

RESOLUTION No. 2188

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND TO ACCEPT MARYLAND DEPARTMENT OF THE ENVIRONMENT GRANT FUNDS FOR THE CONSTRUCTION OF THE SALISBURY WASTEWATER TREATMENT PLANT DRAIN LIFT STATION

WHEREAS, a report prepared by Brown and Caldwell recommends improvements to the Plant Drain Pump Station as part of the upgrades necessary to maximize Salisbury Wastewater Treatment Plant (WWTP) performance; and,

WHEREAS, the City received notification from the Maryland Department of the Environment Water Quality Financing Administration that grant funds were available in accordance with the Bay Restoration Fund Act; and,

WHEREAS, the City has been allocated a \$187,866.00 Enhanced Nutrient Removal (ENR) grant to fund 19.88% of the total cost of the project; and,

WHEREAS, actual funding will not become available until all financial arrangements are mad with the Maryland Department of the Environment and approval is secured from the Maryland Board of Public Works; and

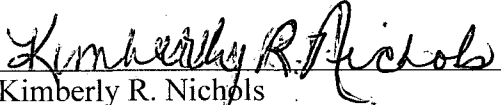
WHEREAS, City policy requires that grant funds can only be accepted with the approval of City Council; and,

WHEREAS, the City of Salisbury Department of Public Works supports the use of these funds to construct the Plant Drain Pump Station;

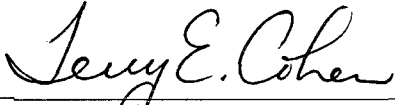
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Salisbury, hereby accepts the grant of \$187,866.00 for the construction of the Salisbury WWTP Plant Drain Pump Station.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on August 13, 2012 and is to become effective immediately upon adoption.

ATTEST:



Kimberly R. Nichols
CITY CLERK



Terry E. Cohen
PRESIDENT, City Council

APPROVED BY ME THIS

16th day of August 2012

James Ireton, Jr.
James Ireton, Jr.
MAYOR, City of Salisbury

City of Salisbury



JAMES IRETON, JR.
MAYOR

JOHN R. PICK
CITY ADMINISTRATOR

LORÉ CHAMBERS
ASSISTANT CITY ADMINISTRATOR

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3170
Fax: 410-548-3107

MARYLAND

PUBLIC WORKS
TERESA GARDNER, P.E.
DIRECTOR

To: John Pick, City Administrator

From: Teresa Gardner, Director of Public Works *LG*

Date: July 20, 2012

Re: ENR Grant Funding Schedule for WWTP Plant Drain Pump Station

On July 16, 2012, SPW received the Enhanced Nutrient Removal (ENR) grant agreements for the WWTP Plant Drain Pump Station. These agreements finalize months of discussions SPW has had with the Maryland Department of Environment (MDE) for the purpose of obtaining grant funding for the WWTP Upgrades.

In June 2012, MDE agreed that the 19.88% of the construction costs for the plant drain pump station would be eligible reimbursement. When the bid package was approved by MDE on July 13, 2012, the funding level for the ENR grant was established at \$187,866.

In accordance with City code, SPW requests that Council approve the resolution allowing the Mayor to sign the ENR agreements. Once the agreements are signed, they will be forwarded to MDE for approval by the Maryland Board of Public Works (BPW). Our contact at MDE is concerned that timing delays may prevent reimbursement of eligible costs.

If the agreements are not forwarded to MDE until mid-August, BPW approval may be delayed until October 2012. SPW had hoped to issue the notice to proceed by the end of August 2012. In accordance with MDE policy, invoices dated before BPW approval would not be eligible for reimbursement. While there is some flexibility with the official start date of the contract, it is important to note that the pump station to be replaced as part of this project is not functioning at an acceptable level. By-pass pumps are in operation at all times and the potential overflows remains an issue.

