

Ohio Water Development Authority / Ohio Department of Development Alternative Stormwater Infrastructure Loan Program Policies

Program Description: The Ohio Water Development Authority (OWDA) established the Alternative Stormwater Infrastructure Loan Program (ASILP) on December 9, 2010 under Resolution 104-10 pursuant to Ohio Revised Code (ORC) Section 6121, for the purpose of providing financial assistance for storm water management projects that promote economic development in a manner that is environmentally beneficial.

The following policies are established for the ASILP as a result of the aforementioned resolution, including partnership with the Ohio Department of Development (Department). The Department and OWDA, utilizing the Alternative Stormwater Infrastructure Loan Program, may provide loans up to \$5,000,000 for alternative stormwater infrastructure projects.

Section 1: Eligible Borrowers

- 1.01 Eligible borrowers (hereinafter "borrowers") include Governmental Agencies including but not limited to municipal corporations, counties, townships, sewer and water districts, and conservancy districts.
- 1.02 Non-profit organizations and for-profit organizations are eligible Development Partners if they have entered into an agreement with an applicant identified in Policy 1.01.
- 1.03 Borrowers must own or have access to the property that is the subject of the application.
- 1.04 Borrowers must be authorized to incur debt and enter into legally binding agreements.
- 1.05 Borrowers must be financially sound and have the ability to repay the loan.
- 1.06 Borrowers identified in Policy 1.01 shall be signatories on the OWDA loan agreement entered into with the Director of OWDA and these entities. Parties identified in Policy 1.02 may not be signatories on the loan agreement.
- 1.07 OWDA loans shall be disbursed by OWDA only to borrowers identified in Policy 1.01, pursuant to the loan agreement entered into between OWDA and such borrowers.
- 1.08 Borrowers must be current on all taxes, loan payments, or other financial agreements with the State of Ohio or any political subdivision.

Section 2: Eligible Properties

- 2.01 The property must be in currently or previously developed areas.
- 2.02 The applicant must demonstrate that it possesses all necessary legal access to the property to complete the project. If the property or any portions of the property are subject to a lease agreement, the application must include a copy of the lease agreement or other agreement that provides the applicant with legal access to complete the project.

- 2.03 The property must have a plan for redevelopment or improvement that will result in economic benefit and revitalization of the community, such as created or retained jobs, new or rehabilitated housing, leveraged investment, or expansion of community services.

Section 3: Ineligible Properties

- 3.01 Current or former solid waste facilities.
- 3.02 Land currently used for agricultural purposes.
- 3.03 Properties lacking existing infrastructure, such as roadways, utility connections, drainage systems, and sewer and water services.
- 3.04 Property deemed ineligible as determined by the Agency utilizing the principles described above for eligible properties.

Section 4: Eligible Project Costs

- 4.01 The expenditures of the ASILP are to provide financial assistance for alternative stormwater infrastructure projects that promote economic development in a manner that is environmentally beneficial.
- 4.02 In accordance with ORC 4115, prevailing wage rates may apply to all activities that are part of the stormwater project's total costs.
- 4.03 Funds for indirect and/or administrative costs, which include but are not limited to the costs of: application preparation, legal and accounting work related to the application and/or project implementation, and compliance with applicable local, state, and federal laws, rules, and policies governing the project and/or loan agreement are eligible costs.
- 4.04 Consulting fees, including those for professional engineering and design services are eligible costs.
- 4.05 Site preparation, including grading, earthwork, and demolition required to support the stormwater project are eligible costs.
- 4.06 Materials for the alternative stormwater project including but not limited to: quality control components such as pipes, plantings, and soils; hardscape materials such as permeable pavement, permeable asphalt, and permeable concrete; and educational signage used to inform the public about the project are eligible costs.
- 4.07 Construction and installation costs specific to the project are eligible costs.
- 4.08 Associated maintenance for the initial period of project establishment prior to owner acceptance, based on the project contract, is an eligible cost.
- 4.09 Fees required for Leadership in Energy and Environmental Design (LEED) green building certification.

