

Memorandum Public Works Department



To: City Manager
Subject: Mill Street Wastewater Treatment Plant Expansion
Date: August 16, 2012
Number: 2012-183

The City of Rock Island has been notified by the Illinois Environmental Protection Agency (IEPA) that the application for a low interest loan for the Mill Street Wastewater Treatment Plant Expansion has been approved. The loan documents are attached to this report. The terms of the State Revolving Loan Fund are:

- Loan Amount = \$15,000,000
- Interest Rate = 2.295%
- Term = 20 years
- No Principal Forgiveness.

The IEPA loan program has reduced the annual cap to \$15,000,000 per community. Assuming the program is continued by the Illinois General Assembly, the city will receive additional loans in FY14 for the project.

RECOMMENDATION

The Public Works Department recommends that the City Council...

- Approve the loan agreement with the Illinois Environmental Protection Agency for construction of the Mill Street Wastewater Treatment Plant Expansion,
- authorize the City Manager to execute all the documents

Submitted by: Robert T. Hawes, P.E., Assistant City Manager/Public Works Director
Michael J. Kane, P.E., City Engineer

Approved by: Thomas Thomas, City Manager

LENDOR:

Illinois Environmental Protection Agency
Bureau of Water
Infrastructure Financial Assistance Section
P.O. Box 19276
1021 North Grand Avenue, East
Springfield, IL 62794-9276

RECIPIENT:

Rock Island
1528 3rd Avenue
Rock Island, IL 61201

FEIN: 366-006-077

TERMS OF THE LOAN

Loan amount:	\$ 15,000,000.00	Initiation of operation:	11/01/2013
Annual fixed loan rate:	2.2950 %	Initiation of repayment period:	09/01/2013
Term:	20 years	First repayment due:	03/01/2014
Repayments:	Semi-annual	Final repayment due:	09/01/2033
Construction start:	06/13/2011		
Construction complete:	11/01/2013		

LOAN OFFER AND ACCEPTANCE

Offer by the State of Illinois Environmental Protection Agency

The Director (herein called the "Director") of the Illinois Environmental Protection Agency (herein called the "Agency") pursuant to the Environmental Protection Act, hereby offers to make a loan from the Water Revolving Fund, up to and not exceeding the above specified amount, at the fixed loan rate and repayment period given above, for the support of the efforts contained in the Project Description, herein. This Loan Offer is subject to all applicable State and Federal statutory and regulatory provisions, Standard and Special Loan Conditions, Procedures For Issuing Loans From the Water Pollution Control Loan Program (35 Ill. Adm. Code 365) and the terms specified in the Letter of Transmittal, attached hereto and included herein by reference.

John J. Kim

Agency Signature

John J. Kim, Interim Director
Name and Title

8/1/12

Date

Lisa Bonnett

Agency Signature

Lisa Bonnett, Deputy Director
Name and Title

Date

This offer must be accepted, if at all, on or before 09/01/2012.

Acceptance on behalf of the Borrower (SIGNATURE)

Authorized Representative

Date

Name and Title of Authorized Representative (Type or Print)

PROJECT DESCRIPTION

Funds to be used to continue funding a wet weather treatment system that is a major component of Rock Island's USEPA approved Long Term Control Plan and mandated by a Federal Consent Decree. L171367 was phase 1 (parent project) funded in FY11 for 20 million.

Phase 3 will be L174900, funded in FY13.

This work is covered by IEPA Construction Permit Number 2010-AB-0366.

PROJECT BUDGET

	TOTAL	ELIGIBLE
Construction	\$ 45,770,000.00	44,671,016.00
Contingency	1,373,100.00	1,340,130.00
Total Costs	\$ 47,143,100.00	46,011,146.00

The loan amount is \$ 15,000,000.00

COSTS EXCLUDED

OTHER FUNDING SOURCES

Loan ineligibles and all engineering paid with local funds.

Loan Limitations

15 million cap with no principal forgiveness.

STANDARD CONDITIONS

See Attachment A

Attachment A

Loan Recipient: Rock Island
L174773

Loan Agreement – Standard Conditions Illinois EPA Water Pollution Control Loan Program

1. PROJECT SCHEDULE

For the purposes of this agreement, the start date will be the date the agreement is executed by the governmental entity and the complete date will be the date of final repayment. Any obligation of the State of Illinois and the Agency to make any disbursement of loan funds shall terminate unless this project work is initiated and completed in accordance with the schedule contained in the Loan Agreement.

2. DISBURSEMENTS

Disbursement requests for project work will be processed based on costs incurred, subject to the appropriation of funds by the Illinois General Assembly. Such disbursement requests will be monitored for compliance with applicable state and federal laws and regulations, including Section 705/4(b)(2) of the Illinois Grant Funds Recovery Act (30 ILCS 705), and shall constitute quarterly reports as required therein by describing the progress of the project and the expenditure of the loan funds related thereto. Any loan funds remaining unexpended in the project account after all application loan conditions have been satisfied and a final loan amendment has been executed shall be returned to the State within forty-five (45) days of the execution date on the final loan amendment.

