

West Virginia Infrastructure and Jobs Development Council

Engineering Design Advance Funding Assistance Program

I. Purpose

This program is established in order to assist utilities with the cost of preconstruction engineering services including preliminary application preparation and detailed design engineering consisting of construction drawings and specifications. Funding of such preconstruction engineering services will be considered by the West Virginia Infrastructure and Jobs Development Council (Council) on a case-by-case basis as requests are received.

II. Authority

West Virginia Infrastructure and Jobs Development Act (Act), West Virginia Code Chapter 31, Article 15A and 15B.

West Virginia Code § 31-15A-2(b) sets forth the definition of “cost”, as applied to any project to be financed in whole or in part with infrastructure revenues, which definition includes the cost of preparation of plans and specifications and other engineering services. All funding provided pursuant to this program must conform with the requirements of the Act and the Legislative Rules of the Council, as set forth in 167 CSR 1.

III. Advance Funding for Preconstruction Engineering Services

A. The project sponsor, prior to submitting to the Council a request for preconstruction engineering services advance funding assistance, must have submitted to the Council a preliminary application for the proposed project and have received from the Council a finding that the project is technically and financially feasible.

B. Any request for preconstruction engineering services advance funding assistance must be submitted to the Council in writing and must include the following information: (1) a description of the proposed project, (2) a copy of the letter received from the Council regarding the technical and financial feasibility of the project, (3) a detailed explanation of the scope of engineering work with completion schedule, (4) a detailed estimate of the engineering fees, (5) a copy of the proposed engineering agreement, which must be in a form and substance satisfactory to the Council, (6) evidence reflecting that the engineering services were procured in accordance with West Virginia Code § 5G-1-1 et seq., and (7) evidence documenting that no other funding source is available to assist in the funding of the detailed engineering which is being requested from the Council. Such evidence would include documentation reflecting that such assistance from other funding sources has been requested and denied.

C. Upon receipt of the funding request, the Council may require the project sponsor to meet with the appropriate water or sewer committee chairman to review the proposed scope of engineering work.

D. Upon a favorable recommendation from the water or sewer committee chairman, if appropriate, the Council will consider the project sponsor's funding request.

E. If the project sponsor does not have any current customers, or if the customer base is inadequate to support loan funding, making the sponsor unable to obligate itself to loan repayment, the advance funding assistance will be in the form of a deferred obligation, such as a deferred loan, loan guarantee or anticipation note, to be repaid as part of the permanent financing provided for the construction of the project. If the project is not ultimately constructed all or any portion of the deferred obligation may at the option of the Council be treated as an uncollectible obligation and the Council will establish an allowance for uncollectible amounts to be applied to loan balances on an annual basis. Non-construction of the project results in the engineering cost being the total project cost. Therefore, in accordance with West Virginia Code § 31-15A-10(b), which limits Infrastructure grant funds to 50% of the total project cost, the Council may only consider funding up to 50% of the amount it determines to be a reasonable fee for the engineering services proposed under this paragraph. However, in no event will the amount provided exceed \$145,000. In determining the reasonable fee, the Council will consider the most recent fee curve published by the American Society of Civil Engineers. Also, in the case of a public service district, the council will take into account the engineering services fee approved by the Public Service Commission in its review of the proposed engineering agreement.

F. If the project sponsor has current customers, any advance funding assistance may be in the form of an immediate loan, or a deferred obligation such as a deferred loan, loan guarantee or anticipation note. If the assistance is in the form of an immediate loan, repayment of the loan will begin on the first quarter (March 1, June 1, September 1, December 1) following the loan closing. At the time of the immediate loan closing, the project sponsor must have authority to charge rates sufficient for repayment of the loan. The immediate loans and the deferred obligations may carry a term of up to 40 years, at an interest rate of 0-3%. In determining what type of funding is appropriate, the Council may consider the project sponsor's current ability to afford a loan. The Council will consider funding up to 70% of the amount it determines to be a reasonable fee for the engineering services proposed. However, in no event will the amount provided exceed \$200,000. In determining the reasonable fee, the Council will consider the most recent fee curve published by the American Society of Civil Engineers. Also, in the case of a public service district, the Council will take into account the engineering services fee approved by the Public Service Commission in its review of the proposed engineering agreement. The Council may require that the design loan be bought out with the project's permanent financing.

G. All funding assistance will be released on a draw down basis, pursuant to a draw schedule established by the Council on a project-by-project basis which ties the release of dollars to certain milestones of completed engineering work. The Council must receive appropriate

requisitions from the project sponsor prior to the release of funding. At a minimum, the requisitions must include an invoice from the engineer detailing the work completed relative to the payment requested. In no event will funding be released more frequently than once a month. The project sponsor, by the terms of the engineering agreement, has the opportunity to dictate the schedule of payments to the engineer.

H. The Council will establish a revolving fund to be used to provide design assistance. The fund will have a maximum dollar amount and will be maintained with repayments of outstanding loans and additional funds provided by the Council if necessary.