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DEPT. OF ADMINISTRATIVE SERVICES



Pete Ricketts, Governor

Report to Nebraska Legislature Executive Board

Overview

The Nebraska Legislature approved American Rescue Plan Act of 2021 (ARPA) funding for Wyuka Cemetery for purposes of sediment control and stormwater projects as indicated in LB1014, Section 41. Funding allocated for the project in FY2022-23 totals \$1.8 million. The Legislature directed management of this project to Department of Administrative Services – State Building Division. The following information declares specific eligibility of the Wyuka Cemetery project based on the U.S. Department of Treasury guidelines for ARPA projects.

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American Rescue Plan Act (ARPA) Eligibility

The sediment control and stormwater project at Wyuka Cemetery is considered an “Eligible Use” within the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (SLFRF) established under the American Rescue Plan Act (ARPA) as determined by the Department of the Treasury’s final rule. Specifically, it is within the use provision [t]o make necessary investments in water, sewer, or broadband infrastructure.¹

The Department of Treasury expanded eligibility within this category, to include *a broad range of lead remediation and stormwater management projects*, the latter of which Wyuka Cemetery is regarded. Furthermore, the final rule states, *Treasury interprets the word “infrastructure” in this context broadly to mean the underlying framework or system for achieving the given public purpose, whether it be provision of drinking water or management of wastewater or stormwater.*²

Testifying before the Nebraska Legislature’s Appropriations Committee, Greg Osborn, on behalf of Wyuka Cemetery, summarized the project as follows: “There is a tremendous amount of gravel, sand, yard waste, and trash that comes into the pond at downstream. The report you have answers the issues we currently are dealing with and address is the future success of the stormwater drainage... This will ensure water quality and quantity. This project will greatly benefit the public by creating a better drainage flow for the 255 acres south of Wyuka Cemetery and help reestablish the beauty of Lincoln’s first park.”

***As with other infrastructure projects and capital expenditure projects that are permitted as responses to the public health emergency and its negative economic impacts, costs for planning and design and associated pre-project costs are eligible uses of SLFRF funds.*³**

JEO and Big Muddy Workshop conducted a “Wyuka Pond & Stream Study and Schematic Design” on behalf of Wyuka Cemetery, issuing the final report on December 27, 2021. The reflecting pond at Wyuka Cemetery is acknowledged to lack depth as a result of heavy sediments deposit from the upstream urban watershed, and the report examines various options of which Wyuka Cemetery may address this stormwater project. The chosen option and allocated ARPA funding will be used to “build a bypass pipe with a flow control structure that can direct seasonal flows either around the pond, or into the pond after passing through a forebay, depending upon the anticipated load of heavy sediment.”

DEPARTMENT OF THE TREASURY [31 CFR Part 35 RIN 1505-AC77] Coronavirus State and Local Fiscal Recovery Funds
AGENCY: Department of the Treasury ACTION: Final Rule

¹ I. Introduction (Page 5)

² D. Investments in Water, Sewer, and Broadband Infrastructure 1. WATER AND SEWER INFRASTRUCTURE
Interpretation of Necessary Investments and Water and Sewer Infrastructure (Page 270)

³ D. Investments in Water, Sewer, and Broadband Infrastructure 1. WATER AND SEWER INFRASTRUCTURE
Interpretation of Necessary Investments and Water and Sewer Infrastructure (Page 271)

The [Clean Water State Revolving Fund] CWSRF includes a broad range of stormwater infrastructure projects, and as such these projects were eligible under the interim final rule and continue to be eligible under the final rule. These projects include gray infrastructure projects, such as traditional pipe, storage, and treatment systems. Projects that manage, reduce, treat, or recapture stormwater or subsurface drainage water are also eligible, including real-time control systems for combined sewer overflow management, and sediment control. Culvert infrastructure projects are eligible under the CWSRF if they 1) implement a nonpoint source management plan, 2) implement National Estuary Program Comprehensive Conservation and Management Plan, or 3) implement a stormwater management plan with the goal of providing a water quality benefit.⁴

In accordance with the final rule on projects that manage stormwater and sediment control, the Wyuka Cemetery stormwater project will address the eligibility criteria and control flow through "...a bypass pipe which would be opened seasonally, to route stormwater containing high loads of heavy sediment around the pond. Early spring stormwater flows containing high amounts of sand from city streets would be directed into the bypass pipe. This sediment carrying water would flow through the bypass pipe and outlet into the stream, below the pond. The bypass pipe would be sized to be able to convey storms up to the 90-percentile size, based upon rainstorm frequency. The 90-percentile size storm in Lincoln is about a one-inch rain event.

Based upon preliminary watershed modelling, the diameter of the bypass for this pipe would be 36-inches. At the pipe outlet, the receiving area will be reshaped and armored with rip-rap for energy dissipation and erosion control."

Green infrastructure projects that support stormwater system resiliency could include bioretention basins that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces.⁵

The Wyuka Pond & Stream Schematic Design & Study Final Report addresses filtration benefits away from impervious surfaces as part of an analysis of the proposed options conducted by Common Sense Water Resources Engineering, Appendix "C" of the report.

In addition to the eligible uses under the CWSRF, Treasury is expanding the eligible uses under the final rule to include stormwater system infrastructure projects regardless of whether there is an expected water quality benefit from the project. All stormwater infrastructure projects undertaken should incorporate updated design features and current best practices.⁶

As Wyuka Cemetery's pond is central to the project and sediment control, the report incorporates considerations of how to "protect or enhance water quality" as summarized in Appendix "D", an advantage overall, but not a requirement as acknowledged in the rule. Additionally, a stream analysis was conducted with recommendations for corrective actions and stabilization. These considerations, as well as design concepts, including a smaller forebay, and ongoing sediment removal take into account best practices for construction and maintenance.

⁴ D. Investments in Water, Sewer, and Broadband Infrastructure 1. WATER AND SEWER INFRASTRUCTURE *Stormwater Infrastructure* (Page 281)

⁵ D. Investments in Water, Sewer, and Broadband Infrastructure 1. WATER AND SEWER INFRASTRUCTURE *Drinking Water State Revolving Fund and Clean Water State Revolving Fund* (Page 272)

⁶ D. Investments in Water, Sewer, and Broadband Infrastructure 1. WATER AND SEWER INFRASTRUCTURE *Stormwater Infrastructure* (Page 282)