



Council Business Meeting

July 18, 2023

Agenda Item	Resolution: 2023-31 Approving an Amendment to the Loan Ceiling of the Clean Water State Revolving Fund Loan R11755 for the Wastewater Treatment Plant Outfall (WWTP) Relocation Project	
From	Scott A. Fleury, PE Chance E. Metcalf, PMP	Public Works Director Senior Project Manager
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Item Type	Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input checked="" type="checkbox"/> Presentation <input type="checkbox"/>	

SUMMARY

Before Council is a request to approve an increase to an existing loan the City has obtained through Department of Environmental Quality (DEQ) Clean Water State Revolving Fund (CWSRF) Loan Program. The loan supports the Wastewater Treatment Plant Outfall (WWTP) Relocation Project. DEQ has approved the loan increase on their end and in order to proceed forward a Council authorized resolution is required. The increase changes the previously authorized funding amount of \$3.5 million to \$4.8 million an increase of \$1.3 million.

POLICIES, PLANS & GOALS SUPPORTED

City Council Goals - (supported by this project):

Maintain Essential Services.

- Wastewater

Policy - Council's approval and authorization of the requested loan revision will support the City's obligation to comply with policy established by the Federal Clean Water Act and applied as enforceable conditions by DEQ in the City's active National Pollutant Discharge Elimination System (NPDES) permit for the WWTP, issued on March 1, 2022.

Plans - The requested loan revision will enable the City to carry out one of the important compliance projects identified in the 2012 Comprehensive Sanitary Sewer Master Plan, approved by Council approximately 10 years ago.

Goals - The requested loan revisions will support applicable Department Goals:

- Maintain existing infrastructure to meet regulatory requirements and minimize life-cycle costs
- Deliver timely life cycle capital improvement projects
- Maintain and improve infrastructure that enhances the economic vitality of the community
- Evaluate all city infrastructure regarding planning management and financial resources

PREVIOUS COUNCIL ACTIONS

The Council has taken numerous actions associated with the WWTP Outfall Relocation Project and the associated DEQ loan (R11755) that supports it.





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BACKGROUND AND ADDITIONAL INFORMATION

The outfall of the WWTP currently discharges warm effluent to Ashland Creek. In-stream flows in Ashland Creek are often too low to buffer the temperature impact from the effluent, and do not promote effective mixing (i.e. beneficial dilution), which results in exceedances of water quality standards DEQ has established to protect migratory fish in the Bear Creek basin. On March 1, 2022, the City received a new NPDES Permit from Oregon DEQ. The Permit includes limits on effluent temperature at the point of discharge and the in-stream mixing zone, with which the City is currently unable to comply. One of several capital projects required by the new Permit to meet temperature and mixing zone regulations is the Outfall Relocation Project. This Project was first endorsed in the 2012 Comprehensive Sanitary Sewer Master Plan (Keller Associates), in anticipation of today's Permit terms. Relocating the outfall to Bear Creek, a much larger stream than Ashland Creek, has been approved by DEQ as an effective temperature mitigation and mixing strategy and a path to regulatory compliance.

May 3, 2022, Council approved Resolution Authorizing and Approving an Amendment to State Revolving Fund Lona Agreement R11755. The resolution converted the balance of a pre-existing design loan to a construction loan and increased the loan amount to a total of \$3,500,000.

This project is currently 70% complete with construction. Work completed to date has been financed from the Clean Water State Revolving Fund (SRF) loan, administered by Oregon DEQ. The current active SRF loan, Loan R1175, is for \$3,500,000, with no remaining balance. The City has completed the necessary administrative steps to increase the Loan R11755 ceiling to complete construction, and now seeks approval from Council to authorize an increase in the loan ceiling to ensure adequate funding is available for construction completion.

The City is currently on-track to complete construction ahead of the Compliance Schedule established in the new Permit. The Compliance Schedule identifies major milestones from achieving compliance with a handful of water quality regulations the City currently exceeds on a regular basis. Maintaining a good lead on the Compliance Schedule is beneficial for several reasons. First, it ensures that the City will comply with applicable regulations on-time, thus avoiding costly civil and/or criminal penalties could be levied for non-compliance. Second, it helps minimize the financial impact of inflationary pressures and construction cost escalation that will inevitably drive project costs up as time passes.

