

RESOLUTION NO. 2070

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY,
MARYLAND TO ACCEPT LOAN AND LOAN FORGIVENESS FUNDS
FOR THE DESIGN AND CONSTRUCTION OF WATER QUALITY STORM
DRAIN INLETS THROUGH THE MARYLAND WATER QUALITY
STATE REVOLVING FUND PROGRAM

WHEREAS, the City of Salisbury desires to improve the water quality of the Wicomico River by reducing the amount of nitrogen, phosphorus, sediment and floatable debris entering the River from the City's public storm drain system; and

WHEREAS, the City applied for funding through the Maryland Water Quality Financing Administration's State Revolving Loan Fund (WQSRF) program to design and construct water quality storm drain inlets along Waverly Drive, South Boulevard, Hanover Street and Lloyd Street; and

WHEREAS, the City received notification by the Maryland Department of the Environment that funds were identified through the Federal Fiscal Year 2010 WQSRF Intended Use Plan; and

WHEREAS, the City has been allotted a \$39,960 WQSRF Loan, \$279,720 Principal Forgiveness, \$81,000 Green Loan, \$567,000 Green Principal Forgiveness through the Maryland Water Quality Financing Administration's State Revolving Fund Program; and

WHEREAS, actual funding will not become available until all financial arrangements are made with the Maryland Water Quality Financial Assistance Administration and approval is secured from the Maryland Board of Public Works; and

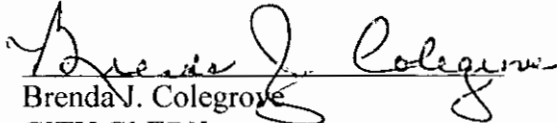
WHEREAS, City policy requires that loan and loan forgiveness funds can only be accepted with the approval of City Council; and

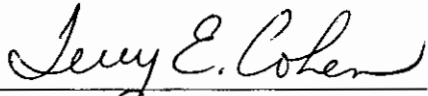
WHEREAS, the City of Salisbury Department of Public Works supports the need to construct the water quality inlets.

NOW, THEREFORE, BE IT RESOLVED, that the Salisbury City Council accepts the Maryland Water Quality Financing Administration's State Revolving Loan Funds in the amount and form of \$39,960 WQSRF Loan, \$279,720 Principal Forgiveness, \$81,000 Green Loan, \$567,000 Green Principal Forgiveness for a total of \$967,680, under the terms outlined in the attached April 14, 2011 letter and April 27, 2011 email from the Maryland Department of the Environment.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on the 11th day of July, 2011 and is to become effective immediately upon adoption.

ATTEST:


Brenda J. Colegrove
CITY CLERK


Terry E. Cohen
PRESIDENT, CITY COUNCIL

APPROVE BY ME THIS

12th day of July, 2011


James Irton, Jr.
MAYOR, CITY OF SALISBURY

Dallas Baker

From: Teresa Ernest <ternest@mde.state.md.us>
Sent: Wednesday, April 27, 2011 8:57 AM
To: Dallas Baker
Subject: Salisbury Waverly Drive WQ Storm Inlets

Good Morning Dallas,

This email is a follow-up to yesterday's conversation regarding SRF funding for the Waverly Drive project.

In good faith the Administration will hold the funding for this project until June 30, 2012. If the project construction is delayed beyond June 30, 2012, the City will need to reapply for funding during the next solicitation cycle. Please send me a revised project schedule.

Let me know if you need additional information or if I can provide further assistance.

Teresa T. Ernest
MDE-WQFA
Montgomery Park Business Ctr.
1800 Washington Blvd., Rm 5434
Baltimore MD 21230-1708
(P) 410-537-3243
(F) 410-537-3968

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. Thank You



MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

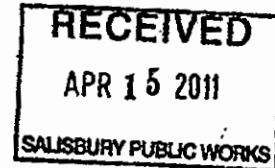
Martin O'Malley
Governor

Anthony G. Brown
Lieutenant Governor

Robert M. Summers, Ph.D.
Acting Secretary

Revised
April 14, 2011

Mr. Dallas Baker, P.E.
Project Engineer
City of Salisbury
125 N. Division Street
Salisbury MD 21801-4940



RE: Waverly Drive Water Quality Storm Drain Inlets
2010 Water Quality State Revolving Fund (WQSRF) Intended Use Plan (IUP)
WQSRF Loan Amount: \$39,960
Principal Forgiveness: \$279,720
Green Loan Amount: \$81,000
Green Principal Forgiveness Amount: \$567,000