Section 5: Ineligible Project Costs

- 5.01 Demolition related to redevelopment activities on the site outside of the stormwater project area.
- 5.02 Costs for operation and maintenance of the stormwater project (not including maintenance for the project establishment period as specified in 4.08)
- 5.03 Acquisition costs.
- 5.04 Development activities including new building construction and marketing of property.
- 5.05 Infrastructure activities unrelated to the stormwater project.

Section 6: Total Project Costs

- 6.01 Total project costs are all dollars to be expended at the property for demolition, design and construction of the stormwater project. Borrowers can receive loan funds for eligible costs expended up to twelve (12) months prior to the loan agreement being executed and eligible costs expended after the loan agreement has been executed.
- 6.02 The cost estimates must be signed by an Ohio Professional Engineer as defined in O.R.C. 4733, Registered Landscape Architect as defined in O.R.C. 4703, or construction manager, and must be accompanied by a statement certifying that the cost estimates are reasonable and necessary and are no higher than for like expenditures on like projects in Ohio.
- 6.03 The Department and OWDA retain the right to require any additional documentation in support of the reasonable and necessary cost estimates. The burden will be on the applicant to show, to the Department or OWDA's satisfaction, that the above standard has been met.
- 6.04 The total project costs must be presented in the application in a unit and itemized cost form. All subcontractor costs greater than \$50,000 must be accompanied by a third party cost estimate for the services that would be provided.

Section 7: Loan Terms

- 7.01 The term of a loan awarded under the ASILP will not exceed ten (10) years.
- 7.02 Repayment of the loan will be by semi-annual payments of principal and interest to OWDA pursuant to a contract between the borrower and OWDA. The sale or leasing of the property during the term of the loan shall trigger prepayment of the outstanding principal in full as determined by the Department or OWDA.
- 7.03 The initiation of repayment will be negotiated between the borrower and the Department when the loan terms are being established.
- 7.04 The Department imposes no pre-payment penalty.

- 7.05 Interest rates for the ASILP will be determined in negotiations between the borrower and the Department.
- 7.06 Under the ASILP, OWDA requires a shared-priority mortgage and/or lien position, on the assets financed with the ASILP loan proceeds to be established via a multi-party agreement between the participating lenders(s), OWDA and the borrower. Personal guarantees are required from owners with more than 20 percent ownership in the company. In appropriate circumstances the Department will evaluate other types of credit enhancement equal to the shared priority mortgage and/or lien position on the assets financed with ASILP loan proceeds. The Department also will consider subordination, of its mortgage and/or security position to the security of banks and other providers of traditional senior debt, where deemed appropriate.
- 7.07 Additional security measures may include corporate guarantees from related companies; a full or partial letter of credit; and/or the life insurance on key business owners and/or managers.

Section 8: Application Process

- 8.01 All applicants are required to hold a Project Resource and Advisory Meeting that includes a visit to the project property with the Department prior to the submission of the application to the Department. Applicants must complete a meeting request form at <http://www.development.ohio.gov/urban/asilp>.
- 8.02 The applicant must submit one (1) original copy and one (1) electronic copy of the completed application, with all required financial documentation and the application fee, to the following address:
Ohio Department of Development, Urban Development Division
Attn: Alternative Stormwater Infrastructure Loan Program
77 South High Street, 26th floor
Columbus, Ohio 43215
- 8.03 Upon receipt of the application, the Department will perform the application review and credit analysis.
- 8.04 Credit analysis will include but is not limited to the following factors:
- The adequacy, timeliness and completeness of the applicant's financial statements;
 - Applicant's record of earnings and cash flow;
 - Applicant's history of borrowing and adherence to the terms and conditions of those borrowings;
 - Information from bank and credit references;
 - Applicant's Redevelopment Plan demonstrating the economic viability of the project and identifying the sources of repayment of the loan;
 - Applicant's ability to manage the project; and
 - Other factors the Department may deem appropriate to the particular conditions of the project.