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

City of Salisbury



JAMES IRETON, JR.
MAYOR

JOHN R. PICK
CITY ADMINISTRATOR

LORÉ CHAMBERS
ASSISTANT CITY ADMINISTRATOR

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3170
Fax: 410-548-3107

MARYLAND

PUBLIC WORKS
TERESA GARDNER, P.E.
DIRECTOR

To: John Pick, City Administrator

From: Teresa Gardner, Director of Public Works *lg*

Date: July 19, 2012

Re: Acceptance of ENR Grant for the Construction of the WWTP Plant Drain Pump Station

SPW requests that the attached Resolution for the acceptance of a \$187,866 grant from the Maryland Department of the Environment (MDE) to partially fund the construction of the Salisbury Wastewater Treatment Plant (WWTP) Plant Drain Pump Station be added to the next available City Council meeting agenda.

On July 16, 2012, the City received notification (Attachment A) from MDE that grant funds were allocated to the City of Salisbury to offset the costs of the WWTP Plant Drain Pump Station. In earlier correspondence with MDE, it was agreed that the 19.88% of the cost of the WWTP Plant Drain Pump Station was eligible for ENR funding.

The new WWTP Plant Drain Pump Station will replace an existing station which no longer meets the needs of the plant. The original pumps are out of service and a portable pump is currently used to transfer a portion of the recycle flow to the headworks. The new pump station will provide sufficient capacity to pump recycle flows up to the head of the WWTP.

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



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101 • www.mde.state.md.us

Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

July 16, 2012

Ms. Teresa Gardner, P.E., Director
City of Salisbury Department of Public Works
Government Office Building
125 N. Division Street
Salisbury, Maryland 21801-4990

RE: ENR Cost Share Agreement
Salisbury Wastewater Treatment Upgrade
City of Salisbury

Dear Ms. Gardner:

In reference to the Salisbury Wastewater Treatment Plant Upgrade project, enclosed are two sets of the ENR Cost-Share Agreement between the Maryland Department of the Environment and City of Salisbury.

Please have the two copies of the Cost-Share Agreement and Conditions of Financial Assistance Award signed and returned. Once the approval of the Maryland Board of Public Works is secured, we will provide you a copy of the executed Agreement for your records.

Should you have any questions, please call me at (410) 537-3425.

Sincerely,

Sunita Boyle, Project Manager
Bay Restoration Project Management Division
Engineering and Capital Projects Program

Enclosures

cc: Walid Saffouri – MDE



**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AND
THE CITY OF SALISBURY**

GRANT AGREEMENT FOR ENHANCED NUTRIENT REMOVAL

To help achieve Maryland's nutrient loading goals for the Chesapeake Bay, the Maryland Department of the Environment (the "Department") is providing financial assistance to undertake additional nutrient removal at wastewater treatment plants (WWTPs) that contribute nutrient loading to the Chesapeake Bay.

To provide for such additional nutrient removal, the Department is implementing a strategy known as Enhanced Nutrient Removal (ENR). In accordance with the Bay Restoration Fund Act, the Maryland Water Quality Financing Administration, a unit of the Maryland Department of the Environment (the "Administration") shall provide financial assistance to upgrade wastewater treatment facilities in order to achieve ENR.

The ENR Strategy and the Bay Restoration Fund Act set forth annual average nutrient goals of WWTP effluent quality of Total Nitrogen (TN) at 3 mg/l as "N" and Total Phosphorus (TP) at 0.3 mg/l as "P", where feasible, for all major WWTPs with a design capacity of 0.5 million gallons per day (mgd) or greater. Other wastewater treatment plants may be selected by the Department for upgrade on case-by-case basis and based on the cost effectiveness of the upgrade and other factors.

THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the Maryland Department of the Environment, the Maryland Water Quality Financing Administration, and the City of Salisbury hereby AGREE this _____ day of _____ 20__ that:

OBLIGATIONS OF THE CITY OF SALISBURY

I.1 The City of Salisbury shall proceed with the design and construction of the Salisbury WWTP upgrades to achieve ENR and to meet annual average nutrient goals of plant effluent quality on Total Nitrogen at 3 mg/l and on Total Phosphorous at 0.3 mg/l as provided in the Bay Restoration Act and the ENR Strategy.

I.2 The City of Salisbury agrees to comply with the Conditions of Financial Assistance Award (Appendix A) for the design and construction of the WWTP upgrades to achieve ENR in accordance with the approved project budget and any engineering study approved by the Department.