Dear Mr. Baker:

The above project and funding allocations have been identified in the Maryland Water Quality Financing Administration's (MWQFA) State Revolving Fund (SRF) Program's Federal Fiscal Year 2010 WQSRF IUP. Below are the terms* associated with the above-referenced loan allocations:

INTEREST RATE (subject to change): The standard SRF interest rate is equal to 50% (rounded down) of the monthly average of the Bond Buyer 11-Bond Index (BB11-BI) for the month preceding the one in which the loan is closed. The interest rate for a Disadvantaged Community (DAC)** is currently 25% of the BB11-BI. Based upon recent BB11-BI averages, our offering rates would be 2.00% (standard) and 1.00% (DAC).

ADMINISTRATIVE FEE: The Administrative Fee is 5% (approximately 50 basis points) of the total debt service over the term of the loan, paid in equal annual installments over the life of the loan.

LOAN TERMS: 20 years or less.

DECLARATION OF OFFICIAL INTENT TO REIMBURSE (Applies to Governmental Borrowers Only): Local governments funding projects through the SRF Program in an amount greater than \$400,000 must declare a notice of "Official Intent to Reimburse" prior to making project expenditures that are to be reimbursed with proceeds of tax-exempt debt and will require loan recipients to retain a bond counsel. The purpose of the Official Intent requirement is to

* Loan terms differ for Principal Forgiveness loan transactions

** See attached Programmatic Requirements, with additional subsidy chart

Mr. Dallas Baker, P.E.
October 12, 2010

provide confirmation of compliance with IRS requirements that, on or prior to the date of payment, the local government intended to reimburse itself with the SRF loan from MWQFA for costs that are associated with the project and which are eligible for reimbursement (with limited exception for certain preliminary expenditures i.e. planning & design). **Failure to timely declare Official Intent may deem some costs ineligible for tax-exempt SRF loan funds.**

Enclosed is additional information regarding the programmatic requirements for SRF funding that must be addressed prior to loan/grant execution and subsequent SRF reimbursements. Of particular note is the inclusion of required **Davis Bacon Wage rates for construction contracts.**

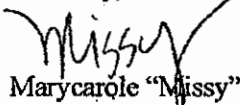
Recipients and their prime contractors and consultants must apply the Good Faith Efforts when procuring contracts in construction, services (technical and business), supplies and equipment.

Failure to comply with DBE program requirements may make costs ineligible for SRF funding participation. The information and forms are also on our website at www.mde.state.md.us/wqfa. For additional assistance, contact Mr. Andrew Sawyers, Program Administrator, at asawyers@mde.state.md.us or at 410-537-3119.

Please note the demand for SRF funding is extremely high, and as such, projects identified for funding that do not proceed to construction by **December 2011** may be bypassed/deleted from the current funding list. The applicants will be notified of this action, and will have an opportunity to reapply for future financial assistance.

Please do not hesitate to contact me at [410-537-3980](tel:410-537-3980)/mmartin@mde.state.md.us or Ms. Teresa Ernest, SRF Funding Coordinator, at 410-537-3243 or via email at ternest@mde.state.md.us regarding this letter or the attached programmatic information. Also, should you wish to see a draft repayment schedule, contact Ms. Ernest. We look forward to working with you throughout the SRF funding origination process.

Sincerely,



Marycarole "Missy" Martin, Chief
State Revolving Fund Division
Water Quality Financing Administration

Enclosure(s): Programmatic Requirements, with additional subsidy chart

Cc: Mr. Jag Khuman
Mr. Andrew Sawyers
Mr. Rajiv Chawla
Ms. Teresa Ernest
Mr. Mike Kanowitz
Ms. Debi Fulmer
Ms. Pamela Olan
Mr. Dale Pusey

STATE REVOLVING FUND (SRF)
PROGRAMMATIC REQUIREMENTS
FOR LOANS AND/OR PRINCIPAL FORGIVENESS LOANS

DECLARATION OF OFFICIAL INTENT TO REIMBURSE (for non-Principal Forgiveness Loan Transactions and Governmental Borrowers Only) - This is an IRS regulation. Applicants who intend to reimburse project expenditures from tax-exempt bond proceeds, including a tax-exempt loan from the Water Quality Financing Administration (WQFA), are required to declare Official Intent to reimburse. This should be done prior to making expenditures that are to be reimbursed with proceeds of tax-exempt debt (with limited exception for certain preliminary expenditures). Expenditures that are going to be reimbursed through the SRF tax-exempt loan must fit within the tax code regulations for reimbursement. Tax-exempt loan recipient's efforts should be coordinated with their Bond Counsel to ensure that the current IRS definition of debt issuance is met. For SRF tax-exempt loans, this applies to loan amounts greater than \$400,000. Loan amounts less than \$400,000 will be in the form of a "taxable" bond.