FISCAL IMPACTS

This request seeks authorization to increase the amount of SRF Loan R11755 by \$1,300,000. This increase will fund the completion of construction. The CWSRF Loan currently does not have sufficient funds to complete the project because recent and ongoing escalation in labor and materials costs are driving construction costs higher than anticipated when DEQ and City of Ashland negotiated the current loan and amendment amounts.

The CWSRF provides below-market rate loans to public agencies for planning and implementing water pollution control activities. The City's loan has a twenty-year repayment period with an interest rate of one percent per annum and an annual fee equal to 0.5 percent of the balance.

From the full fiscal breakdown below, there was an estimated \$1.1 million shortfall between the loan to project contracts at the beginning of the project. According to our project estimates at final completion we expect to save an estimated \$406,550 on Construction Administration contract which will help offset the construction change order with Pilot Rock Excavation. At project completion we are showing to have an estimated project



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total increase of \$182,051.41 over the original agreed upon contracts. The fiscal breakdown shows the need for a loan increase of an estimated \$1.3 million to accommodate the projects entirety.

WWTP OUTFALL RELOCATION PROJECT FISCAL BREAKDOWN

	Contract	To Date	Balance	Final Estimate	Left/Need
Administrative Services	\$577,642.00	\$577,642.00	\$0.00	\$577,642.00	\$0.00
Design Engineering Services	\$398,459.00	\$398,459.00	\$0.00	\$398,459.00	\$0.00
Construction Administration	\$996,550.00	\$471,601.38	\$524,948.62	\$590,000.00	\$406,550
Construction (Pilot Rock)	\$2,599,376.84	\$2,597,429.84	\$1,947	\$3,187,978.25	(\$588,601.41)
Total -	\$4,572,027.84	\$4,045,132.22	\$0.00	\$4,754,079.25	(\$182,051.41)
CWRSF Loan R11755	\$3,500,000.00	\$3,500,000.00	\$0.00	\$4,800,000.00	(\$1,300,000.00)

DISCUSSION QUESTIONS

Does the Council have any questions regarding the project or associated loan increase?

SUGGESTED NEXT STEPS

Staff recommends approving increasing the CWSRF loan R11755 ceiling to adequately finance the WWTP Outfall Relocation Project construction.

MOTION:

I move to approve "A Resolution Authorizing and Approving an Amendment to Clean Water State Revolving Fund Loan Agreement No. R11755," and further authorize the City Manager to sign the loan documents for the new loan amount.

REFERENCES & ATTACHMENTS

Attachment #1: A Resolution Authorizing and Approving and Amendment to the Loan Ceiling of Clean Water State Revolving Fund Loan R11755

Attachment #2: Proposed Loan Agreement R11755



RESOLUTION NO. 2023-32

A RESOLUTION AUTHORIZING AND APPROVING A STATE REVOLVING FUND LOAN AGREEMENT TO FINANCE WASTEWATER SYSTEM PROJECTS AND REPEALING RESOLUTION 2022-09

RECITALS:

- A. The city of Ashland (the “City”) has entered into negotiations with the State of Oregon Department of Environmental Quality (the “DEQ”) for a loan to the City from the Clean Water State Revolving Fund (“CWSRF”) in the approximate amount of \$4,800,000 for the purposes of wastewater treatment plant effluent outfall relocation.
- B. The DEQ has provided the City a proposed CWSRF Loan Agreement (R11755).
- C. The Interest rate on the proposed loan is 1.00% per annum.
- D. The proposed loan is to be fully repaid 20 years after the estimated or actual date of completion of the project, whichever is earlier.
- E. The proposed loan would be secured by the Net Operating Revenues of the City’s wastewater system.
- F. Under the proposed loan, the City would pay an annual fee of 0.5% of the Outstanding Loan Amount, in addition to interest.
- G. The proposed loan requires the City to review its wastewater rates and fees at least annually and to adjust them as necessary to ensure collections sufficient to meet a specified debt service requirement.
- H. The City Attorney and Director of Finance have approved this proposed agreement as to legal sufficiency and conformance with generally accepted accounting principles.

