

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

SHADI ESKAF

Director



NORTH CAROLINA
Environmental Quality

September 5, 2023

Ms. Catherine Crosby
Town of Apex
PO Box 250
Apex, NC 27502

SUBJECT: Offer & Acceptance for American Rescue
Plan Funding
Town of Apex
Evaluation of the Current State of the
Collection System
Project No. AIA-W-ARP-0052
UEID No. NDRHHH8B3C85

Dear Ms. Crosby:

The Town of Apex has been approved for American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund in the amount of **\$400,000** for an Asset Inventory and Assessment (AIA) study. Projects funded from the State Fiscal Recovery Funds established in S.L. 2021-180/S.L. 2022-74 must meet applicable federal law and guidance for the ARP funds.

Enclosed are two (2) copies of an offer-and-acceptance document, extending ARP funding in the amount of \$400,000. This offer is made by the Division of Water Infrastructure (DWI), subject to the assurances and conditions set forth in the enclosed offer-and-acceptance document. Funds will not be disbursed unless this offer is accepted.

Upon your acceptance, please submit the following items to Pam Whitley, via email at Pam.Whitley@deq.nc.gov, or via mail at Division of Water Infrastructure (DWI), 1633 Mail Service Center, Raleigh, North Carolina 27699-1633:

1. One (1) copy of the original offer-and-acceptance document, executed by the Authorized Representative for the project, along with the signed "Standard Conditions and Assurances" for ARP Projects. **Please retain the second copy for your files.**
2. A resolution (sample copy attached), adopted by the governing body, accepting the offer, and making the applicable assurances contained therein.
3. Sales Tax Certification, if applicable (attached).



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

4. ARPA Engineering Services Procurement Certification (attached).
5. One (1) copy of all executed service agreements and/or contracts.

All work associated with this project must be completed within 24 months of the date of this letter.

Once the subject project has commenced, the enclosed “reimbursement request form” must be completed and submitted with all reimbursement requests. You are free to reproduce this form should additional copies be needed. Additional information and template forms can be found on DWI’s website under the “I Have Funding – Construction and Reimbursement” page. Reimbursement requests should be sent to Susan Kubacki, your Viable Utility Unit Project Manager, at the address noted.

As a reminder, a memorandum requesting your federal identification number was included with the Letter of Intent to Fund. You must complete and submit this no later than the time when you choose to submit your first request for reimbursement.

On behalf of the Department of Environmental Quality, I am pleased to extend this offer of ARP funds, made available by the North Carolina Fiscal Recovery Fund. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this offer package, please contact Susan Kubacki at susan.kubacki@deq.nc.gov or 919-707-9181.

Sincerely,

DocuSigned by:

Victor D'Amato

52CD62E9DA6B44F...

Victor A. D’Amato, PE

Division of Water Infrastructure, NCDEQ

Enclosures: Offer-and-Acceptance Document (2 copies)
Resolution by Applicant’s Governing Body to Accept an Offer of Funding
Sales-Tax Certification Form
ARPA Engineering Services Procurement Certification
Reimbursement Request Form

CC: Catherine Crosby, Catherine.crosby@apexnc.org
Brian Porter, Hazen and Sawyer, Raleigh, NC, bporter@hazenandsawyer.com
Jennifer House (via email)
DWI Administrative Unit (via email)
Susan Kubacki (via email)
Matthew Rushing, EI (via email)
FILE: ARPA (Agreement Number 2000063133)



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

Funding Offer and Acceptance

Legal Name and Address of Award Recipient
Town of Apex
PO Box 250
Apex, NC 27502

Project Number: AIA-W-ARP-0052
Recipient's UEID#: NDRHHH8B3C85

Drinking Water <input type="checkbox"/>	Wastewater <input checked="" type="checkbox"/>	Both <input type="checkbox"/>	Total Grant Offered
Distressed <input type="checkbox"/>	Not Distressed <input checked="" type="checkbox"/>		
ARPA Training Grant	<input type="checkbox"/>		
ARPA Asset Inventory & Assessment Grant (AIA)	<input checked="" type="checkbox"/>		\$ 400,000
ARPA Merger/Regionalization Feasibility Grant (MRF)	<input type="checkbox"/>		

Project Description:
Evaluation of the Current State of the Collection System

Total Financial Assistance Offer: \$ 400,000

**ARP-funded projects are exempt from both the grant fee and match requirements.*

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

DocuSigned by:
Victor D'Amato
52CD62E9DA6B44F...

