLINA WATER REVOLVING LOAN AND GRANT ACT OF 1987

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 collection systems, water supply systems, and water conservation projects; and

WHEREAS, the North Carolina Department of Environmental Quality (NCDEQ) has amended and increased the previous State Revolving Loan offer of $6,255,105 by $430,000 to a total of $6,685,105 for the construction of the Big Rockfish Sanitary Sewer Outfall Lift Station Elimination project (Exhibit A); and

WHEREAS, the Fayetteville Public Works Commission (COMMISSION) intends to construct said project in accordance with the approved plans and specifications; and

WHEREAS, the loan terms for Big Rockfish Sanitary Sewer Outfall Lift Station Elimination are 20 years, 0% interest and 2% closing fee, and

NOW THEREFORE BE IT RESOLVED BY THE COMMISSION THAT:

1. The COMMISSION does hereby accept the amended State Revolving Loan offer of $6,685,105 as presented in Exhibit A, contingent upon approval of the same by the City Council of the City of Fayetteville pursuant to Charter Section 6A.19.

2. The COMMISSION does hereby give assurance to NCDEQ that all items specified in the loan offer, Section II – Assurances will be adhered to.

3. Timothy L. Bryant, CEO/General Manager of the COMMISSION, 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; to execute the promissory note; and to execute such other documents as may be required in connection with the application.

4. The COMMISSION 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. The COMMISSION requests that the City Council of the City of Fayetteville approve this loan pursuant to Charter Section 6A.19 by adopting a Resolution in the form attached hereto.

Adopted this 11th day of October, 2023.

FAYETTEVILLE PUBLIC WORKS COMMISSION

DONALD L. PORTER, Chairman

ATTEST:

RONNA ROWE GARRETT, Secretary

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Fayetteville Public Works Commission
P.O. Box 1089
Fayetteville, North Carolina 28302

Project Number: CS370434-15
Assistance Listing Number: 66.458
Unique Entity ID Number: UMXDRGNCMPQ7

Funding Program

		Additional Amount for Funding Increases	Previous Total	Total Offered
Drinking Water	☐			
Wastewater	☒			
State Revolving Fund (SRF)	☒	$430,000	$6,255,105	$6,685,105
State Reserve Loan (SRP)	☐			
State Reserve Grant (SRP)	☐			
State Grant Appropriation (SAP)	☐			
American Rescue Plan Act (ARPA)	☐			

Project Description:

Big Rockfish Sanitary Sewer Outfall - Lift Station Elimination - Installation of 14,000 LF of 8-inch and 12-inch gravity sewer to replace six lift stations

Total Financial Assistance Offer: **$6,685,105**
Total Project Cost: **$6,685,105**
Estimated Closing Fee*: **$133,702**
For Loans
Principal Forgiveness: **$0**
Interest Rate: **0%** Per Annum
Maximum Loan Term: **20** Years

**Estimated closing fee calculated based on grant and loan amount.*

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 Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina: **Shadi Eskaf, Director, Division of Water Infrastructure**
North Carolina Department of Environmental Quality

DocuSigned by:
Shadi Eskaf
6300A872077B4C5...
Signature

9/28/2023
Date

On Behalf of: **Fayetteville PWC**
Name of Representative in Resolution: **Timothy L. Bryant**
Title (Type or Print): **CEO/General Manager**

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 will comply with the attached Assurances and the Standard Conditions.

Signature

October 11, 2023
Date

APPLICABLE STANDARD CONDITIONS
Project Applicant: Fayetteville PWC **Project Numbers: CS370434-15**

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 https://www.epa.gov/sites/production/files/2015-08/documents/crosscutterhandbook.pdf 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 form provided by DEQ.

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. Subrecipients 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. Subrecipients may access suspension and debarment information at: http://www.sam.gov. This system allows subrecipients 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.

7. Section 603(d)(1)(E) of the Federal Water Pollution Control Act requires subject to develop and implement a Fiscal Sustainability Plan (FSP) for projects that involve the repair, replacement or expansion of publicly owned treatment works. Note that FSPs are not required for new treatment works. The certification provided must be submitted regarding compliance with this section of the Act.

8. Section 602(b)(14) of the Clean Water Act requires projects receiving CWSRF funding to comply with Federal engineering procurement guidelines. The State provides a certification form that must be completed prior to receiving funds for any engineering services covered under this funding offer.

ASSURANCES
Project Applicant: Fayetteville PWC **Project Numbers: CS370434-15**

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 is missed, the Department of Environmental Quality will 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.

9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.