3. REPAYMENT SCHEDULE – Nature of Obligations, Fixed Loan Rate, Interest, Loan Support, and Principal Payments.

- a) In accordance with Ill. Adm. Code 365.440, the fixed rate is comprised of interest and loan support, both of which are established annually and will be reported at the Agency's public hearing. The term "interest" is used in this Loan Agreement as well as future correspondence, repayment schedules, etc. to reflect both interest and loan support.
- b) This Loan Agreement has been issued and entered into pursuant to an authorizing ordinance of the loan recipient. The recipient recites that it has taken all required actions to enter into the Loan Agreement and has complied with all provisions of law in that regard.
- c) By this Loan Agreement, the loan recipient agrees to repay to the Agency (or, upon notice by the Agency to the loan recipient, the Agency's assignee) the principal amount of the loan with interest on the outstanding and unpaid principal amount of the loan from time to time until repaid in full, all as provided in this Loan Agreement.
- d) For purposes of determining the repayment amount, the principal amount of the loan shall be the total amount of loan disbursements made by the Agency under this Loan Agreement, plus interest treated as principal as provided in paragraph (g) below. The amount financed shall not exceed the amount identified in the approved authorizing ordinance.
- e) The final principal amount will be determined by the Agency after a final disbursement request, final inspection and project review have been made to ensure all applicable loan conditions have been satisfied.
- f) Simple interest on each loan disbursement will begin on the day after the date of the issuance of a warrant by the Comptroller of the State of Illinois.

- g) Interest and principal on the loan will be due on the dates and in the amounts as set forth in repayment schedules provided for in this paragraph. Upon the initiation of the loan repayment period, the Agency shall establish and notify the loan recipient of an interim repayment schedule in accordance with the terms of this loan. After the Agency conducts the final review of the costs of the project to establish the final principal amount, the Agency shall establish and notify the loan recipient of a final repayment schedule. For purposes of calculating the repayment schedules, the Agency shall consider principal of the loan to consist of all unrepaid disbursements plus all unrepaid interest accrued on these disbursements at the time the schedule period begins. Each of these repayment schedules shall provide for repayment installments consisting of principal plus simple interest on the unpaid principal balance. The installment repayment amount may change when the interim repayment schedule is replaced by the final repayment schedule.
- h) Interest on each loan disbursement shall be calculated on the basis of the total number of days from the date the interest begins to accrue to the beginning of the repayment period and will be calculated on a daily basis using a 365 day year. All interest due on the principal of the loan during the repayment period is calculated on a periodic basis.
- i) The Loan Agreement shall be subject to prepayment at any time in whole or in part, at the option of the loan recipient, by payment of the outstanding principal plus accrued and unrepaid interest on that principal accrued to the date of prepayment.

4. MODIFIED OR SUBSEQUENT ORDINANCES

The ordinance authorizing entry into this Loan Agreement or dedicating the source of revenue shall not be amended or superseded substantively or materially without the prior written consent of the Agency.

5. DBE REPORTING REQUIREMENTS

The loan recipient is required to comply with the Disadvantaged Business Enterprise (DBE) reporting requirements as established and mandated by federal law and implemented in federal code: 40 CFR Part 33. Compliance with the code will necessarily involve satisfaction of the six (6) good faith efforts as set forth in the federal DBE program, and will require the use of the particular contract specifications and language for advertising of the project. More information and guidance on the DBE requirements is available on the IEPA web site at:

<http://www.epa.state.il.us/water/forms.html#financial-assistance>

6. COMPLIANCE WITH ACT AND REGULATIONS

The Agency shall not make any payments under this loan offer if the construction project has been completed and is being operated in violation of any of the provisions of the Clean Water Act, Environmental Protection Act and Water Pollution Control Regulations of Illinois (Title 35: Subtitle C: Chapter I: Pollution Control Board Regulations and Chapter II: Agency Regulations) adopted thereunder.

7. FINAL INSPECTION

The loan recipient must notify the Agency in writing within 30 days of the completion of project construction and submit the final change order, along with the contractor's final costs. The plans of record should be forwarded to the appropriate Agency regional field office. The Agency will schedule the final inspection within 60 days of the receipt of the notice, provided all necessary change orders have been submitted and approved by the Agency.

8. OPERATION AND MAINTENANCE OF THE PROJECT

The Agency shall not approve the final inspection for the project unless the loan recipient has certified that the training and operation and maintenance documents have been provided in accordance with 35 Ill. Adm. Code 365.740.

9. FLOOD INSURANCE

Evidence must be provided that flood insurance has been acquired on eligible structures constructed under this Loan Agreement as soon as structures are insurable.

