

AS AMENDED ON AUGUST 27, 2012
RESOLUTION No. 2197

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND TO ACCEPT 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 Environmental Protection Agency that \$472,100.00 of unexpended funds remain in the 2003 grant account allocated for the WWTP improvements as outlined in Attachment A; and,

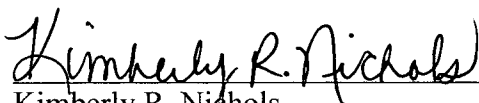
WHEREAS, the Environmental Protection Agency has provided the City with the option of re-awarding the unspent funds for a new project; and,

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

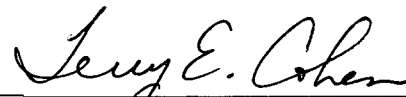
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Salisbury, hereby accepts the grant of \$472,100 ~~for~~ to be applied toward the construction of costs for the Salisbury WWTP Plant Drain Pump Station.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on August 27, 2012 and is to become effective immediately upon adoption.

ATTEST:



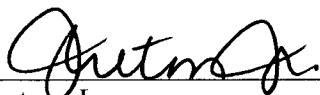
Kimberly R. Nichols
CITY CLERK



Terry E. Cohen
PRESIDENT, City Council

APPROVED BY ME THIS

30th day of August, 2012



James Ireton, Jr.
MAYOR, City of Salisbury

City of Salisbury



MARYLAND



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PUBLIC WORKS
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DIRECTOR

JAMES IRETON, JR.
MAYOR

JOHN R. PICK
CITY ADMINISTRATOR

LORÉ CHAMBERS
ASSISTANT CITY ADMINISTRATOR

To: John Pick, City Administrator

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

Date: August 15, 2012

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

SPW requests that the attached Resolution for the acceptance of a \$472,100 grant from the Environmental Protection Agency (EPA) 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.

The City's WWTP EPA grant for the original WWTP plant upgrade had \$472,100 of unexpended funds remaining. The City received notification (Attachment A) from EPA that the \$472,100 of unexpended funds could not be used as part of the final payment package because we could not certify that the project is complete and performing as expected. We have tried over the last two years to resolve this issue but have been unsuccessful. Rather than lose the funds, EPA will allow the City to use these funds for another project. Based upon current needs, it was determined that the best use of the grant funds would be to offset the construction cost of the WWTP Plant Drain Pump Station.

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 and address potential overflow issues.

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

City of Salisbury, Maryland
Meeting to Discuss Options for the WWTP Grant
XP-983926-01
June 14, 2012

Issue:

The City of Salisbury's WWTP grant has \$472,100 of unexpended grant funds remaining in the grant's account. Also, the project period expired three years ago. The unexpended grant need to be removed the grant, and grant needs to be closed.

Background:

Initially, the final grant payment was held until the completion of the construction work. Since the construction was completed, the final payment was held because the WWTP failed to meet its expected environmental outcomes—it failed to meet the required nutrient discharge limits. The WWTP will require extensive corrective actions to achieve compliance with its discharge permit. The City began litigation actions against the presumed responsible parties. The litigation is still ongoing.

Options:

First option would be make the final grant payment. At this time, this would be impossible. As part of the final payment package, EPA requires the grant recipient to certify that the project is complete and performing as expected. Because of the litigation actions and the existing condition of the WWTP, a certification cannot be made. Also, EPA is limited to approving payments for allowable project costs which are reasonable, necessary and allocable to the project. Making additional payments to a project that has failed to perform would not be reasonable. In addition, future payments for corrective actions would not be acceptable because it would be using grant funds to correct work which was already paid for under the grant.

Second option would be to decrease the unexpended grant funds from this grant, and re-award the grant funds to a new grant for a new project. This would allow the existing grant to be closed, but still allow the City to use the grant funds for another project. There are risks that may prevent the re-award of the grant funds.

Third option would be to close the grant and have the unexpended grant funds returned to EPA's accounts for future rescissions. This would allow the grant to be closed, but the City would lose the grant funds.



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Customer Service Hotline: 1-800-438-2474

Actions:

For option two, the last grant payment needs to be made final. Will need a letter that explains the situation and describes how and when the corrective actions will be completed. The final payment needs to be completed ASAP to allow the grant funds to be decreased from the grant. It will require a couple of months for the funds to be available for re-award.