I.3 The City of Salisbury shall develop the project schedule and shall obtain the Department's approval of the project schedule prior to construction.

I.4 The City of Salisbury shall provide the Department an Engineer's estimate of project costs attributable to ENR prior to bidding for construction contracts or seeking proposals for a design-build contract.

I.5 The City of Salisbury prior to awarding the construction contract or design-build contract shall obtain procurement approval from the Department.

I.6 The City of Salisbury shall operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

I.7 The City of Salisbury shall apply the proceeds of this Grant to finance Eligible Project Costs only.

I.8 The City of Salisbury in utilizing the proceeds of this Grant shall be subject to the provisions of any applicable bond resolution.

OBLIGATIONS OF THE DEPARTMENT

II.1 The Department and the Administration covenants and agree to use its best efforts to obtain adequate State funding for the eligible project costs through legislative appropriations, and issuance of revenue bonds, subject to approval from the Maryland Board of Public Works.

II.2 Subject to the availability of funds, the Department shall provide up to 100% of the eligible cost for design and construction of the WWTP upgrades to achieve ENR.

II.3 In accordance with Section 9-342.1 (i)(2) of the Environment Article, the Department will exercise discretion to the fullest extent possible to grant a waiver to City of Salisbury for discharge permit violations that may occur as a result of ENR construction under a program and schedule approved by the Department.

GENERAL CONDITIONS

III.1 The State financial assistance provided for under this agreement is subject to availability of State funds, availability of revenue bond funds, and is contingent upon approval by the Maryland Board of Public Works.

III.2 The State financial assistance provided for under this agreement is limited to eligible project costs that would be attributable to upgrading wastewater treatment facilities from Biological Nutrient Removal to ENR as determined by the Department in its sole discretion.

SIGNATURES ON NEXT PAGE

ATTEST:

MARYLAND DEPARTMENT OF THE ENVIRONMENT

WITNESS

**Terri Wilson, Director
Office of Budget & Infrastructure Financing**

DATE

MARYLAND WATER QUALITY FINANCING ADMINISTRATION

WITNESS

**Jag Khuman
Director**

DATE

ATTEST:

THE CITY OF SALISBURY

WITNESS

**Jim Ireton, Mayor
City of Salisbury**

DATE

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Engineering and Capital Projects Program
1800 Washington Boulevard • Baltimore MD 21230
(410) 537-3000 • 1-800-633-6101 • <http://www.mde.state.md.us>

CONDITIONS OF MDE GRANT AWARD

Project Name: Salisbury WWTB BNR/JENK Upgrade Project Number: BRNR 03-23, NR 01-23

Upon the receipt of grants from the Maryland Department of the Environment (the "Department"), the following conditions are understood and accepted by the applicant as conditions binding upon the recipient organization.

