Resolution No. PWC2024.09

RESOLUTION OF THE FAYETTEVILLE PUBLIC WORKS COMMISSION TO ACCEPT THE AMERICAN RESCUE PLAN ACT OFFER UNDER THE STATE FISCAL RECOVERY FUND

WHEREAS, the American Rescue Plan Act (ARPA), funded from the State Fiscal Recovery Fund, was established in Session Law (S.L) 2021-180 and S.L. 2022-74 to assist eligible units of local government with meeting their drinking water and/or wastewater and/or stormwater infrastructure needs;

WHEREAS, the North Carolina Department of Environmental Quality (NCDEQ) has offered ARPA funding in the amount of $400,000 to perform the work detailed in the submitted application for the project for which the Funding Offer and Acceptance set forth as Exhibit A attached hereto was granted (the Project); and

WHEREAS, the Fayetteville Public Works Commission ("COMMISSION") intends to perform said project in accordance with the agreed scope of work, and

NOW, THEREFORE, LET IT BE RESOLVED BY THE COMMISSIONERS OF THE FAYETTEVILLE PUBLIC WORKS COMMISSION THAT:

1. The COMMISSION does hereby accept the ARPA grant offer of $400,000 as presented in Exhibit A;

2. The COMMISSION does hereby give assurance to NCDEQ that all Conditions and Assurances and other items contained in the Funding Offer and Acceptance (award offer) will be adhered to; 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; and

3. Timothy 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 the project; to make the assurances as contained above; and to execute such other documents as may be required by the NCDEQ, Division of Water Infrastructure.

Adopted this 26th day of June, 2024.

FAYETTEVILLE PUBLIC WORKS COMMISSION

Donald L. Porter, Chairman

ATTEST:

Ronna Rowe Garrett, Secretary

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

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Fayetteville PWC
955 Old Wilmington Road
Fayetteville, NC 28301

Project Number: AIA-D-ARP-0050

Recipient's UEID#: UMXDRGNCMPQ7

Funding Program

Drinking Water ☒ **Wastewater** ☐ **Both** ☐		**Total Grant Offered**
Distressed ☐ **Not Distressed** ☒		
ARPA Training Grant	☐	
ARPA Asset Inventory & Assessment Grant (AIA)	☒	$ 400,000
ARPA Merger/Regionalization Feasibility Grant (MRF)	☐	

Project Description:

Water System AIA

Total Financial Assistance Offer: $ 400,000

**ARPA-funded projects are exempt from both the grant fee and match requirements.*

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:
Victor A. D'Amato signed on behalf of Shadi Eskaf — 4/10/2024
Signature — Date

On Behalf of (Applicant): Fayetteville Public Works Commission
Name of Representative in Resolution: Timothy 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 Assurances and the Standard Conditions.

Signature — 6/26/24 Date

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STANDARD CONDITIONS FOR ARPA GRANTS

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's Final Rule for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the SLFRF Compliance and Reporting Guidance not explicitly referred to in this document and any future requirements implemented by the U.S Treasury.

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 Recipient 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. Projects with a total cost of $10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the SLFRF Compliance and Reporting Guidance specifies.

6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt Recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.

7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).

8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

STANDARD ASSURANCES FOR AIA GRANTS

1. The Recipient acknowledges that no disbursements will be made until applicable service agreements or contracts are submitted. The description of work listed on invoices must be included in the scope of work shown on the agreements or contracts.
2. The Recipient is responsible for paying for ineligible project costs as determined by the Division.
3. 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 (3) years following completion of the project.
4. All ARPA funds 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 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 and Assurances of this Award. The Recipient agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute. Requests for disbursements must be made using the Division's disbursement form.
5. All funds provided pursuant to North Carolina General Statute 159G must be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34, as amended. **The Recipient must 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 any contract(s) and the Recipient is expected to uphold its contract obligations regarding timely payment.
6. The Recipient must provide summaries of project progress every other month during the project or as otherwise directed by the Division.
7. The Recipient must provide a digital copy of the final report in a universally readable format. If a project includes updating or developing a GIS database or shapefiles, at a minimum the current utility service boundaries must be provided as a polygon shapefile, including any service gaps within the boundary.
8. The Recipient must provide an executive level summary of the work performed, any conclusions made, and the next steps to be taken as a result of this work.
9. The Recipient must provide approved minutes or a resolution confirming the final report has been presented to the recipient's governing board.
10. A maximum of 95% of the grant will be paid prior to receipt of the documentation described in Standard Assurance Nos. 7, 8, and 9. After receipt of this documentation, the final disbursement request will be processed.

Acknowledgement of Standard Conditions and Assurances

The Recipient hereby gives assurance to the Department of Environmental Quality 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 Environmental Quality by the Applicant in support of its request for financial assistance will be fulfilled.

Signature: J. Bry P.E. Date: 6/26/24