

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: January 29, 2015

TEAM MANAGER: Clay Schultz

APPLICANT	Silver Creek Village Water Supply Corporation
TYPE OF ASSISTANCE	\$447,000 Loan Forgiveness
LEGAL PLEDGE	N/A; 100% Loan Forgiveness

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, a request from **Silver Creek Village Water Supply Corporation (Burnet County)** for \$447,000 in loan forgiveness from the Drinking Water State Revolving Fund to finance planning, design, and construction costs for water treatment improvements to bring the system into compliance and address an urgent need related to drought.

PROJECT

Groundwater Treatment-Urgent Need
Project Number 62652

FINANCIAL SUMMARY

Risk Score:	N/A
Pledge for Repayment:	N/A
Proposed Repayment Method:	N/A

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON JANUARY 31, 2016

FINANCIAL

Key Issues

Silver Creek Village Water Supply Corporation (Corporation) qualifies for \$447,000 in loan forgiveness from the Drinking Water State Revolving Fund program, consisting of \$200,000 in Very Small Systems funding and \$247,000 in Urgent Need funding.

The recommendation for urgent need funding is supported based on the Governor's Emergency Disaster proclamation certifying exceptional drought conditions in specified counties in Texas. The Governor of the State of Texas issued an Emergency Disaster Proclamation on July 5, 2011, which was renewed on January 18, 2015. The proclamation includes Burnet County, where the Corporation is located.

Cost Savings

Based on a 100% loan forgiveness amount of \$447,000, the Corporation could save approximately \$905,000 over the life of the commitment.

Internal Risk Score

The funding being provided by the TWDB is in the form of 100% loan forgiveness and therefore is not subject to the risk score. For loan forgiveness in the Drinking Water State Revolving Fund, TWDB staff reviews financial information and other documentation to assess the entity's ability to manage existing obligations and business practices. Based on this analysis, staff believes the Corporation has adequate capabilities to manage its obligations.

LEGAL

Key Issues

None.

CONDITIONS

Standard loan forgiveness conditions, and further conditioned as follows:

- Executed loan forgiveness agreement;
- Return of surplus funds;
- Pre-design funding;
- Notification of conversion;
- Notification of conveyance;
- Completion of consultation; and,
- Water Rights Certification.

Attachments:

1. Project Data Summary
2. Engineering/Environmental Review
3. Project Budget
4. Resolution (15-)
5. Water Conservation Review
6. Location Map

Project Data Summary

Authority	Silver Creek Village Water Supply Corporation
Program	Drinking Water State Revolving Fund
Commitment Code	LF1000410
Project Number	62652
Intended Use Plan Year	2015
Fund Number	951
Type of Pledge	N/A (100% Loan Forgiveness)
Revenue Pledge Level	N/A
Legal Description	\$447,000 Loan Forgiveness Agreement
Tax-exempt or Taxable	Taxable
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Population	250
Rural	Yes
Water Connections	100
Wastewater Connections	None
Qualifies as Disadvantaged	No
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
Financial, Managerial, and Technical Review Complete?	No
Funding Phase Code	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Exempt (less than \$500,000)
Water Rights Certification Required	Yes
Internal Risk Score	N/A
External Ratings (for SRF rates)	
Standard and Poor's	Non-Rated
Moody's	Non-Rated
Fitch	Non-Rated
Special Issues	100% loan forgiveness in Very Small Systems and Urgent Need funding

Project Team

Project Manager	Clay Schultz
Financial Analyst	Maxine Gilford
Engineering Reviewer	John Muras
Environmental Reviewer	Nicki Hise
Attorney	Barbara Watson

Silver Creek Village WSC
Engineering and Environmental Review

Engineering:Key Issues

None known at this time.

Project Need / Description

Need: Silver Creek Village is a small community of approximately 250 people located along the eastern shore of Lake Buchanan. The Silver Creek Village Water Supply Corporation (the Corporation) has been operating under Stage 4 of their Drought Contingency Plan since February 2012 due to extended drought conditions. In response to reduced production of the primary well supplying the system, the Corporation initiated construction of a new well in July of 2013 utilizing Texas Department of Agriculture Disaster Relief funding. Initial water samples of a test well indicated satisfactory water quality in the area, however, the water quality of the new well does not meet minimum water quality standards for radium concentrations and the well has not been approved for use as a public water supply.

Project Description: The Corporation is requesting Very Small Systems and Urgent Need Funding from the Drinking Water State Revolving Fund to fund planning, design and construction of water treatment improvements to address the water quality issues of the newly constructed well. The Corporation has evaluated alternatives and is proposing a media-based filtration system for radium removal.

Project Schedule

Project Task	Schedule Date
Closing	3/4/2015
Engineering Feasibility Report Completion (End of Planning Phase)	5/1/2015
Design Phase Complete	5/1/2015
Start of Construction	6/15/2015
Construction Completion	11/14/2015

Environmental:Key Issues

The Executive Administrator recommends to the Board that the proposed project be declared an Emergency Relief Project. This designation allows environmental review of the project to be expedited when the preparation of documentation and issuance of an environmental finding to comply with the National Environmental Policy Act would potentially increase the risk to public health, safety, environment, or welfare. In making this designation, the Board recognizes the imminent peril imposed by project delays.

Environmental Summary

Pursuant to the requirements of 31 Texas Administrative Code §371.51, all financial assistance shall be conditioned to read that funding for design and construction costs for the proposed project will not be released until consultation required by the National Historic

Silver Creek Village WSC

Engineering and Environmental Review

Preservation Act and Endangered Species Act have been completed. In accordance with Emergency Relief Project procedures, a subsequent affirmation of commitment will be required for this project.