A new project needs to be selected. Consideration should be given to the type of environment decision needs to be issued by EPA. A FONSI takes longer to write and there is a 30-day comment period which prohibits any grant actions by EPA.

An application package and environmental information document needs to be submitted to MDE and EPA for our review.

A new grant needs to be awarded by September 30, 2012, to preserve the grant funds.



Meeting with the City of Salisbury, Maryland June 14, 2012

Grant Information:

Grant Recipient: City of Salisbury, Maryland

EPA Grant No: XP-983926-01

Date of Grant Award: September 24, 2003

Original Grant Budget Period: 09/24/2003 – 04/30/2007 (Extended to June 30, 2009)

Total Grant Amount: \$7,272,200

Fiscal Year Appropriations: Fiscal Year 2000 \$2,375,600 (No-year money), purpose is the upgrade of sewage treatment facilities.

Fiscal Year 2002 \$4,656,000 (No-year money), purpose is biological nutrient removal upgrades at the wastewater treatment plant.

Fiscal Year 2005 \$ 240,600 (No-year money), purpose is wastewater infrastructure improvements.

Regulatory Authority: 40 CFR Part 31

Current Unliquidated Balance: \$472,100.00

Grant History Summary:

EPA awarded a grant to the City of Salisbury for the upgrade and expansion of its Wastewater Treatment Plant (WWTP). The WWTP was upgraded to meet water quality limits and nutrient reductions goals for the Chesapeake Bay. The plant was expanded to treat the City's current and future wastewater flows and to provide the treatment capacity necessary to comply with the City's Combined Sewer Overflow Long Term Control Plan.

A project schedule was included as a Programmatic Grant Condition. The project schedule anticipated construction beginning by September 2004 and completion by November 2006. The start of construction was delayed because the effluent requirements of the City's discharge permit were made more stringent—Total Nitrogen concentration was reduced from 8.0mg/l to 4.0mg/l and a Total Phosphorous limit of 0.3mg/l was added—requiring additional design work. Construction was initiated August 2005.

The grant was amended August 2007 to add grant funds appropriated for Salisbury in EPA's FY 2005 Appropriation for the upgrade and expansion of the WWTP—and to extend the grant's project period to June 30, 2009. The scope-of-work was unchanged. The project schedule was updated to change the construction completion date to September 2008 and the date for submitting the request for final grant payment to June 2009.

The construction of the project proceeded in a timely manner; the construction contract was substantially completed by September 2008. A final inspection, performed by the Maryland Department of the Environment (MDE), was conducted on December 16, 2008. The final inspection report noted that the construction in general appeared to be complete and in accordance with the design. No operational problems were evident at the time.

EPA grant payment requests were processed by MDE on behalf of EPA from January 2006 to August 2007. EPA grant payments were held at the 93% paid out level. It is a common practice for EPA Region III to retain a portion of the grant funds—usually between 5 and 10 percent of the grant amount—until the project has been completed and the environmental outputs and outcomes can be certified by the grant recipient. Usually the retained grant funds are disbursed when the final grant payment request is processed. After August 2007, MDE continued to make State grant and loan payments. According to MDE's March 10, 2010, payment review, the City incurred and was reimbursed \$64,986,396 of eligible construction costs. MDE notified EPA March 2012 that all of the incurred eligible construction costs had been paid by state grants, state loans and EPA grant funds.

During the spring of 2008, the new treatment systems were started up. Typically it takes six to nine months for biological treatment processes to achieve designed treatment levels. However, after nine months of startup, the plant was not able to achieve designed treatment levels. The Total Nitrogen levels were at least five times higher than the discharge permit level. The City hired consultants to evaluate the WWTP's performance and to make recommendations to address the performance problems. A Corrective Action Plan (CAP) was completed June 2010.

The CAP concluded that the WWTP required substantial changes before it would be able to achieve the required treatment levels. The estimated cost of the corrective actions is \$54 million. Because of the failure of the WWTP to perform as designed and to achieve its environmental benefits, the City began litigation procedures against the design engineer and other potentially responsible parties. A trial date of May 2012 is rescheduled to the end of 2012—November or December. City reached a settlement agreement with the design engineer June 2012.

The grant still needs to be closed and the grant funds expended.