THE CITY COUNCIL OF THE CITY OF ASHLAND RESOLVES AS FOLLOWS:

SECTION 1. This resolution repeals and replaces Resolution 2022-09.

SECTION 2. The City does authorize and approve of the form of the SRF Loan Agreement for the financing of wastewater system projects.

SECTION 3. The City does authorize and approve the establishment and funding of a designated reserve account to meet the “Loan Reserve” requirement of the SRF Loan

Agreement, and does direct the Director of Finance to establish this loan reserve.

SECTION 4. The City does authorize and approve the Director of Finance and the City Manager, acting for and on behalf of the City and without further action by the City Council, to execute the final DEQ CWSRF Loan Agreement and such other and additional documents as may reasonably be required for the consummation and closing of the loan, and any amendments required thereafter.

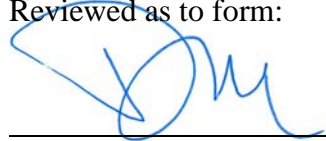
This resolution was duly PASSED and ADOPTED this _____ day of _____, 2023, and takes effect upon signing by the Mayor.

Dana Smith, Clerk of the Council Pro Tem

SIGNED and APPROVED this ____ day of _____, 2023.

Tonya Graham, Mayor

Reviewed as to form:



Doug McGearly, Acting City Attorney

**CLEAN WATER STATE REVOLVING FUND
LOAN AGREEMENT NO. R11755
AMENDMENT NO. 2
CITY OF ASHLAND**

This Amendment No. 2 (“Amendment”) to Loan Agreement No. R11755 (the “Loan Agreement”) is executed between the STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF ENVIRONMENTAL QUALITY (“DEQ”) and City of Ashland (the “Borrower”), effective as of the Effective Date indicated below. Capitalized terms used in this Amendment which are not defined herein have the meanings assigned to them in the Loan Agreement.

The purpose of this Amendment is to increase the loan amount by \$1,300,000 to accommodate increased construction costs; update the project description to include construction costs; update Appendix A: Repayment Schedule, Appendix B: Estimated Disbursement Schedule, and the Loan Reserve Requirement to account for the increased loan amount.

Date of Loan Agreement: January 26, 2021

The parties agree as follows:

1. **EFFECTIVE DATE.** This Amendment is effective on the date that it is fully executed and approved as required by applicable law.
2. **AMENDMENTS TO AGREEMENT.**
 - a. ARTICLE 1(C) is amended and restated as follows:

“(C) LOAN AMOUNT: \$4,800,000.”
 - b. ARTICLE 1(F) is amended and restated as follows:

“(F) DESCRIPTION OF THE PROJECT: This design and construction project will relocate the City of Ashland's Wastewater Treatment Plant outfall from Ashland Creek to Bear Creek. The work would include approximately 2,000 buried linear feet of pipeline, Bear Creek outfall installation, and Ashland pond intake and outlet modifications. The pipeline Southern Alignment was selected.”
 - c. The second sentence of ARTICLE 5(C)(1) is amended and restated as follows:

“Until the Final Loan Amount is calculated, the Loan Reserve Requirement is \$224,206.”

- d. The attached "Appendix A: Repayment Schedule" replaces the current "Appendix A: Repayment Schedule" in its entirety.

- 3. **COUNTERPARTS.** This Amendment may be executed in two or more counterparts, each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

- 4. **ORIGINAL AGREEMENT.** Except as expressly amended above, the terms and conditions of the Loan Agreement shall remain in full force and effect. The Borrower certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

BORROWER: CITY OF ASHLAND

By: _____

Date: _____

Typed Name: _____

Title: _____

STATE OF OREGON ACTING BY AND THROUGH ITS
DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____

Date: _____

Michael E. Kucinski,
Deputy Water Quality Administrator

APPENDIX A: PRELIMINARY REPAYMENT SCHEDULE

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
 STATE REVOLVING FUND LOAN PROGRAM
REPAYMENT SCHEDULE

BORROWER:	City of Ashland	ANNUAL INTEREST RATE:	1.00%
SRF LOAN NO.:	R11755	PAYMENT AMOUNT:	\$ 135,773
LOAN AMOUNT:	\$ 4,800,000	ANNUAL FEE:	0.50%

