

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: July 20, 2022

SUBJECT: Resolution to Accept ARP Funding for Clear Creek Sewer System

PRESENTER: Samantha R. Reynolds, Finance Director

ATTACHMENTS: Yes

1. Budget Amendment
2. Funding Offer and Acceptance
3. Resolution

SUMMARY OF REQUEST:

The attached Funding Offer and Acceptance and Resolution by Governing Body of Recipient, prepared by the North Carolina Department of Environmental Quality, offers American Rescue Plan (ARP) funding from the State Fiscal Recovery fund in the amount of \$12,700,000. Projects funded from the State Fiscal Recovery Funds established in S.L. 2021-180 must meet applicable federal law and guidance for ARP funds. Funds will not be disbursed to Henderson County unless this offer is accepted.

As established in S.L. 2021-180, this offer is to partially fund the Clear Creek Wastewater Treatment Plant project.

BOARD ACTION REQUESTED:

Staff requests that the Board adopt the resolution and execute the Funding Offer and Acceptance.

Suggested Motion:

I move that the Board of Commissioners adopt the resolution and execute the Funding Offer and Acceptance.

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

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Henderson County
113 N. Main Street
Hendersonville, North Carolina 28792

Project Number: SRP-W-ARP-0085

CFDA Number: 21.027

Funding Program

Drinking Water	<input type="checkbox"/>	Additional Amount for Funding Increases	Previous Total	Total Offered
Wastewater	<input checked="" type="checkbox"/>			
State Revolving Fund (SRF)	<input type="checkbox"/>			
State Reserve Loan (SRP)	<input type="checkbox"/>			
State Reserve Grant (SRP)	<input type="checkbox"/>			
State Grant Appropriation (SAP)	<input type="checkbox"/>			
American Rescue Plan Act (ARPA)	<input checked="" type="checkbox"/>			\$12,700,000

Project Description:

Clear Creek Sewer System

Total Financial Assistance Offer:	\$12,700,000
Total Project Cost:	\$19,547,800
Estimated Closing Fee*:	\$0.0
<i>For Loans</i>	
Principal Forgiveness:	\$0

**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**

<i>Jon Risgaard</i> Signature	6/8/2022 Date
Jon Risgaard for Shadi Eskaf	

On Behalf of:

Henderson County

Name of Representative in Resolution:

Title (Type or Print):

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 Date
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STANDARD CONDITIONS

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 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. 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 funding 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.

ASSURANCES

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.
2. The Applicant is responsible for paying for the costs ineligible for ARPA 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. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. 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.
6. 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 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.
7. 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.
8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.

Acknowledgement of Standard Conditions and Assurances

The Applicant 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

.....
Date

**Henderson County
Board of Commissioners**

1 Historic Courthouse Square • Suite 1 • Hendersonville, NC 28792
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William G. Lapsley
Chairman
Rebecca K. McCall
Vice-Chairman



J. Michael Edney
Daniel J. Andreotta
David H. Hill

***RESOLUTION BY HENDERSON COUNTY
BOARD OF COMMISSIONERS***

WHEREAS, Henderson County has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs; and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$12,700,000 to perform work detail in the submitted application; and

WHEREAS, Henderson County intends to perform said project in accordance with the agreed scope of work;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY:

That Henderson County does hereby accept the American Rescue Plan Grant offer of \$12,700,000.

That Henderson County does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That Samantha Reynolds, Finance Director, and successor so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the 20th day of July 2022.

WILLIAM G. LAPSLEY, CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST: _____
DENISA A. LAUFFER, CLERK TO THE BOARD