

**Memorandum
Public Works Department**



To: City Manager
Subject: LTCP - 6th Avenue Relief Sewer, Project 2688
Date: September 23, 2014
Number: 2014-200

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 6th Avenue Relief Sewer Project has been approved. The loan documents are attached to this report. The terms of the State Revolving Loan Fund are:

- Loan Amount = \$10,941,066.29
- Interest Rate = 1.995%
- Term = 20 years.

Brandt Construction was the low bidder with an amount of \$10,622,394.46 and a Notice of Intent to Award was approved by City Council at the August 11, 2014 meeting. The difference between the loan amount and the contract amount is for a construction contingency to cover any potential change orders.

Recommendation

The Public Works Department recommends that the City Council: approve the loan agreement with the Illinois Environmental Protection Agency for construction of the 6th Avenue Relief Sewer in the amount of \$10,941,066.29, award the bid to Brandt Construction in the amount of \$10,622,394.46, and authorize the City Manager to execute all required documents

Vendor: Brandt Construction, Co.

Contract Amount: \$10,622,394.46

Accounts Chargeable:

Fund:	506	Wastewater Operation & Maintenance
Division:	619	Utilities Maintenance
Cost Center:	346	Wastewater Collection Maintenance
Object Class:	56311	Wastewater System Improvements
Project:	2688	LTCP-6 th Avenue Relief Sewer
Grant:	000	

and

Fund:	506	Wastewater Operation & Maintenance
Division:	619	Utilities Maintenance
Cost Center:	346	Wastewater Collection Maintenance
Object Class:	56501	Engineering Services
Project:	2688	LTCP-6 th Avenue Relief Sewer
Grant:	256	IDCEO IKE PW

Submitted by: Randall D. Tweet, Public Works Director
Michael J. Kane, P.E., City Engineer

Approved by: Thomas Thomas, City Manager

LENDER:

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:

City of Rock Island
1528 Third Avenue
Rock Island, IL 61201

FEIN: 366006077

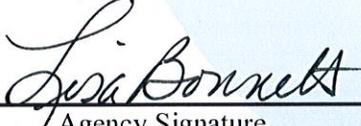
TERMS OF THE LOAN

		<u>Estimated Dates</u>	
Loan amount:	\$10,941,066.29	Construction start:	10/05/2014
Annual fixed loan rate:	1.9950%	Construction complete:	12/30/2015
Term:	20 years	Initiation of operation:	12/30/2015
Repayments:	Semi-Annual	Initiation of repayment period:	12/30/2015
		First repayment due:	06/30/2016
		Final repayment due:	12/30/2035

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.

	Director	Lisa Bonnett	9/30/14
Agency Signature	Title	Name	Date

By:			
Agency Signature	Title	Name	Date

This offer must be accepted, if at all, on or before 11/15/2014.

Acceptance on behalf of the Borrower

Authorized Representative (Signature)	Date
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Name and Title of Authorized Representative (Type or Print)

PROJECT DESCRIPTION

This loan will fund the construction of the 6th Avenue Relief Sewer that will be installed within the 6th Avenue right-of-way from 24th Street to 6th Street. It is expected to be 48 to 72 inches in diameter with an invert 10 to 15 feet deep. 9,520 linear feet of sewer and 6,766 linear feet of drinking water mains will be installed during construction. It will intercept all wet weather flow in the existing sewers flowing north on 21st, 22nd, and 24th Streets at 6th Avenue and redirect it to the west. This will reduce the amount of flow entering the north interceptor, thereby allowing for closure of CSO Outfalls 003, 004, and 005. This will help the City comply with the terms and conditions of their NPDES Permit No. IL0030783, to meet the objectives of USEPA's 1994 Combined Sewer Overflow Policy and the Clean Water Act, and to satisfy the requirements of a Consent Decree by the Federal Government issued against the City leading to the development of a Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP). The CSO LTCP was approved by both the United States Environmental Protection Agency (USEPA) and Illinois Environmental Protection Agency (IEPA).

PROJECT BUDGET

	TOTAL	ELIGIBLE
Construction - Brandt Construction	\$10,622,394.46	\$10,622,394.46
Contingency	\$318,671.83	\$318,671.83
TOTAL	\$10,941,066.29	\$10,941,066.29

The loan amount is \$10,941,066.29.

OTHER FUNDING SOURCES/COSTS EXCLUDED

All engineering fees will be paid with local funds, not loan funds.

SPECIAL CONDITIONS

None

STANDARD CONDITIONS

Please see Attachment A.

Attachment A

Loan Recipient: City of Rock Island
L174907

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 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 (415 ILCS 5/1 et seq.) or 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 shall notify the Agency's Infrastructure Financial Assistance Section's (IFAS) Post Construction Unit in writing within 30 days from the construction completion date and shall submit the final change order, along with the contractor's final costs. Within 90 days from the construction completion date the loan recipient shall forward two (2) copies of the final plans of record to the appropriate Agency regional field office along with a formal written request for a final inspection (a copy of the written request shall be sent to the Agency's IFAS Post Construction Unit). The regional field office will contact the loan recipient to schedule the final inspection within 60 days of the written request for a final inspection.

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 Clean Water 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 both the Clean Water and Drinking Water 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 the aggregate principal amount of one or more of the recipient's outstanding loans with the Agency, which are pledged to secure bonds issued on behalf of the Agency, 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. USE OF AMERICAN IRON AND STEEL

The loan recipient will be required to comply with the "Use of American Iron and Steel" requirements as contained in Section 436 (a) – (f) of H.R. 3547, the "Consolidated Appropriations Act, 2014".

18. 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.

19. 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 at 40 CFR, Part 34
- c) Immigration and Naturalization Service Employment Eligibility Rules, (I-9 Forms)
- 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)

20. 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.