BOND COUNSEL/LEGAL REPRESENTATION - For loans exceeding \$400,000, borrowers are required to utilize a Bond Counsel.

FINAL PLANS AND SPECS - Plans and specifications must be reviewed and approved by MDE prior to bidding. Additionally, at the time of MDE's plans and specifications review, a determination will be made regarding green-related components eligible for SRF grant/loan participation, if applicable.

BIDDING:

-**MDE Insert:** "Requirements and Contract Provisions....", referred to as the "MDE Insert" must be included with bid packages. The MDE Insert outlines certain contractor responsibilities (e.g., Minority & Women Business participation, project sign, etc.) Contact MDE's Project Manager for the proper MDE Insert.

-**Davis Bacon Wage Rates:** Effective October 2009, Davis Bacon Wage Rates are required for all SRF-funded Drinking Water and Clean Water (with the exception of non-point source projects) construction contracts. These provisions are included in the MDE Insert.

-**Disadvantaged Business Enterprise (DBE)** -EPA regulations require that SRF recipients and sub-recipients (i.e. loan recipients, prime contractors, consultants) make a Good Faith Effort to award a fair share of work to qualified small, minority and women's businesses. This requirement includes procurements in the categories of construction, A/E and other services, equipment, and supplies. Affirmative steps must be demonstrated and documented. These provisions are included in the MDE Insert. Questions regarding the SRF DBE program should be directed to Mr. Andrew Sawyers at 410-537-3119 and can also be found on MDE's website at www.mde.statc.md.us/wqfa.

FINANCIAL, TECHNICAL AND MANAGERIAL CAPACITY (Applicable to Drinking Water Projects Only) - The Federal Safe Drinking Water Act requires all projects for DWSRF loans to be evaluated prior to loan execution for financial, managerial and technical capacity (i.e. Capacity Development).

WATER/SEWER PLANS - Water and Sewer projects being funded through the SRF must be consistent with the County Water and Sewer Plan. Projects must conform to Maryland Priority Places Executive Order and be located in a Priority Funding Area.

CLEARINGHOUSE AND ENVIRONMENTAL REVIEW – Projects must undergo a State environmental review (except for non-point source projects) and State clearinghouse review. The process typically requires a 3-month review period and as such should be initiated as soon as possible with MDE's Project Manager.

BID PACKAGES – Once the lowest responsive, responsible bidder has been determined, the bid package should be forwarded to the Department for coordination of review for consistency with the rules and regulations for funding projects utilizing the SRF Program.

CONTRACTS/AGREEMENTS – Any contract/agreements associated with the work being performed and funded by the loan must be submitted and approved by the Department.

FINANCIAL ANALYSIS – A Financial Analysis will be undertaken by the Department to determine affordability. The applicant will need to provide their audited financial statements for the prior three years and the current user rate structure.

FINAL APPLICATION – After the project has been bid and the project costs have been determined, a Final Application is required for completion by the loan recipient.

AUTHORIZATION TO INCUR DEBT – Loan recipient's attorney/bond counsel will need to insure prior to loan execution that the necessary legal steps enabling the loan recipient to incur the SRF loan debt is consistent with its Charter or Article of Incorporation, etc. (whichever is applicable).

BOARD OF PUBLIC WORKS – The Department will seek Board of Public Works approval typically after the Final Application has been received.

LOAN PROCEEDS QUESTIONNAIRE & CERTIFICATE – LPQ&C (Governmental Borrowers Only) – Applicable to tax-exempt loans, this form addresses tax issues related to the funding of the project. The applicant should coordinate the completion of the LPQ&C with the jurisdiction's Bond Counsel.

INITIAL CASH DRAW REQUEST (Governmental Borrowers Only) – The Department requires the lesser of 5% of the loan amount or \$50,000 to be disbursed at loan closing for tax-exempt transactions. In order to make a disbursement at the loan closing, the "Cash Draw Request Form" must be completed and approved at least four weeks prior to the scheduled loan closing date.

DEDICATED SOURCE OF REVENUE for loan repayment – General obligation and a revenue pledge for governmental entities. Private entities will require a form of collateral agreeable to the Administration.

