

Council Business Meeting

May 3, 2022

Agenda Item	A Resolution Authorizing and Approving an Amendment to the Loan Ceiling of Clean Water State Revolving Fund Loan R11755	
From	Kaylea Kathol, PMP Scott Fleury, PE	Sr. Project Manger Director of Public Works
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SUMMARY

Before Council is a request to approve loan revision and resolution authorizing a loan increase of \$1,000,000 to the City's existing Clean Water State Revolving Fund Loan (CWSRF). The new loan total would be \$3,500,000. The loan increase funds the construction of the Wastewater Treatment Plant (WWTP) Outfall Relocation project. In its current form, the loan was defined to only fund project design, permitting, and solicitation/bidding support.

This is an ongoing project with the Oregon Department of Environmental Quality (DEQ) Clean Water State Revolving Fund Loan (CWSRF) that was initially executed on May 21, 2013, and included three projects: Membrane Filter Replacement, Riparian Restoration and Outfall Relocation. As further explained in Previous Council Action section, the loan was authorized on May 21, 2013, amended on February 6, 2018, and amended again on February 26, 2021.

Tonight's Council actions will do two things:

1. Increase the loan ceiling to \$3,500,000 for this financing agreement with the DEQ CWSRF; and
2. Expand the allowable use of funds to include financing construction.

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 ACTION

Council has taken numerous actions over the past decade that have had a nexus to the CWSRF fund loan. The actions listed below in bold related directly toward the CWSRF funding mechanism.

- [March 15, 2011](#) – DEQ and Keller Associates presented effluent temperature compliance solutions.
- [April 17, 2012](#) – Council adopted a Comprehensive Sanitary Sewer Master Plan (and complimentary 2014 Wastewater Facilities Plan) that recommended a combination of relocating the outfall from Ashland Creek to Bear Creek, effluent discharge through constructed wetlands during various times of the year, selective discharges from Reeder Reservoir, and water quality temperature trading to meet thermal regulations.
- [May 21, 2013](#) - **Council approved a Resolution** Authorizing and Approving State Revolving Fund Loan Agreement R11751. The loan amount was for \$4,549,691, and was intended to fund three projects, including the Outfall Relocation, water quality temperature trading, and membrane filter replacement.
- [May 6, 2014](#) – Council awarded a contract to CH2M Hill (now Jacobs) to complete an outfall relocation study. The study investigated and recommended the best outfall relocation spot on Bear Creek that could comply with the mixing zone, thermal plume and toxics requirements anticipated in the updated NPDES permit.
- [December 5, 2017](#) – Council awarded a contract to CH2M Hill (now Jacobs) to complete pre-engineering for the Outfall Relocation project. Predesign, including environmental permitting, was complete in early 2020.
- [February 6, 2018](#) – **Council approved a Resolution** Authorizing and Approving State Revolving Fund Loan Agreement R11754 and Amendment Number 1 R11751. The resolution resulted in a new loan total of \$4,829,000, intended to finance the Outfall Relocation and water quality temperature trading. Note that in early 2021, DEQ split this loan into two loans that separately financed the Outfall Relocation and the water quality temperature trading. CWSRF Loan R11755, for \$2,500,000 was created to finance the design of the Outfall Relocation project. The balance of R11754 continues to finance water quality temperature trading. This action, which resulted in a more financially favorable repayment schedule for the City, did not require authorization of additional debt and was therefore not taken before Council.
- [May 4, 2021](#) – Council awarded a contract to Jacobs to complete final engineering for the Outfall Relocation project.

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.

The City has completed all environmental studies, design, and permitting to support construction of the WWTP Outfall Relocation. Currently, the project is in the construction solicitation phase. Work completed to date has been financed via design loans from the Clean Water State Revolving Fund (SRF), administered by Oregon DEQ. The current active SRF loan, Loan R1175, is a design loan for \$2,500,000, with a remaining balance of approximately \$1,560,000. The City has completed the necessary administrative steps to convert Loan R11755 to a construction loan, and now seeks approval from Council to authorize an increase in the loan ceiling to ensure adequate funding is available for construction.

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 \$1,000,000. This increase will primarily fund construction, and to a lesser degree will fund engineering services during construction. Staff believes a future adjustment to the loan ceiling may be required after a construction contract has been executed because labor and materials costs are escalating at a rapid rate, which could result in a circumstance where the lowest bid for construction exceeds the engineer's estimate for this project.

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.

The Finance Department will bring forward a supplemental budget that shows the increase in revenue from the loan proceeds and associated increase in expenditures as part of a separate action.

STAFF RECOMMENDATION

Staff recommends approving the conversion of SRF design loan R11755 to a construction loan and increasing the loan ceiling to adequately finance construction.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

Council may 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.

Should Council not approve these actions, staff recommends Council move forward with this project and direct staff to research alternative funding options such as the Oregon Special Public Works Fund or conventional financing. Both options would likely incur higher interest rates and repayment costs.

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

Attachment #3: Existing Loan Agreement R11755

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AND APPROVING A STATE REVOLVING FUND LOAN AGREEMENT TO FINANCE WASTEWATER SYSTEM PROJECTS

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 \$3,500,000 for the purposes of wastewater treatment plant effluent outfall relocation.
- B. The DEQ has provided to 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. The City does authorize and approve of the form of the SRF Loan Agreement for the financing of wastewater system projects.

SECTION 2. 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 3. The City does authorize and approve the Director of Finance and the City Administrator, 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 _____, 2022, and takes effect upon signing by the Mayor.

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2022.