Section 9: Application Contents

- 9.01 The application is comprised of the following parts:
- Part A

- Applicant and Project Information Form
- Application Summary
- Development Partner Certification and Partnership Agreement (if applicable)
- Tax Information and Disclosure Form
- Financial Liability form
- Copy of legal description and plat map(s)
- Copy of current property title
- Copy of access agreement (if applicable), and purchase agreement (if applicable) for the entire project property
- Part B
 - Most recent audit or auditor report from state auditor's website
 - Three years historical financial statements/past budgets
 - Interim financial statement/current budget
 - Projected financial statements for the current and next three years/project budgets
 - Personal financial statements (if applicable)
 - Real Estate Appraisal
 - Pro forma for the development project (if applicable)
 - Participating parties and lenders contact information
 - Sources and Uses of Funds
- Part C
 - Alternative Stormwater Strategy
 - Compliance with Local Plans and Regulations
 - Detailed drawings of the stormwater system
 - Time Schedule for Redevelopment (if applicable)
 - Work Plan and Cost Estimates
 - Project Deliverables Worksheet

Section 10: Loan Approval Process

- 10.01 If a project is to be recommended for funding, preliminary terms will be provided by the Department staff to the borrower after receiving the application.
- 10.02 The borrower will determine whether to accept the preliminary terms provided by the Department.
- 10.03 The Department will submit recommended projects to OWDA on the 15th of each month.
- 10.04 The Board of OWDA will vote to approve or disapprove the project at its monthly meeting. The borrower is required to attend this meeting.
- 10.05 The loan commitment letter will be issued to the borrower by OWDA.
- 10.06 Upon receipt of the signed loan commitment letter, loan closing documents will be prepared by OWDA with assistance from the Department.
- 10.07 The borrower will submit the signed loan agreement along with the loan administration fee to OWDA.

10.08 Upon completion of eligible activities at the property, the borrower will submit loan disbursement requests to the Department. The Department will review requests and recommend disbursement to OWDA who will disburse proceeds to the borrower.

Section 11: Approved Projects

11.01 Approved projects must commence within eighteen (18) months of the loan agreement effective date. Commencement includes award of contract for the demolition and/or construction contractors.

11.02 Project deliverables must be submitted to ODOD within five (5) years of the date that the loan agreement is executed by the Director of OWDA, unless an extension is granted by OWDA.

11.03 The property legal description at the time of project completion must be identical to the property legal description identified in the application.

Program policies will be revised on a periodic basis to ensure compliance with changes in Federal and State laws, rules and regulations.

Definitions

Ability to pay – Legal solvency or having sufficient assets to pay the costs of the project.

Alternative Stormwater Infrastructure – Infrastructure associated with stormwater management that encompasses approaches and technologies to infiltrate, evapotranspire, capture, and reuse stormwater to maintain or restore natural hydrologies.

Developed Area – An area of land upon which improvements, such as infrastructure, grading, buildings, and/or utility connections, have been made, and/or which is surrounded by built-up areas.

Governmental agencies – Includes municipal corporations, counties, townships, sewer and water districts, and conservancy districts as well as entities referenced in ORC 6121.01.

Loan Agreement Effective Date – The date on which the Loan Agreement is signed by both the OWDA and the borrower.

Property – Any parcel of real property, or portion of such parcel, and any improvements to it.

Redevelopment – Development that occurs on previously developed land.

Stormwater Management - The management of the quantity and quality of stormwater.

Stormwater Project – Those eligible activities in the loan agreement to be completed within the timeline of the loan agreement.

Stormwater Project Area – The stormwater project area contains the footprint of the stormwater project and may include adjacent areas that are inherent to the system's functioning.

Total project costs – All dollars expended (or to be expended) at the property for eligible activities in section 4 of these policies, and that are needed to complete the project.