



MAYOR AND COUNCIL

COUNCIL RESOLUTION NO. 2009-21

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$2,404,017 WATER AND SEWER REVENUE BONDS OF THE CITY OF DOVER FOR THE CONSTRUCTION OF CERTAIN WATER AND SEWER PROJECTS AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH

WHEREAS, the City of Dover (the "City") is authorized pursuant to Volume 52, Delaware Laws, Chapter 111, as amended by Volume 57, Delaware Laws Chapter 340, Volume 36 Delaware Laws, Chapter 158, as amended, and the City Charter (collectively the "Enabling Acts") to issue revenue bonds for the purpose of financing the extension, reconstruction or improvements to the City's water, sewer and electric systems; and

WHEREAS, pursuant to the Enabling Acts, the City adopted a Bond Resolution on February 27, 1989 (the "Bond Resolution") providing for the issuance of water and sewer revenue bonds and pursuant to the Bond Resolution the City has issued and there remains outstanding its \$7,980,000 Water and Sewer Revenue Bonds, Series 2003 and its \$5,942,481 Water and Sewer Bonds, Series 2009 (the "Outstanding Bonds"); WHEREAS, the City desires to issue additional revenue bonds pursuant to the Bond Resolution on a parity with the Outstanding Bonds; and

WHEREAS, the City has approved certain capital improvements to its Water and Sewer Systems and desires to issue its additional parity revenue bonds pursuant to the Bond Resolution and to pay the costs of said improvements, including, but not limited to the following:

- 1. Bayard Avenue Water Quality Improvements**
- 2. Route 13 Water Quality Improvements**
- 3. East side North State Street**

(the "Projects").

NOW THEREFORE THE CITY OF DOVER HEREBY ORDAINS (AT LEAST THREE FOURTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to the Enabling Acts, and the Bond Resolution the City shall issue its negotiable obligations in the maximum aggregate.

Section 2. Principal amount not to exceed \$2,404,017 to finance or refinance a portion of the cost of the construction and equipping of the Projects, an estimate of which is appended hereto as Exhibit A.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by City Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Projects or any portion thereof; interest on the Bonds and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the costs of issuance of the Bonds and any interim financing; the repayment of temporary loans incurred with respect to the Projects; and the reimbursement of authorized costs previously expended by the City from other funds.

Section 3. Terms of the Bonds. The Bonds shall be sold to the Delaware Drinking Water State Revolving Fund (the "SRF Fund") administered by the State of Delaware Department of Health and Social Services pursuant to the terms of its commitment letter dated January 15, 2010 (the "Commitment Letter"), a copy of which is appended hereto as Exhibit B, and the other terms and conditions to be contained in a Financing Agreement between the City and the SRF Fund (the "Financing Agreement").

It is anticipated that the interest rate for the Loan will be based on the SRF Fund Interest Rate Policy.

Section 4. Security for the Bonds. The principal, interest and premium, if any, on the Bonds shall be payable solely from the City's Net Operating Revenue which is hereby pledged to secure the Bonds on a parity with the Outstanding Bonds. The full faith and credit of the City shall not be pledged to pay principal and interest on the Bonds.

Section 5. Rate Covenant. The City covenants that it will fix and collect rates, fees and other charges for the use of and for services furnished or to be furnished by the System, and will from time to time revise such rates, fees and other charges so that in each Fiscal year the Net Operating Revenue available to pay debt service on the Bonds will equal at least the principal and interest requirements for the Bonds. If, for any reason, the revenues are insufficient to satisfy the foregoing covenant, the City shall within ninety (90) days adjust and increase its rates, fees and other charges or reduce its Operating Expenses so as to provide sufficient Net Operating Revenue to satisfy such requirement.

Section 6. Details of the Bonds. The Mayor and City Treasurer are authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of a lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be executed by the manual or facsimile signature of the Mayor and City Treasurer, shall contain an impression of the City Seal of a facsimile thereof and shall be attested by the manual signature of the City Clerk.