DISADVANTAGED COMMUNITY (DAC) – The Department offers additional loan subsidies to disadvantaged communities. An applicant must meet the State's definition of a DAC in order to be eligible for such additional subsidies. Water Quality (WQ) and Drinking Water (DW) SRF loan subsidies include lowering the interest rate from 50% to 25% of Market Rate. For DW loans only, additional subsidies for consideration are to extend the loan term to 30 years. SEE ATTACHED FOR ADDITIONAL DAC GRANT/PRINCIPAL FORGIVENESS SUBSIDIES.

Water Quality & Drinking Water Capital Program Funding Eligibility (SFY 2012)

Water Quality Projects

Fund Source	Project Type/Owner	Disadvantaged Community	All others
WQSRF Program	Wastewater/Small or NPS (Non-Green) Wastewater/Large Green/All	Up to 87.5% of loan amount as loan-forgiveness; Maximum \$1.5 Million & Balance loan @ 25% of Market Interest Rate, 20 year term Up to 25% of loan amount as loan-forgiveness; Maximum \$1.5 Million & Balance loan @ 25% of Market Interest Rate, 20 year term Up to 87.5% of project cost as loan-forgiveness/grant; Maximum No \$ limit & Balance loan @ 25% of Market Interest Rate, 20 year term provided the Owner has a revenue stream for loan repayment	No Loan Forgiveness & up to 100% loan @ 50% of Market Interest Rate, 20 year term No Loan Forgiveness & up to 100% loan @ 50% of Market Interest Rate, 20 year term Up to 50% of project cost as loan-forgiveness/grant; Maximum No \$ limit & Balance loan @ 50% of Market Interest Rate, 20 year term provided the Owner has a revenue stream for loan repayment
State Supplemental (Sewerage) Grant Program	BNR/Small Non-ENR, Wastewater - Non-Compliance/All Non-ENR, Wastewater - Compliance/Small Non-ENR, Wastewater - Compliance/Large	Up to 25% of BNR eligible project cost as Grant; Maximum No Limit Up to 87.5% of project cost as Grant; Maximum \$1.5 million Up to 50% of project cost as Grant; Maximum \$1.5 million Up to 25% of project cost as Grant; Maximum \$1.5 million	Up to 25% of BNR eligible project cost as Grant; Maximum No Limit Up to 25% of project cost as Grant; Maximum \$1.5 million No Grant No Grant

Water Quality & Drinking Water Capital Program Funding Eligibility (SFY 2012)

Drinking Water Projects

Fund Source	Project Type/Owner	Disadvantaged Community	All others
DWSRF Program	Drinking Water/Small	Up to 87.5% of loan amount as loan-forgiveness; Maximum \$1.5 Million & Balance loan @ 25% of Market Interest Rate, 30 year term	No Loan Forgiveness & up to 100% loan @ 50% of Market Interest Rate, 20 year term
	Drinking Water/Large	Up to 25% of loan amount as loan-forgiveness; Maximum \$1.5 Million & Balance loan @ 25% of Market Interest Rate, 30 year term	No Loan Forgiveness & up to 100% loan @ 50% of Market Interest Rate, 20 year term
	Green/All	Up to 87.5% of project cost as loan-forgiveness/grant; Maximum No \$ limit & Balance loan @ 25% of Market Interest Rate, 30 year term provided the Owner has a revenue stream for loan repayment	Up to 50% of project cost as loan-forgiveness/grant; Maximum No \$ limit & Balance loan @ 50% of Market Interest Rate, 20 year term provided the Owner has a revenue stream for loan repayment
State Water Supply Grant Program	Drinking Water - Non-Compliance/Small	Up to 87.5% of project cost as Grant; Maximum \$1.5 million	Up to 25% of project cost as Grant; Maximum \$1.5 million
	Drinking Water - Non-Compliance/Large	Up to 50% of project cost as Grant; Maximum \$1.5 million	No Grant
	Drinking Water - Compliant/Small	Up to 50% of project cost as Grant; Maximum \$1.5 million	No Grant
	Drinking Water - Compliant/Large	Up to 25% of project cost as Grant; Maximum \$1.5 million	No Grant

Small System: Project service area population less than 10,000 that is responsible for the capital cost (generally applicable to water and sewer system owners)

Disadvantaged Community:

1. Water (or sewer, as applicable) user rate/year per Equivalent Dwelling Unit (EDU) > 1% of Community Median Household Income (MHI); or
2. Project is physically located and benefits an MDE approved Environmental Benefit District; or
3. Project is physically located and benefits a community with MHI less than 70% of State MHI

In addition to above, where the water (or sewer, as applicable) user rate would increase by more than 20% to achieve financial capacity (as determined by MDE), the Owner may qualify for up to 25% of the loan amount as loan-forgiveness, not to exceed \$1.5 million.