Signed on behalf of Shadi Eskaf

9/6/2023

Signature

Date

On Behalf of (Applicant):
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

STANDARD CONDITIONS FOR ARP GRANTS

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 Recipient 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. ARP-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 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 ARP 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.

STANDARD ASSURANCES FOR AIA GRANTS

1. The Recipient acknowledges that no disbursements will be made until applicable service agreements or contracts are submitted. The description of work listed on invoices must be included in the scope of work shown on the agreements or contracts.
2. The Recipient is responsible for paying for ineligible project costs as determined by the Division.
3. 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 (3) years following completion of the project.
4. All ARP 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 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 and Assurances of this Award. The Recipient agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute. Requests for reimbursement must be made using the Division's reimbursement form.
5. All funds provided pursuant to North Carolina General Statute 159G must be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34, as amended. **The Recipient must 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 any contract(s) and the Recipient is expected to uphold its contract obligations regarding timely payment.
6. The Recipient must provide summaries of project progress every other month during the project or as otherwise directed by the Division.
7. The Recipient must provide a digital copy of the final report in a universally readable format. If a project includes updating or developing a GIS database or shapefiles, at a minimum the current utility service boundaries must be provided as a polygon shapefile, including any service gaps within the boundary.
8. The Recipient must provide an executive level summary of the work performed, any conclusions made, and the next steps to be taken as a result of this work.
9. The Recipient must provide approved minutes or a resolution confirming the final report has been presented to the recipient's governing board.
10. A maximum of 95% of the grant will be paid prior to receipt of the documentation described in Standard Assurance Nos. 7, 8, and 9. After receipt of this documentation, the final reimbursement request will be processed.

Acknowledgement of Standard Conditions and Assurances

The Recipient 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

(Suggested Format)

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund was 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 \$ _____ to perform an Asset Inventory and Assessment study detailed in the submitted application, and

WHEREAS, the (unit of government) intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That (unit of government) does hereby accept the American Rescue Plan (ARP) offer of \$ _____.

That the (unit of government) 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 (name and title of authorized representative), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the 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 (date adopted) at (place), North Carolina.

(Signature of Chief Executive Officer)

Date

SALES-TAX REIMBURSEMENT CERTIFICATION FORM

(FOR FUNDING PROGRAMS IN THE DIVISION OF WATER INFRASTRUCTURE)

Applicant: _____

Project Number: _____

☐ Check If Applicant is not a unit of government under North Carolina law

If Applicant noted above is a Unit of Government in North Carolina, check the applicable box below.

Sales Tax **IS** deducted in this scenario. Please show this on the disbursement requests.

☐ The project includes sales taxes related to the purchase of equipment or the provision of applicable services, and the unit of government will request reimbursement from the DOR.

Sales Tax **IS NOT** deducted in either of these scenarios.

☐ The project includes sales taxes related to the purchase of equipment or the provision of applicable services, and the unit of government will not request reimbursement from the DOR.

☐ The project will not include sales taxes.

(Printed Name and Title of Authorized Representative)

(Signature of Authorized Representative)

(Date)

Submit to: NC Dept. of Environment & Natural Resources
Division of Water Infrastructure
Pam Whitley, Project Management Branch
1633 Mail Service Center
Raleigh, NC 27699-1633

NC DEQ Division of Water Infrastructure Professional Engineering Services Procurement

Section 602(b)(14) of the Clean Water Act requires projects receiving Clean Water State Revolving Fund funding to comply with engineering procurement guidelines. North Carolina Session Law 2021-180 authorizes the Division of Water Infrastructure (Division) to award grant funds from the American Rescue Plan Act (ARPA) State Fiscal Recovery Fund for drinking water, wastewater, and stormwater infrastructure projects. 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.

To comply, you must follow North Carolina General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying Services. You cannot exempt yourself using NCGS 143-64.32. Complete and sign this form and provide the information indicated to ensure that engineering services for your project are eligible for reimbursement.