Silver Creek Village WSC
62652 - Groundwater Treatment - Urgent Need

Budget Items	TWDB Funds	Total Cost
Construction		
Construction	\$378,000	\$378,000
Construction Total	\$378,000	\$378,000
Basic Engineering Services		
Construction		
Engineering	\$5,000	\$5,000
Design	\$20,000	\$20,000
Planning	\$5,000	\$5,000
Basic Engineering Services Total	\$30,000	\$30,000
Special Services		
Environmental	\$5,000	\$5,000
Permits	\$9,000	\$9,000
Pilot Testing	\$20,000	\$20,000
Testing	\$5,000	\$5,000
Special Services Total	\$39,000	\$39,000
Grand Total	\$447,000	\$447,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO SILVER CREEK VILLAGE WATER SUPPLY CORPORATION
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH A LOAN IN THE AMOUNT OF \$447,000
WITH 100% LOAN FORGIVENESS

(15-)

WHEREAS, the Silver Creek Village Water Supply Corporation, located in Burnet (Corporation) has filed an application for financial assistance in the amount of \$447,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62652; and

WHEREAS, the Corporation seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$447,000 with 100% to be forgiven, as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the TWDB hereby finds:

1. that no debt obligations are to be assumed by the Corporation for the loan and no taxes or revenues are required to be pledged by the Corporation;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the Corporation is exempt from requirements to adopt a water conservation program because the TWDB's financial assistance will be \$500,000 or less;
4. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j);
5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the Corporation and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. that the project is an Emergency Relief Project under 31 TAC § 371.40(7) and § 371.51; and
7. that the project is considered an Urgent Need Project under the current Intended Use Plan, and is therefore eligible for an additional subsidy through the DWSRF.

NOW, THEREFORE, based on these findings, the TWDB resolves as follows:

A commitment is made by the TWDB to the Silver Creek Village Water Supply Corporation for financial assistance in the amount of \$447,000 from the Drinking Water State Revolving Fund with 100% of the loan forgiven. This commitment will expire on January 31, 2016.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the Corporation's compliance with all applicable requirements contained in 31 TAC Chapter 371;
3. the Loan Forgiveness Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Loan Forgiveness Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
4. loan proceeds are public funds and, as such, the Loan Forgiveness Agreement must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
5. loan proceeds shall not be used by the Corporation when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Loan Forgiveness Agreement shall include an environmental indemnification provision wherein the Corporation agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the Corporation, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;
6. prior to closing, and if not previously provided with the application, the Corporation shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;
7. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the Corporation shall execute an escrow or trust agreement, approved as to form

and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

8. the Executive Administrator may require that the Corporation execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

State Revolving Fund Conditions

9. the Corporation shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
10. the Loan Forgiveness Agreement must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The Corporation, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
11. the Loan Forgiveness Agreement must include a provision stating that the Corporation shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The Corporation shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during the term of the Loan Forgiveness Agreement;
12. the Loan Forgiveness Agreement shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the Corporation will adhere to the approved project schedule;
13. the Loan Forgiveness Agreement must contain a covenant that the Corporation will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

14. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the Corporation has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Loan Forgiveness Agreement; and

15. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the Corporation must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program.

PROVIDED, however, the commitment is subject to the following special conditions:

Special Conditions:

1. the loan is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC Chapter 371;
2. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the Corporation has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;
3. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the Corporation has the right to use the water that the project financed by the TWDB will provide;
4. the Corporation must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility;
5. the Obligations must include a provision requiring that, prior to any action by the Corporation to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB;
6. prior to closing, the Corporation shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
7. the Loan Forgiveness Agreement must include a provision stating that the Corporation shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator; and
8. prior to the release of acquisition, design, and construction funds, the Corporation shall complete the consultations required by the Endangered Species Act and the National Historic Preservation Act.

APPROVED and ordered of record this 29th day of January, 2015.

TEXAS WATER DEVELOPMENT BOARD

Carlos Rubinstein, Chairman

DATE SIGNED: _____

ATTEST:

Kevin Patteson
Executive Administrator

WATER CONSERVATION REVIEW

Entity: _____ Review date: _____

WATER CONSERVATION PLAN DATE:**Approvable****Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
Baseline				
5-year Goal				
10-year Goal				

WATER LOSS AUDIT YEAR:

Apparent loss (gallons): _____

Real loss (gallons): _____

Produced water (gallons): _____

Total water loss (percent): _____

Connections per mile: _____

Total water loss (GPCD): _____

If < 32 connections per mile, real loss (gallons) per mile per day: _____

(Average real loss for less than 32 connections is 1,154 gal/mile/day)

If > 32 connections per mile, real loss (gallons) per connection per day: _____

(Average real loss for greater than 32 connections is 47 gal/connection/day)

If > 16 connections per mile and > 3,000 connections

Infrastructure Leakage Index (ILI): _____

ADDITIONAL INFORMATION:**STAFF NOTES AND RECOMMENDATIONS:**

DEFINITIONS

Adopted refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formerly approved and adopted by the applicant's governing body.

Apparent loss refers to unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

Approvable refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

GPCD means gallons per capita per day.

Infrastructure Leakage Index (ILI) is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 5,000 connections, average pressure greater than 35 psi, and a connection density of more than 32 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a bench marking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

NA means not applicable.

Produced water is the total amount of water purchased or produced by the utility.

Real loss comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

Residential GPCD is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

Total baseline GPCD is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

Total water loss is the sum of the apparent and real water losses.

NOCA - Silver Creek Village WSC, Burnet County

