

RESOLUTION APPROVING A WORK AUTHORIZATION WITH CT CONSULTANTS, INC. FOR NORTHEAST REGIONAL WATER LINE PHASE 1, ARPA PROJECT

WHEREAS, Doug Starkey, Director of the Department of Environmental Services, has presented the following Work Authorization with CT Consultants, Inc., to-wit:

WORK AUTHORIZATION

- Project Title:** Northeast Regional Water Line Phase 1
- Project Description:** Design of Northeast Regional Water Line Phase 1 from existing terminus on Jefferson Rd to SR 46, SR 46 south to Griggs Rd, and Ninety Rd to SR 11, and a booster station on Jefferson Rd near the existing terminus.
- Project Location:** From existing terminus on Jefferson Rd to SR 46, SR 46 south to Griggs Rd, and Ninety Rd to SR 11, and a booster station on Jefferson Rd near the existing terminus.
- Invoicing Instructions:** Hourly not to exceed fee of \$225,000 in accordance with Agreement for Professional Services dated September 14, 1999 and wage rates per the 2023 rate table.
- Terms:** Invoices will be rendered for work performed in the preceding month and are due and payable within 30 days after presentation. Cancellation of this contract presupposes payment for work already completed. Balances 30 days past due shall bear finance charges at the legal rates permitted.
- Acceptance:** Upon the authorized signature of both parties to this contract, they agree to the above prices, specifications and conditions as satisfactory. Payments will be made as outlined above and work can proceed.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio, that the Work Authorization with CT Consultants, Inc. is hereby approved in accordance with the copy of the Work Authorization now on file in this office.

BE IT FURTHER RESOLVED that the President of the Board, on behalf of the Board of Commissioners of Ashtabula County, is authorized to execute any and all necessary documents.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2024-108

February 15, 2024

**RESOLUTION APPROVING A WORK AUTHORIZATION WITH CT CONSULTANTS,
INC. FOR NORTHEAST REGIONAL WATER LINE PHASE 1, ARPA PROJECT**

Upon the motion of Casey R. Kozlowski, seconded by J.P. Ducro IV.

VOTE:

Kathryn L. Whittington

Aye

J.P. Ducro IV

Aye

Casey R. Kozlowski

Aye

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Crystal Sturgill, Clerk of the Board *Acting*
Board of County Commissioners
Ashtabula County, Ohio



Work Authorization

Since 1922

Name Ashtabula County Department of Environmental Services 25. W. Jefferson Street Jefferson, Ohio 44047	Date: September 27, 2023 Attn: Mr. Doug Starkey Telephone: (440) 576-3725 E-mail dgstarkey@ashtabulacounty.us	W.A.No. Fax: (440) 576-3781
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Project Title – Northeast Regional Water Line Phase 1

Project Description – Design of Northeast Regional Water Line Phase 1 from existing terminus on Jefferson Road to SR 46, SR 46 south to Griggs Rd, and Ninety Rd to SR 11, and a booster station on Jefferson Rd near the existing terminus. .

Invoicing instructions – Hourly not-to-exceed fee of \$225,000.00 in accordance with Agreement for Professional Services dated September 14, 1999 with wage rates per the attached 2023 rate table.

NO WORK SHALL PROCEED UNTIL SIGNED WORK AUTHORIZATION IS RETURNED BY THE OWNER.

TERMS:

Invoices will be rendered for work performed in the preceding month and are due and payable within thirty (30) days after presentat on. Cancellation of this contract presupposes payment for work already completed. Balances thirty (30) days past due shall bear finance charges at the legal rates permitted.

ACCEPTANCE

Upon the authorized signature of both parties to this contract, they agree to the above prices, specifications and conditions as satisfactory. Payments will be made as outlined above and work can proceed.

ASHTABULA COUNTY

CT CONSULTANTS, INC.

By

Date Accepted

2-15-24

Date

9/27/2023

Please sign and return one copy to our office.

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November 21, 2023

Katie Lamson
HR Specialist/Sr. Project Manager
Ashtabula County
25 West Jefferson St.
Jefferson, OH 44047

re: ARPA Funding Review – Ashtabula County Department of Environmental Services

****CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED****

Thank you for your request of a legal opinion in the above matter. You have inquired whether funds from the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) established under the American Rescue Plan Act (“ARPA”)¹ can be used for the following projects of the Ashtabula County Department of Environmental Services (“ACDES”): (1) Route 307 waterline design; (2) Northeast Regional Airport waterline design; (3) purchase of a generator for the Harpersfield Booster Station; and (4) purchase of a generator for the Driftwood Sewer Lift Station.

The ACDES Projects

On April 25, 2022, ACDES presented a proposal to the Ashtabula County Board of Commissioners (the “Board”) requesting ARPA funding for a total of \$2,825,000.00 for various projects. Following a work session on July 19, 2022, the Board tentatively agreed to provide \$500,000 in ARPA funds to ACDES, but that ACDES’s request would be revisited as a later “phase” of ARPA funding.

