

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2009-0086**

ADOPTION OF A CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM  
PRELIMINARY FUNDING COMMITMENT (PFC) FOR THE CITY OF WILLIAMS (CITY),  
WASTEWATER TREATMENT PLANT (WWTP) IMPROVEMENT PROJECT (PROJECT),  
CWSRF PROJECT NO. C-06-4049-110

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the "*Policy for Implementing the CWSRF for Construction of Wastewater Treatment Facilities*" (Policy) and amended it on March 17, 2009;
2. The State Water Board, on September 15, 2009, adopted the State Fiscal Year (SFY) 2009/2010 CWSRF Program Project Priority List, which included the City's Project (which is also known as the City of Williams Wastewater Treatment Facility Compliance Upgrade and Expansion Project) in Priority Class C;
3. The Division of Financial Assistance (Division) approved the amended Facility Plan for the City's Project on November 10, 2009, and the City accepted the amended Facility Plan Approval on November 10, 2009;
4. An independent credit review completed on April 24, 2009, recommended a maximum financing amount of \$10 million, assuming a 20-year term at a one percent (1%) interest rate. Assuming a 30-year payment period and a zero percent (0%) interest rate staff recommends a maximum financing amount of \$17 million;
5. The City is a small (population less than 20,000 persons), disadvantaged (median household income [MHI] less than 80 percent of the Statewide MHI) community with adopted wastewater rates greater than 1.5 percent of the community's 2008 MHI;
6. The Colusa County Grand Jury produced six (6) findings regarding the operation of the City and its financial management practices as part of the *2008-2009 Final Report* (Grand Jury Report), dated June 29, 2009. Due to the Grand Jury findings, Project funding is not routine, and the Project's PFC must be presented to the State Water Board for consideration;
7. The City adopted an Initial Study/Mitigated Negative Declaration (IS/MND) and a Mitigation Monitoring and Reporting Program, and approved the Project on January 30, 2008;
8. The City filed a Notice of Determination with the Colusa County Clerk on February 8, 2008, and with the Governor's Office of Planning and Research on February 13, 2008;
9. State Water Board staff reviewed and considered the information contained in the IS/MND and applicable documents, and determined that the Project will not have any significant adverse water quality impacts; and
10. Conservation measures to avoid impacts to wetlands and special status species will be included as special conditions under Exhibit D of the CWSRF financing agreement.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a CWSRF PFC of \$16,918,943 for the City's Project, with a repayment period of 30 years at a zero percent (0%) interest rate. The first repayment shall be due one year after completion of construction. Per Section X(F) of the Policy, if at any time the requested financing amount exceeds the PFC amount by more than fifty percent (50%) or the credit limit, whichever is less, the Project must receive re-approval of the PFC;
2. Conditions the financing agreement, as determined by the City's credit review, with the following items:
  - a. The financing agreement shall be secured with a pledge of net revenues of the user fees, also known as the Sewer Enterprise Fund and the Sewer Impact Fund;
  - b. The City shall establish a reserve fund, equal to one year's debt service, prior to the completion of construction date;
  - c. The City shall fund a Rate Stabilization Fund equal to the first year's payment of \$563,965, from sewer service charges prior to the due date of the first payment;
  - d. The financing agreement shall be limited to a maximum of \$17 million (at zero percent [0%] interest rate with a 30-year term); and
  - e. The City shall establish rates and charges sufficient to generate net revenues equal to at least 1.25 times annual debt service;
3. Conditions this approval by withdrawing the CWSRF PFC if the City does not sign the CWSRF financing agreement by January 30, 2010. In accordance with Section IX(K)(3) of the Policy, the Deputy Director of the Division or designee may approve up to a 120-day extension of the PFC for good cause;
4. Conditions this approval such that the City must prepare and submit a cost analysis, as part of the Approval of Award, comparing the cost to construct Project facilities based on the eligible peak wet weather flow (i.e., 2.11 million gallons per day) to the cost to construct the Project facilities with adequate capacity to accommodate actual peak flows. Based on that analysis, the Division will make a determination as to any ineligible incremental costs;
5. Conditions the financing agreement to require the City to implement a public education program for two years beginning no later than June 1, 2010, since 12.6 percent (12.6%) of the ratepayers protested the rate increase during the Proposition 218 process;
6. Conditions the financing agreement to require the City to implement the measures identified in the Initial Study/Mitigated Negative Declaration to avoid impacts to wetlands, the giant garter snake, and the vernal pool tadpole shrimp. These measures will be included as special conditions in Exhibit D of the City's CWSRF financing agreement;
7. Conditions the financing agreement to require the City to maintain wastewater rates adequate for proper long-term operations and maintenance over the useful life of the Project (i.e., at least 30 years after the initiation of operations) and CWSRF Program payments. The City must raise wastewater rates if necessary to achieve this goal, and may not lower wastewater rates without Division approval;

8. Conditions the financing agreement to require the City to obtain written approval from the FHA, or appropriate entity, if the financing amount is increased above \$17,029,900; and
9. Conditions the financing agreement to require the City to:
  - a. Submit statements twice a year verifying the coverage ratio is maintained in the payment account for the initial seven (7) years of the financing agreement, at which time the need for this requirement will be revisited;
  - b. Submit monthly construction progress reports;
  - c. Provide copies of the audited fiscal year (FY) 2008-2009 financial statements and the adopted budget plan (with resolution and/or City Council meeting minutes) by December 1, 2009;
  - d. Hire a qualified Finance Officer by no later than April 1, 2010, unless an extension is granted by the Division based on demonstration of good cause by the City. CWSRF Program disbursements will not be processed after April 1, 2010, unless the City demonstrates compliance with this condition or an extension is granted by the Division;
  - e. Submit a comprehensive plan that addresses the Grand Jury Report findings and recommendations, including specific actions taken and proposed (with anticipated completion dates). The plan must be adopted by the City Council and submitted to the Division by January 30, 2010; and
  - f. Submit audited financial statements for the next five (5) FYs, FY 2009-2010 through FY 2013-2014. Each FY's audited financial statements shall be provided to the Division by December 30 of each year.

**CERTIFICATION**


The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on December 1, 2009.

AYE: Chairman Charles R. Hoppin  
 Vice Chair Frances Spivy-Weber  
 Board Member Tam M. Doduc  
 Board Member Arthur G. Baggett, Jr.  
 Board Member Walter G. Pettit

NAY: None

ABSENT: None

ABSTAIN: None

  
 \_\_\_\_\_  
 Jeanine Townsend  
 Clerk to the Board