Applicant: [Click or tap here to enter text.](#)

Project Name: [Click or tap here to enter text.](#)

Division Funding Number: [Click or tap here to enter text.](#)

- 1) List the basic services being provided: (i.e., planning, design, inspection etc.)
[Click or tap here to enter text.](#)
- 2) Describe the method of announcement for the project.
[Click or tap here to enter text.](#)
- 3) List the firms the announcement was discussed with or that proposals were received from in order of quality.
[Click or tap here to enter text.](#)
- 4) Was a contract negotiated with the best qualified firm? ☐ Yes ☐ No (Check one)
If no, explain why.
[Click or tap here to enter text.](#)

NOTE: Documentation of Qualification-Based-Selection of Engineering Services shall be provided to the Division upon request (to include announcement and qualifications requested).

By signing below, I [Click or tap here to enter text.](#), the Authorized Representative designated for this project in the project application, attest that the contract pricing, as seen in the attached contract(s), contains pricing that is fair and reasonable based on scope, complexity, professional nature, and the estimated value of the services being provided and the firm selected, was selected based on their qualifications.

(signed name, title and date)

(DWI staff use only – Check and initial here if debarment status checked and firm is NOT debarred ☐ _____)

Clean Water Act, Section 602(b)(14)	<p>(14) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services <u>shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement (as determined by the Governor of the State).</u></p> <p>From: water_resources_reform_and_development_act_guidance.pdf (epa.gov) <i>The requirements of 40 U.S.C. 1101 et seq. are:</i></p> <ul style="list-style-type: none"> • <i>Public announcement of the solicitation (e.g., a Request for Qualifications);</i> • <i>Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation); o Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);</i> • <i>Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;</i> • <i>Selection of at least three firms considered to be the most highly qualified to provide the services required; and</i> • <i>Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered;</i> <ul style="list-style-type: none"> ▪ <i>In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.</i>
Uniform Guidance 2 CFR 200.319(b)	<p>Competition.</p> <p>The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.</p>
NC General Statute 143-64.31	<p>Procurement of Architectural, Engineering, and Surveying Services (NC “Mini-Brooks”)</p> <p>...It is the public policy of this State... and Local Governmental Units..., to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services,..., to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. ...</p>

NC General Statute 143-64.32	<p><u>NOTE: CWSRF and ARPA funding: NCGS 143-64.32 cannot be used to exempt a local government unit from abiding by NCGS 143-63.31. This is because there is no minimum dollar exemption allowed in the Federal Brooks Act, the Clean Water Act Section 602(b)(14), or 2 CFR 200.319.</u></p> <p>Written exemption of particular contracts.</p> <p>Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000). (1987, c. 102, s. 2; 2013-401, s. 2.)</p>
21 NCAC 56.0701(f)	<p>SECTION .0700 – RULES OF PROFESSIONAL CONDUCT, adopted in accordance with NC General Statute 89C-20 (Board Rules for Professional Engineers, etc.)</p> <p>(f) A licensee shall solicit or accept work only on the basis of qualifications and:</p> <ol style="list-style-type: none"> (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies; (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered; (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); <p>...</p>

ARPA AIA/MRF REIMBURSEMENT REQUEST FORM

Division of Water Infrastructure Project No. _____
Period Covered by this Report: From _____ To _____

Grant Amount =		Match % Required =	
		Match amount =	\$ -

Match and Grant Fee are N/A for ARPA funded projects

Recipient Organization
Name: Town, City or County etc. Payment No. _____
Address: Page No. _____
City, State & Zip: _____

Use additional sheets if needed. Use a "Misc." column if needed.	Consultant Name	Consultant Name	Consultant Name	Constultant Deductions towards Match, if In-Kind or Grant Fee see below	
Classification of	A	B	C	D	Total
Cumulative Totals					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
Total Cumulative to date	\$ -	\$ -	\$ -	\$ -	\$ -
Previously Received					\$ -
Amount Requested	\$ -	\$ -	\$ -	\$ -	\$ -
				No Match	
In-Kind Contribution	In-Kind Contribution, Grant Fee, and Match are N/A for ARPA funded projects				
Grant Fee					
Total Match *				\$ -	
Percent Complete					

Certification

I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with terms of the project and that this request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.

You must check ONE of the boxes below or your payment will not be processed:

The funds requested above have already been paid to the respective vendors, consultants & contractors by the award recipient. ☐

OR

The funds requested above have not been paid to the respective vendors, consultants & contractors. Funds received from the State will be disbursed to these entities within three (3) banking days. ☐

Recipient Signature of Authorized Representative Date

Type or Print Name and Title

DWI comments