On November 13, 2023, our office received a request to review for ARPA funding eligibility four specific projects in the following amounts: (1) \$100,000 for design of a waterline along State Route 307 from Harpersfield to Austinburg; (2) \$225,000 for design of a waterline along Jefferson Road, Ninety Road, and State Route 46 to Griggs Road for the Northeast Regional Airport; (3) \$50,000 for a generator for the Harpersfield Booster Station; and (4) \$50,000 for a generator for the Driftwood Sewer Lift Station. Those requests would total

¹ Pub. L. 117-2. <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

\$425,000. The request noted the remaining \$75,000 would be used to construct a bulk water station in Rome Township.

The generator for the Harpersfield Booster Station is needed to provide energy to convey water from the county reservoir to Harpersfield Township, the City of Geneva, Geneva Township, and Geneva on the Lake. The generator for the Driftwood Sewer Lift Station is needed to provide energy to the lift station which pumps sewage from the northwest corner of the county. The generators should reduce energy due to increased efficiency. The proposed bulk water station in Rome Township would store and supply potable water to Rome Township. The bulk water station should reduce ACDES's demand for water because it would reduce the need for flushing as much water in the southern part of the county.

The American Rescue Plan Act

ARPA amended Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) to add sections 602 and 603 to establish the SLFRF.

Sections 602(c)(1)(A) and 603(c)(1)(A) of the Social Security Act establish that recipients may use such funds:

- to respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- to make necessary investments in water, sewer, or broadband infrastructure.

Pursuant to 31 CFR § 35.6(e), recipients of SLFRF funds may use them to make investments in water, sewer, and broadband infrastructure. Any water and sewer investments must meet the eligibility requirements of the Drinking Water State Revolving Fund² or the Clean Water State Revolving Fund.³ Projects to manage, reduce, treat, or recapture stormwater or subsurface drainage water regardless of whether such projects would improve water quality may also be

² See Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) as implemented by the regulations adopted by the Environmental Protection Agency (EPA) under 40 CFR § 35.3520. Recipients using SLFRF funds for such projects are not required to comply with the limitation under 40 CFR § 35.3520(c)(2) to acquisitions of land from willing sellers. 31 CFR § 35.6(e)(1)(iii)(A). Recipients using SLFRF funds for such projects that include lead service line replacement, must replace the full length of the service line and may not replace only a partial portion of the service line. 31 CFR § 35.6(e)(1)(iii)(B).

³ See Section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c))

funded with SLRF funds if such projects would otherwise meet the eligibility requirements of section 603(c)(5) of the Federal Water Pollution Control Act.⁴

Drinking Water State Revolving Funds “may be used by a public water system only for expenditures (including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not including monitoring, operation, and maintenance expenditures).”

42 U.S. Code § 300j-12(2)(b). The term “public water system” means:

a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

42 U.S. Code § 300f(4)(A).

Eligible projects under the Clean Water State Revolving Fund include the construction of publicly owned treatment works; measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water; measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse; measures to reduce the energy consumption needs for publicly owned treatment works; and for reusing or recycling wastewater, stormwater, or subsurface drainage water, among others. 33 U.S. Code § 1383(c)(1), (5)-(6), (8)-(9). Treatment works refer to:

any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of this title, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or will be used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction.

33 U.S. Code § 1292(2)(A).

The ACDES Projects Qualify for ARPA Funds

Each of the proposed projects may be funded by ARPA because they would qualify for

⁴ 33 U.S.C. 1383(c)(5).

funding either under the Drinking Water State Revolving Fund or the Clean Water State Revolving Fund. Both the Route 307 waterline design and Northeast Regional Airport waterline design are for the planning and design of a public water system. Consequently, they both qualify for funding under the Drinking Water State Revolving Fund.


The generators for both the Harpersfield Booster Station and the Driftwood Sewer Lift Station would reduce energy by being more efficient. Consequently, they would both qualify for funding under the Clean Water State Revolving Fund as measures to reduce the energy consumption needs for publicly owned treatment works. The generator for the Driftwood Sewer Lift would also qualify for funding under the Clean Water State Revolving Fund as a measure to manage, reduce, treat, or recapture stormwater or subsurface drainage water or for reusing or recycling wastewater, stormwater, or subsurface drainage water.

Your request was limited to the Route 307 and Northeast Regional Airport waterline designs, and the purchase of generators for the Harpersfield Booster Station and Driftwood Sewer Lift. Nevertheless, I have noted that ACDES has also requested that the remaining funding the Board has set aside for ACDES from the County's SLFRF be used for a new bulk water station in Rome Township. The construction of a new bulk water station would qualify for funding under either the Drinking Water State Revolving Fund or the Clean Water State Revolving Fund. It would qualify for funding under the Drinking Water State Revolving Fund as construction of a public water system. It would qualify for funding under the Clean Water State Revolving Fund as construction of publicly owned treatment works, or a measure to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse.

For these reasons, the Board may provide ARPA funds to ACDES for necessary investments in water and sewer infrastructure. Ashtabula County would be the beneficiary of the funds. If you have any further questions or concerns, please do not hesitate to contact us through the Ashtabula County Prosecutor Client Matrix portal.

Very truly yours,

COLLEEN M. O'TOOLE
PROSECUTING ATTORNEY



Matthew J. Hebebrand
Assistant Prosecutor, Civil Division

“All legal opinions from this office are fact specific and based upon the current status of the statutes involved. Many factors may cause this opinion to change. Given similar factual situations, the Prosecutor’s Office should be consulted to determine whether a prior opinion is still valid under the law.”