1. The recipient agrees to utilize the State grant funds for the project described in the Application for Financial Assistance and as approved by the State Board of Public Works. rights-of-way and easements, and undertake any reasonable action resulting from the environmental, design, permitting or state clearinghouse reviews.
2. The recipient agrees to make a good faith effort to secure sufficient funds to cover all project costs not covered by State grant funds.
3. The recipient agrees to adhere to the schedule submitted in its Application for Financial Assistance and will take all appropriate actions to ensure the project phase (planning, design and/or construction) is initiated within the fiscal year in which the state grant funds are appropriated. Failure to proceed within the funding fiscal year may result in loss of grant funding. The recipient will have an opportunity to re-apply for funding in a future year.
4. The recipient agrees to submit to the Department for review all Architectural/Engineering (A/E) service contracts prior to execution if state grant is to cover the costs.
5. The recipient agrees to select A/E consulting firm(s) for planning, design, construction management/inspection and/or grant management in accordance with pertinent Local, State and Federal laws and regulations.
6. The recipient agrees that it will only award a contract to an A/E consulting firm upon proof of professional liability insurance in an amount reasonable and customary for the services being performed.
7. The recipient agrees not to advertise for bids for construction contracts prior to obtaining written approval of the plans and specifications from the Department.
8. The recipient agrees to provide the Department (if requested) an updated project construction cost estimate prior to advertising for bids for construction.
9. For construction contracts greater than \$100,000, the recipient agrees to procure contractors using formal bidding procedures by advertising the request for bids in publications having appropriate widespread circulation. For contracts less than \$100,000, the recipient has the option to use the small purchase procurement procedures or the formal bidding procedures. For additional information, please contact the Department.
10. The recipient agrees to select the contractor for construction of the project in accordance with applicable Local, State, and Federal laws and **not award a construction contract until:**
 - a. the contractor has posted a Performance Bond and a Payment Bond for 100% of the contract price (generally applicable to contracts over \$100,000 or as determined by the Department);
 - b. the contractor has signed the assurances provided in the "State Insert" included with the contract documents;
 - c. the recipient can certify that adequate A/E inspection and supervision will be provided at the construction site to ensure project construction conforms with the approved plans and specifications; and
 - d. a written approval to award the contract has been received from the Department.
11. Prior to construction start, the recipient agrees to secure all necessary permits, 12. The recipient agrees to follow best construction management and inspection practices to construct the project in accordance with plans and specifications approved by the Department.
13. Unless waived by the Department, the recipient agrees to post a project sign in the manner and format prescribed by the Department prior to initiating construction.
14. The recipient agrees to obtain prior written approval from the Department for all change orders that significantly alter the project. Change orders that do not significantly alter the project do not require prior approval; however, they must be submitted to the Department within 30 calendar days of execution if grant is to cover change order costs.
15. The recipient agrees to permit and assist State employees to monitor the project construction during normal working hours.
16. The recipient agrees to allocate sufficient funds and operate and maintain the facilities, in accordance with applicable sections of Title 9 of the Environment Article, for the purposes for which it was constructed.
17. The recipient agrees to provide any reasonable information concerning the project in a manner and form prescribed by the Department.
18. The recipient agrees to seek all payments on a reimbursement basis only, unless otherwise authorized by the Department.
19. The recipient agrees to maintain adequate accounting records for a period of three years following the Department's administrative closeout of the project and make them available to the Department for inspection and audit when requested. The recipient's accounting records will at a minimum provide the following:
 - a. provision that the recipient must provide a detailed budget (breakdown of category and cost) including any advances on costs to be incurred;
 - b. A provision requiring the recipient to provide a schedule of spending (related to the budget detail);
 - c. A provision requiring a deliverable schedule from the recipient (linked to the spending schedule);
 - d. A provision requiring a periodic financial summary (defining expended funds in association with the budgeted categories and schedule of spending);
 - e. A provision requiring the contractor to maintain all records relating to the grant until the grant has been audited or three years from the completion of the project, whichever is earlier; and
 - f. A provision indicating that MDE may audit any records in conjunction with a project at any time, in person, or request that a copy of the records be forwarded to MDE for verification.
20. The recipient agrees to comply with Title VI of the Civil Rights Act of 1964 - no person in the United States shall, on the ground of race, color, or national



origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under program or activity for which the applicant received State grant.