Section 7. Further Action. The Mayor, the President of the City Council, the City Treasurer, the City Manager and the City Clerk are authorized and directed to take such other action on behalf of the City, as may be necessary or desirable to effect the adoption of this Resolution and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Resolution, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Resolution shall become effective immediately upon its passage. The City Clerk is hereby directed to publish once in a newspaper published in the City a notice in substantially the following form:

"NOTICE IS HEREBY GIVEN that the City Council of The City of Dover, Delaware on February 22, 2010 pursuant to Chapter 111, Volume 52, Delaware Laws, as amended, adopted a resolution entitled as follows:

"RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$2,404,017 WATER AND SEWER REVENUE BONDS OF THE CITY OF DOVER FOR THE CONSTRUCTION OF CERTAIN WATER AND SEWER PROJECTS AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH"

"The purpose of the issuance and sale of said bonds is to provide funds (approximately \$2,404,017) to pay a portion of the costs of certain projects including, but not limited to: **[(1) Bayard Avenue Water Quality Improvements; (2) Route 13 Water Quality Improvements; (3) East side North State Street.]**

"Any action or proceeding to contest the validity of said resolution or any of its provisions must be commenced within thirty (30) days after publication of this notice. After expiration of such period of limitation, no right of action or defense founded upon the invalidity of said resolution or any of its provisions shall be asserted, nor shall the validity of said resolution or any of its provisions be open to question in any court upon any ground whatsoever, except in an action or proceeding commenced within such period."

By order of the City Council of the City of Dover.

City Clerk

ADOPTED this 22nd day of February, 2010.

CITY OF DOVER, DELAWARE

Attest:

Clerk, Dover City Council

President, Dover City Council

APPROVED by the Mayor of the City of Dover on the 22nd day of February, 2010.

Mayor

Exhibit A
Estimated Costs of Projects

Project #	Description	Project Estimate
WQ0905	Bayard Avenue Water Quality Improvements	\$533,510
WQ0907	Route 13 Water Quality Improvements	1,023,700
WQ0906	East side North State Street	846,807
	Total Project Estimates	\$2,404,017



**DELAWARE HEALTH
AND SOCIAL SERVICES**
OFFICE OF THE SECRETARY

January 15, 2010

Donna S. Mitchell
City of Dover
5 East Reed Street
Weyandt Hall, Suite 300
Dover, DE 19901

Dear Ms. Mitchell,

**Delaware Drinking Water State Revolving Fund Loan
Binding Commitment Offer
City of Dover**

On behalf of the Delaware Drinking Water State Revolving Fund, (the "**Fund**"). Delaware Health & Social Services (the "**Department**") is pleased to advise you that the Fund has authorized a loan (the "**Loan**") from the Fund to the City of Dover (the "**City**") in the amount of \$2,404,017 for a term of twenty (20) years at an interest rate to be determined per the Fund's current Interest Rate Policy. The Loan will be used for the costs associated with the financing of the distribution system upgrades as approved by the Cabinet Committee on State Planning Issues on December 7, 2009.

It is understood that a water and Sewer Revenue Pledge of the City will secure the Loan. The City must, if applicable, provide the Fund with evidence that other funds and/or financing are in place for the Project costs not funded with the proceeds of the Loan, prior to the closing of the Loan. All legal costs, incurred by the Fund, associated with loan closing shall be borne by the City and may become a part of loan proceeds. Accrued interest on cumulative loan disbursements during construction of the project will be due and payable in semi-annual payments. The full amortization of principal and interest on the Loan shall begin on the date which is the earlier of (i) one year from the date of loan closing or (ii) upon Project completion. If the City has not (i) drawn from the Loan proceeds at least 10% of the Project costs as listed in the Secretary of Finance's Resolution dated December 21, 2009, and (ii) provided a notice to proceed, within one year of the closing date, a penalty of 1% of the total principal amount of the Loan may be imposed at the Department's discretion and drawn from Loan proceeds.