A high cost water/sewer project may qualify for grant subsidy as SRF loan forgiveness and State grant

Update: June 2010

City of Salisbury



Salisbury



2010

JAMES IRETON, JR.
MAYOR

JOHN R. PICK
CITY ADMINISTRATOR

LORÉ L. CHAMBERS
ASSISTANT CITY ADMINISTRATOR

MARYLAND

125 NORTH DIVISION ST., RM 202
SALISBURY, MARYLAND 21801

Tel: 410-548-3170

Fax: 410-548-3107

PUBLIC WORKS
TERESA GARDNER, P.E.
DIRECTOR

June 10, 2011

MEMORANDUM

TO: John Pick

FROM: Dallas Baker

SUBJECT: Waverly Drive Water Quality Storm Drain Inlets

CC: Teresa Gardner
Dale Pusey
File

Last year Salisbury Public Works (SPW) received a letter from the Maryland Department of the Environment, dated October 12, 2010, awarding a SRF loan/loan forgiveness for the Waverly Drive Water Quality Storm Drain Inlet project. The total amount of the award was \$967,680 of which 75% (\$725,760) was loan and 25% (\$241,920) was loan forgiveness. At that time, it was determined that the City did not want to take on the burden of repaying a \$725,760 loan.

On April 14, 2011 SPW received a supplemental letter from MDE (attached) regarding the project, whereby MDE restructured the terms of the loan/loan forgiveness such that it is now 12.5% loan (\$120,960) and 87.5% loan forgiveness (\$846,720). The project includes engineering and construction however, the City would have to pay upfront, the cost for the engineering portion of the project (approximately \$100,000) out of City budget, until the construction bid was awarded, at which time we would submit the engineering invoices for reimbursement. Both the engineering and construction portions of the project would have to be bid per current State procurement guidelines (minority owned businesses, women owned businesses, Davis-Bacon, etc.) in order to be eligible for reimbursement.

The April 14th letter from MDE states that construction must be started by December 2011 however, MDE has indicated in an April 27, 2011 email (attached) that the deadline will be extended until June 2012. MDE has also indicated that there is no deadline for accepting the funds. However, the time line for bidding and awarding the design and construction of the project over the next year is tight and acceptance of the money as soon as possible will greatly improve the project's ability to meeting the June 2012 deadline.

As a refresher, the project proposes to augment the City's existing storm drain inlets along Waverly Drive, South Boulevard, Hanover Street and Lloyd Street with twenty four (24) water quality inlets. The inlets would reduce the amount of nitrogen, phosphorus, sediment and trash entering into the Wicomico River. The system routes the first flush of a storm into a concrete structure containing mulch-like media serving as the soil matrix for a tree, shrub or other planting. The water from the first flush is filtered through the mulch, capturing solids and other floatables where they can be decomposed, volatilized and incorporated into the biomass via microbial action and uptake through the tree's root structure. Filtered water continues down to the bottom of the containment basin and is released into storm drain systems with excess nutrients and harmful pollution removed.



The schematic drawing shown above is that of a "Filterra" unit, which is an example of one type of water quality inlet that has been approved by MDE for use in retrofitting applications. It may be possible that this type of remedial action could count toward Salisbury's impending TMDL nutrient load reduction and NPDES Phase II MS4 permit requirements, all at a significant cost savings to the City.

Memo: John Pick
June 10, 2011
Page 3



The estimated cost for the engineering portion of the project is \$100,000. The estimated cost for the construction portion of the project is \$867,680. The award of the loan forgiveness funds is contingent upon acceptance of the loan funds and MDE will not accept a match of "in kind services" in place of accepting the loan.

The water quality inlets are an easy "green" method to improve the storm drain water quality entering Salisbury waterways. The initial installation costs are comparable to other filtering technologies cartridge units but without the maintenance costs associated with filter replacement. Routine maintenance, which would be the responsibility of the City, involves simply raking out any accumulated debris. Once the planted tree or shrub gets too big it can be removed and mulched and a new tree or shrub can be planted.

Salisbury Public Works requests that the attached Resolution for the acceptance of the loan and loan forgiveness funds be granted to design and construction the water quality storm drain inlets.

Unless you or the Mayor have further questions, please forward this to the City Council.