21. The recipient is required to make good-faith efforts to utilize Minority and Women's Business Enterprises (M/WBE) to participate in procurements involving MDE state grant funds. This requirement applies to projects receiving any grant funding from the Bay Restoration Fund and projects receiving more than \$500,000 in any other MDE grant funding. Please visit MDE's website for guidance.
22. The recipient hereby certifies that all project activities will comply with the tax-exempt bond provisions of the Internal Revenue Code and would not constitute a change in use or private activity.
23. For drinking water and sewerage projects, the recipient certifies that the proposed project is consistent with and is included in an approved water and sewerage area as outlined in the County Water and Sewerage Plan adopted by the County governing body pursuant to §9-501, et seq., of the Environment Article.
24. For grant under the "Sewerage Supplemental Assistance Program", the recipient agrees to adhere to the provisions of COMAR 26.03.08 - Water Pollution Control Fund Construction Financial Assistance Regulations.
25. For grant under the "Nutrient Removal Cost-Share Programs", the recipient agrees to adhere to the provisions of the cost-share agreement and contribute local match for each phase of the project accordingly.
26. For grant under the "Water Supply Financial Assistance Program", the recipient agrees to adhere to the provisions of COMAR 26.03.09 - Water Supply Construction Financial Assistance Regulations, to provide salvage rights by the State upon default by the recipient and contribute at least 12.5% of the total eligible project cost as local match. Unless waived by the Department, all costs exceeding 5% of the original total grant/loan award or costs not authorized by the Department are the responsibility of the recipient. The Department may void the grant if construction has not commenced within 6 months of the award for construction and the recipient agrees to repay all funds with interest.
27. For grant under the "Stormwater Pollution Control Cost-Share Program", the recipient agrees to adhere to the provisions of COMAR 26.03.06, contribute at least 25% of total eligible project cost as local match, maintain the functions of the project for 15 years in the manner necessary to obtain the intended water quality benefits, and if requested by the Department, to grant the Department a security interest in any equipment or similar item purchased with State funds.
28. For grant under the "Small Creeks and Estuaries Restoration Cost-Share Program", recipient agrees to contribute at least 50% of the total eligible project cost as local match and maintain the functions of the project for its useful life in the manner necessary to obtain the intended water quality benefits. The total state grant is limited to a maximum of \$500,000 per project.
29. For Stormwater Pollution Control and Small Creeks and Estuaries Restoration Projects, the recipient shall require any successor to the land title/deed to be bound by the terms of the project, if the project is constructed on private property.
30. For grant under the Bay Restoration Fund Act and ENR Strategy, the recipient shall be required to comply with Subtitle 16 of Title 9 of the Environment Article of the Annotated Code of Maryland as applicable, any regulations promulgated thereunder, and any applicable bond resolutions.
31. For grant under the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, the recipient is required to comply with Subtitle 16 of Title 9 of the Environment Article of the Annotated Code of Maryland as applicable, and any regulations and directives promulgated thereunder.
32. At the completion of the construction of the project, the recipient agrees to submit, if appropriate to the project, a set of "as built" drawings certified by a professional engineer or a soil conservation district engineer.
33. The recipient agrees to submit a final claim for reimbursement of costs within sixty days of the Department's final inspection of the project.
34. The recipient agrees that the Department may deny any request for funds if the recipient fails to comply with any of the above conditions of financial assistance award.
35. The recipient agrees that the State Board of Public Works may terminate financial assistance upon the recommendation of the Department if the Department determines in its discretion that there is:
 - a. failure to perform without good cause; or
 - b. gross abuse or corrupt practices in the administration of the project; or
 - c. poor, non-standard, or unsafe construction procedures; or
 - d. failure to comply with any of the conditions of grant award or applicable State laws, regulations, or Departmental policies; or
 - e. failure to adhere with the approved project schedule.
36. The recipient agrees to repay the State (with interest, based on current bond rate and assessed from the date the said funds were received), on demand, any funds received that were misapplied (i.e., not expended in accordance with the terms of these conditions of grant award or applicable State laws, regulations and Departmental policies). In the event that the recipient fails to refund upon demand any misapplied funds, the State shall have the right to offset or withhold any funds in the possession of any State agency (that may be due to the recipient) in an amount equal to the misapplied funds plus interest.
37. The recipient agrees to return, within 30 days of a written request by the Department, any excess funds received (i.e., total funding received from several funding sources exceeds 100% of project costs). In the event that the recipient fails to refund upon demand any excess funds released by the State, the State shall have the right to offset or withhold any funds in the possession of any State agency (that may be due to the recipient) in an amount equal to the overpayment.
38. The recipient agrees to repay the State, immediately upon demand, the depreciated value (on a straight line basis) of the State grant, if the project assets are sold by a public entity or non-profit entity, to a for-profit entity anytime within 20-years of project completion.

I certify that the information provided with the financial assistance application is true to the best of my knowledge and agree to comply with the above Conditions of Financial Assistance Award.

Signature of Recipient's Authorized Representative

Date

Attested by:

(Name and Title)

Date: _____