Loan closing and the disbursement of funds thereunder shall also be subject to the receipt by the Fund of requisite funding for the Loan from the United States Environmental Protection Agency by the Fund's Capitalization Grant under the Safe Drinking Water Act of 1996.

The Fund reserves the right to withdraw or alter the terms of the commitment if, between the date of the City's loan application and the date of the closing, the City incurs any debt or its financial condition changes in any way deemed material by the Fund at its sole discretion.

Loan closing and the disbursement of funds in connection therewith shall remain subject to satisfaction of any condition prerequisite thereto established by the Fund.

Letter to Donna S. Mitchell
January 15, 2010
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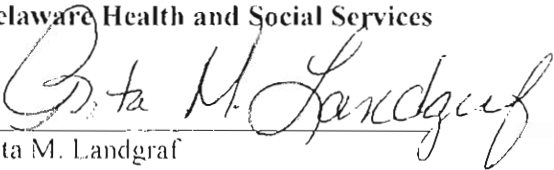
The City shall comply in all respects with all applicable federal laws, regulations and other requirements related to or arising out of or in connection with the project and the funding thereto by the Fund. The City shall also comply in all respects with the Federal Single Audit Act and OMB Circular A-133 as a sub-recipient of federal funds. Where the Fund or the Department determines noncompliance of such requirements, the issue shall be referred to the proper federal authority and/or agency for consultation and/or enforcement action.

If you have any questions concerning the foregoing, please contact Mr. Edward Hallock, Program Administrator for the Office of Drinking Water at (302) 741-8630. If you concur with the terms and conditions herein stated, please acknowledge your acceptance thereof by signing below and returning the original to this office no later than February 1, 2010.

If Loan closing shall not have occurred within 120 days of receipt of this letter, the Fund reserves the right to discontinue processing the City's application.

For the Department:

Delaware Health and Social Services

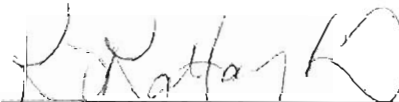


Rita M. Landgraf
Secretary

1/15/10
Date

For the Division:

Delaware Division of Public Health



Karyl T. Rattay, MD, MS, FAAP, FACPM
Director

1/22/10
Date

The foregoing terms and conditions are hereby acknowledged and accepted this _____ day of _____, 2010.

By: _____
Donna S. Mitchell
Controller/Treasurer
City of Dover

(SEAL)

Delaware Safe Drinking Water State Revolving Fund

Resolution of the Secretary of Finance

Whereas, the Delaware Department of Natural Resources and Environmental Control (“DNREC”) in conjunction with the Department of Health and Social Services (“DHSS”) and The City of Dover (the “City”) have negotiated the terms and conditions applicable to a loan to the City from the Delaware Safe Drinking Water State Revolving Fund (the “Fund”) with respect to financing the City’s Water Mains Improvements project.

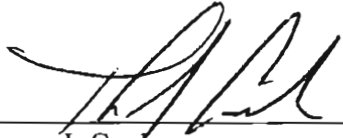
Whereas, the Fund is to loan the City the total principal amount of \$2,404,017 (the “Loan”); and

Whereas, the repayment provisions negotiated by DNREC, DHSS and the City applicable to the Loan provide that:

- A. The Loan shall be a General Obligation Bond secured by the full faith, credit and the taxing power of the City.
- B. The Interest Rate for the loan shall be consistent with current rate policy.
- C. Interest only shall be payable semi-annually during construction.
- D. Upon completion of the project, semi-annual payments of principal and interest shall be payable in an amount sufficient to amortize the outstanding loan balance over a 20 year term.

Whereas, the administrative procedure to be followed in connection with loans from the Fund requires prior written approval of the Secretary of Finance of the terms and conditions of the Loan;

Now, Therefore, I, Thomas J. Cook, Secretary of Finance (Acting) of the State of Delaware, do hereby approve the terms and conditions of the Loan as specified herein this 21st day of December 2009.



Thomas J. Cook
Secretary of Finance (Acting)