Due Date	Pmt#	Principal	Interest	Fees	Total	Principal Balance
						4,800,000
11/1/2024	1	0	85,796	0	85,796	4,800,000
5/1/2025	2	111,773	24,000	24,000	159,773	4,688,227
11/1/2025	3	112,332	23,441	0	135,773	4,575,895
5/1/2026	4	112,894	22,879	22,879	158,652	4,463,001
11/1/2026	5	113,458	22,315	0	135,773	4,349,543
5/1/2027	6	114,025	21,748	21,748	157,521	4,235,518
11/1/2027	7	114,595	21,178	0	135,773	4,120,923
5/1/2028	8	115,168	20,605	20,605	156,378	4,005,755
11/1/2028	9	115,744	20,029	0	135,773	3,890,011
5/1/2029	10	116,323	19,450	19,450	155,223	3,773,688
11/1/2029	11	116,905	18,868	0	135,773	3,656,783
5/1/2030	12	117,489	18,284	18,284	154,057	3,539,294
11/1/2030	13	118,077	17,696	0	135,773	3,421,217
5/1/2031	14	118,667	17,106	17,106	152,879	3,302,550
11/1/2031	15	119,260	16,513	0	135,773	3,183,290
5/1/2032	16	119,857	15,916	15,916	151,689	3,063,433
11/1/2032	17	120,456	15,317	0	135,773	2,942,977
5/1/2033	18	121,058	14,715	14,715	150,488	2,821,919
11/1/2033	19	121,663	14,110	0	135,773	2,700,256
5/1/2034	20	122,272	13,501	13,501	149,274	2,577,984
11/1/2034	21	122,883	12,890	0	135,773	2,455,101
5/1/2035	22	123,497	12,276	12,276	148,049	2,331,604
11/1/2035	23	124,115	11,658	0	135,773	2,207,489
5/1/2036	24	124,736	11,037	11,037	146,810	2,082,753
11/1/2036	25	125,359	10,414	0	135,773	1,957,394
5/1/2037	26	125,986	9,787	9,787	145,560	1,831,408
11/1/2037	27	126,616	9,157	0	135,773	1,704,792
5/1/2038	28	127,249	8,524	8,524	144,297	1,577,543
11/1/2038	29	127,885	7,888	0	135,773	1,449,658
5/1/2039	30	128,525	7,248	7,248	143,021	1,321,133
11/1/2039	31	129,167	6,606	0	135,773	1,191,966
5/1/2040	32	129,813	5,960	5,960	141,733	1,062,153
11/1/2040	33	130,462	5,311	0	135,773	931,691
5/1/2041	34	131,115	4,658	4,658	140,431	800,576
11/1/2041	35	131,770	4,003	0	135,773	668,806
5/1/2042	36	132,429	3,344	3,344	139,117	536,377
11/1/2042	37	133,091	2,682	0	135,773	403,286
5/1/2043	38	133,757	2,016	2,016	137,789	269,529
11/1/2043	39	134,425	1,348	0	135,773	135,104
5/1/2044	40	135,104	676	676	136,456	0
TOTALS		4,800,000	580,950	253,730	5,634,680	
REQUIRED LOAN RESERVE:		\$ 224,206				

APPENDIX B: ESTIMATED DISBURSEMENT SCHEDULE

Disb. Number	Disb. Amount	Paid/ Estimate	Disb. Date
1	577,642	Paid	4/1/2021
2	128,874	Paid	11/4/2021
3	43,513	Paid	12/7/2021
4	65,874	Paid	1/24/2022
5	88,691	Paid	3/21/2022
6	8,766	Paid	5/11/2022
7	62,741	Paid	10/4/2022
8	42,097	Paid	10/13/2022
9	428,951	Paid	2/2/2023
10	31,982	Paid	2/15/2023
11	954,744	Paid	2/22/2023
12	230,090	Paid	5/3/2023
13	500,000	Estimate	7/1/2023
14	500,000	Estimate	8/1/2023
15	500,000	Estimate	9/1/2023
16	636,035	Estimate	10/1/2023
TOTAL:	4,800,000		