Julie Akins, Mayor

Reviewed as to form:

Katrina L. Brown, City Attorney

**CLEAN WATER STATE REVOLVING FUND
LOAN AGREEMENT NO. R11755
AMENDMENT NO. 1
CITY OF ASHLAND**

This Amendment No. 1 (“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 \$1,000,000 and update the Loan Reserve Requirement accordingly.

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: \$3,500,000.”
 - b. 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 \$68,255.”
 - c. 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: _____

Jennifer Wigal, Administrator
Water Quality Division

APPENDIX A: PRELIMINARY REPAYMENT SCHEDULE

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

BORROWER:	City of Ashland	INTEREST RATE:	1.00%
SRF LOAN NO.:	R11755	TERM IN YEARS:	30
LOAN AMOUNT:	\$ 3,500,000	PAYMENT AMOUNT:	\$ 68,649
		ANNUAL FEE:	0.50%

Due Date	Pmt#	PAYMENT				Principal Balance
		Principal	Interest	Fees	Total	
						3,500,000
8/1/2023	1	0	43,188	0	43,188	3,500,000
2/1/2023	2	51,149	17,500	17,500	86,149	3,448,851
8/1/2024	3	51,405	17,244	0	68,649	3,397,446
11/1/2024	4	51,662	16,987	16,987	85,636	3,345,784
5/1/2025	5	51,920	16,729	0	68,649	3,293,864
11/1/2025	6	52,180	16,469	16,469	85,118	3,241,684
5/1/2026	7	52,441	16,208	0	68,649	3,189,243
11/1/2026	8	52,703	15,946	15,946	84,595	3,136,540
5/1/2027	9	52,966	15,683	0	68,649	3,083,574
11/1/2027	10	53,231	15,418	15,418	84,067	3,030,343
5/1/2028	11	53,497	15,152	0	68,649	2,976,846
11/1/2028	12	53,765	14,884	14,884	83,533	2,923,081
5/1/2029	13	54,034	14,615	0	68,649	2,869,047
11/1/2029	14	54,304	14,345	14,345	82,994	2,814,743
5/1/2030	15	54,575	14,074	0	68,649	2,760,168
11/1/2030	16	54,848	13,801	13,801	82,450	2,705,320
5/1/2031	17	55,122	13,527	0	68,649	2,650,198
11/1/2031	18	55,398	13,251	13,251	81,900	2,594,800
5/1/2032	19	55,675	12,974	0	68,649	2,539,125
11/1/2032	20	55,953	12,696	12,696	81,345	2,483,172
5/1/2033	21	56,233	12,416	0	68,649	2,426,939
11/1/2033	22	56,514	12,135	12,135	80,784	2,370,425
5/1/2034	23	56,797	11,852	0	68,649	2,313,628
11/1/2034	24	57,081	11,568	11,568	80,217	2,256,547
5/1/2035	25	57,366	11,283	0	68,649	2,199,181
11/1/2035	26	57,653	10,996	10,996	79,645	2,141,528
5/1/2036	27	57,941	10,708	0	68,649	2,083,587
11/1/2036	28	58,231	10,418	10,418	79,067	2,025,356
5/1/2037	29	58,522	10,127	0	68,649	1,966,834
11/1/2037	30	58,815	9,834	9,834	78,483	1,908,019
5/1/2038	31	59,109	9,540	0	68,649	1,848,910
11/1/2038	32	59,404	9,245	9,245	77,894	1,789,506
5/1/2039	33	59,701	8,948	0	68,649	1,729,805
11/1/2039	34	60,000	8,649	8,649	77,298	1,669,805
5/1/2040	35	60,300	8,349	0	68,649	1,609,505
11/1/2040	36	60,601	8,048	8,048	76,697	1,548,904
5/1/2041	37	60,904	7,745	0	68,649	1,488,000
11/1/2041	38	61,209	7,440	7,440	76,089	1,426,791
5/1/2042	39	61,515	7,134	0	68,649	1,365,276
11/1/2042	40	61,823	6,826	6,826	75,475	1,303,453
5/1/2043	41	62,132	6,517	0	68,649	1,241,321
11/1/2043	42	62,442	6,207	6,207	74,856	1,178,879
5/1/2044	43	62,755	5,894	0	68,649	1,116,124
11/1/2044	44	63,068	5,581	5,581	74,230	1,053,056
5/1/2045	45	63,384	5,265	0	68,649	989,672
11/1/2045	46	63,701	4,948	4,948	73,597	925,971
5/1/2046	47	64,019	4,630	0	68,649	861,952
11/1/2046	48	64,339	4,310	4,310	72,959	797,613
5/1/2047	49	64,661	3,988	0	68,649	732,952
11/1/2047	50	64,984	3,665	3,665	72,314	667,968
5/1/2048	51	65,309	3,340	0	68,649	602,659
11/1/2048	52	65,636	3,013	3,013	71,662	537,023
5/1/2049	53	65,964	2,685	0	68,649	471,059
11/1/2049	54	66,294	2,355	2,355	71,004	404,765
5/1/2050	55	66,625	2,024	0	68,649	338,140
11/1/2050	56	66,958	1,691	1,691	70,340	271,182
5/1/2051	57	67,293	1,356	0	68,649	203,889
11/1/2051	58	67,630	1,019	1,019	69,668	136,259
5/1/2052	59	67,968	681	0	68,649	68,291
11/1/2052	60	68,291	341	341	68,973	0

TOTALS	3,500,000	593,462	279,586	4,373,048
REQUIRED LOAN RESERVE:	\$	68,224		