10. DELINQUENT LOAN REPAYMENTS

- a) In the event that a repayment is not made by a loan recipient according to the loan schedule of repayment, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date in accordance with 35 Ill. Adm. Code 365.1120 Delinquent Loan Repayments.
- b) After the receipt of this notification, the Agency shall confirm in writing the acceptability of the loan recipient's response or take appropriate action.
- c) In the event that the loan recipient fails to comply with the above requirements, the Agency shall promptly issue a notice of delinquency which requires a written response within 30 days.
- d) Failure to take appropriate action shall cause the Agency to pursue the collection of the amounts past due, the outstanding loan balance and the costs thereby incurred, either pursuant to the Illinois State Collection Act of 1986 (30 ILCS 210) or by any other reasonable means as may be provided by law.

11. SINGLE AUDIT ACT

Federal funds from Capitalization Grants for the Wastewater State Revolving Fund (i.e. see Catalogue of Federal and Domestic Assistance Number 66.458) which the Agency receives from the U.S. Environmental Protection Agency, may be used for this loan. Receipt of federal funds may require an annual audit which conforms to the Single Audit Act and O.M.B. Circular A-133. If a Single Audit is required, all loans from the Wastewater State Revolving Fund receiving federal funds must be audited and included in the audit report. The Agency will notify the recipient of any federal funds disbursed during the recipient's fiscal year.

12. SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by such prime contractor in awarding or executing such subcontracts shall comply with:

- a) All provisions of federal, State and local law.
- b) All provisions of 35 Ill. Adm. Code 365 with respect to fraud and other unlawful or corrupt practices.
- c) All provisions of 35 Ill. Adm. Code 365 with respect to access to facilities, records and audit of records.

13. REQUIREMENTS OF BOND ORDINANCE

If the dedicated source of revenue is pledged in a subordinate position to an existing revenue bond ordinance, the covenants regarding coverage and reserve shall be in accordance with 35 Ill. Adm. Code 365.940.

14. RECORDS RETENTION

The loan recipient agrees to establish and maintain the books and other financial records pertaining to this project in accordance with Generally Accepted Accounting Principles. The loan recipient shall maintain all books and records pertaining to this project for a period not less than 3 years from the date of the final loan closing. All records pertaining to the issuance of bonds and the repayment of this loan shall be maintained for a period not less than 3 years from the final repayment date. The loan recipient agrees to permit the Agency or its designated representatives, including the Illinois Auditor General and the Illinois Attorney General, to inspect and audit the books and financial records pertaining to the project and the expenditure of the loan funds related thereto.

15. CONTINUING DISCLOSURE

The recipient covenants and agrees that, if at any time the Agency shall notify the recipient that the recipient is deemed to be an "obligated person" for purposes of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), the recipient shall promptly execute an undertaking in form acceptable to the Agency in compliance with the Rule in which the recipient shall agree, among other things, to provide annual financial information (as defined in the Rule) with respect to the recipient to all required information repositories for so long as the recipient shall be deemed an obligated person. The recipient shall be deemed to be an obligated person at any time one or more of the recipient's outstanding loans with the Agency which are pledged to secure bonds issued on behalf of the Agency and the aggregate principal amount of such loan or loans exceeds a percentage (currently 20%) of the aggregate principal amount of all loans of the Agency pledged to secure such bonds.

16. WAGE RATE REQUIREMENTS

The loan recipient is required to comply with Wage Rate requirements established in rules issued by the U.S. Department of Labor to implement the Davis-Bacon Wage Act and other related acts (29 CFR Parts 1, 3 and 5). These rules require a number of specific actions by the federal funding recipient (the IEPA), the sub-recipient (the loan recipient) and the contractor, including payroll record certification and reporting as required. More information and guidance on the Davis-Bacon Wage Act requirements are available on the IEPA web site at: <http://www.epa.state.il.us/water/forms.html#financial-assistance>

17. REPORTING REQUIREMENTS

The loan recipient will be required to comply with the volume and frequency of reporting requirements that may be required by the federal or State funding authority.

18. ADDITIONAL COMPLIANCE ITEMS

The loan recipient, prime contractor(s) and subcontractor(s) shall comply with applicable federal funding certifications, non-discrimination statutes, regulations and environmental standards, including but not limited to the following:

- a) The Americans with Disabilities Act of 1990, as amended, and 42 USC 12101
- b) New Restrictions on Lobbying 40 CFR Part 34
- c) Complete and keep on file, as appropriate, Immigration and Naturalization Service Employment Eligibility Form (I-9)

- d) False Claims Act – Prompt referral to USEPA’s Inspector General of any credible evidence of a false claim or criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds under this loan (Loan Recipient Only)
- e) The Coastal Zone Management Act of 1972, 16 U.S.C. 1451 (Loan Recipient Only)

19. CERTIFICATION

By accepting this loan offer, the loan recipient certifies under oath that all information in the loan agreement and the related loan application is true and correct to the best of the loan recipient’s knowledge, information and belief, and that the loan funds shall be used only for the purposes described in the loan agreement. This offer of loan funds is conditioned upon such certification.

Grants\IFAS Document Room\Loan Agreement Standard Conditions\FY10-11 Standard Conditions No. 3.docx