

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: February 25, 2015

PRESENTED BY: Brenner Brown

APPLICANT	Baylor Water Supply Corporation
TYPE OF ASSISTANCE	\$500,000 Loan Forgiveness
LEGAL PLEDGE	N/A; 100% Loan Forgiveness

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, a request from the **Baylor Water Supply Corporation (Baylor, Knox, Archer, Throckmorton, Young Counties)** for \$500,000 in loan forgiveness from the Drinking Water State Revolving Fund to finance the planning, design and construction of the Bufkin well field to address an urgent need related to drought.

PROJECT

Urgent Need - Bufkin Well Field Development
Project Number 62672

FINANCIAL SUMMARY

Risk Score:	N/A
Pledge for Repayment:	N/A
Proposed Repayment Method:	N/A
Operating Trends:	Positive

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON FEBRUARY 29, 2016

FINANCIAL

Key Issues

The Baylor Water Supply Corporation (Corporation) qualifies for \$500,000 in loan forgiveness from the Drinking Water State Revolving Fund Urgent Need Funding. TWDB staff have issued a determination of Urgent Need for this project due to drought related reductions in water supply resulting in the loss of water within 180 days.

Cost Savings

Based on a 100% Loan Forgiveness amount of \$500,000 the Corporation could save approximately \$815,876 over the life of the commitment when compared to market interest rates and a 30-year term.

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 grants and loan forgiveness, TWDB staff reviews audited 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 Drinking Water State Revolving Fund Loan forgiveness conditions and further conditioned as follows:

- Conversion;
- Water rights certification;
- Emergency discovery conditions;
- Executed loan forgiveness agreement;
- Consultations required by Endangered Species Act and NHPA;
- Pre-design funding; and
- Return surplus funds.

Attachments:

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

Project Data Summary

Authority	Baylor Water Supply Corporation
Program	Drinking Water State Revolving Fund
Commitment Code	LF1000411
Project Number	62672
Intended Use Plan Year	2015
Fund Number	951
Type of Pledge	N/A
Revenue Pledge Level	N/A
Legal Description	\$500,000 Loan Forgiveness
Tax-exempt or Taxable	Taxable
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	2,058
Rural	Yes
Water Connections	1,004
Wastewater Connections	1,004
Qualifies as Disadvantaged	N/A
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
Financial Managerial & Technical Complete	No
Phase Committing	Planning, Design and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Exempt
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	None.

Project Team

Team Manager	Brenner Brown
Financial Analyst	Dain Larsen
Engineering Reviewer	Joanne Duncan
Environmental Reviewer	Jennifer Kennedy
Attorney	Joe Reynolds

Baylor WSC
Engineering and Environmental Review

Engineering:Key Issues

Baylor Water Supply Corporation (Corporation) is using funds remaining within the 2014 TWDB Rural Water Assistance Fund commitment to address their approximate 25% water loss. The Corporation will begin replacing older, inaccurate water meters with new meters to address the losses.

The Corporation will also be working cooperatively with the City of Megargle to complete an emergency inter-connection between their water systems, allowing Megargle access to additional water supplies.

Project Need / Description

Need: The Corporation needs to develop additional water supplies due to declining production within their existing wells attributed to the on-going drought.

Project Description: The Corporation is proposing to drill two new wells and place a third existing well into production. Groundwater from the three wells will be gathered and transported through a 8-inch diameter pipeline to an existing 12-inch pipeline. The 12-inch pipeline transports raw water to the City of Seymour (City) Reverse Osmosis treatment for final treatment to potable water standards. The Corporation contracts with the City for treatment of water. The Corporation is also proposing to construct an emergency inter-connect to the City of Megargel, whose water supply is also affected by the severe drought conditions.

Project Schedule

Project Task	Schedule Date
Closing	4/30/2015
Engineering Feasibility Report Completion (End of Planning Phase)	4/30/2015
Design Phase Complete	6/29/2015
Start of Construction	7/27/2015
Construction Completion	1/29/2016

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.

Baylor WSC
Engineering and Environmental Review

Environmental Summary

Pursuant to the requirements of 31 Texas Administrative Code §371.51, environmental review procedures for Emergency Relief Projects to be funded through the DWSRF Program, consultations required to comply with the National Historic Preservation Act and Endangered Species Act, have been completed. The Corporation coordinated with the Texas Historical Commission and the U.S Fish and Wildlife Service. No adverse comments were received. An Emergency Memo To File was issued on February 4, 2015.

Baylor WSC
62672 - Urgent Need - Bufkin Well Field Development

Budget Items	TWDB Funds	TWDB Funding %	Total Cost
Construction			
Construction	\$360,750		\$360,750
Construction Total	\$360,750	72.2%	\$360,750
Basic Engineering Services			
Construction Engineering	\$8,400		\$8,400
Design	\$33,600		\$33,600
Planning	\$5,000		\$5,000
Basic Engineering Services Total	\$47,000	9.4%	\$47,000
Special Services			
Application	\$10,000		\$10,000
Environmental	\$10,000		\$10,000
Inspection	\$2,500		\$2,500
Permits	\$1,500		\$1,500
Surveying	\$10,000		\$10,000
Testing	\$1,000		\$1,000
Special Services Total	\$35,000	7.0%	\$35,000
Contingency			
Contingency	\$57,250		\$57,250
Contingency Total	\$57,250	11.5%	\$57,250
Grand Total	\$500,000	100.0%	\$500,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO BAYLOR WATER SUPPLY CORPORATION
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH A LOAN IN THE AMOUNT OF \$500,000
WITH 100% LOAN FORGIVENESS

(15-)

WHEREAS, the Baylor Water Supply Corporation (Corporation) has filed an application for financial assistance in the amount of \$500,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62672; and

WHEREAS, the Corporation seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$500,000 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 the project is an Emergency Relief Project under 31 TAC §§ 371.40(7) and 371.51; and
6. 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 Baylor Water Supply Corporation for financial assistance in the amount of \$500,000 from the Drinking Water State Revolving Fund with 100% of the loan forgiven. This commitment will expire on February 29, 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 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;
3. 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;
4. prior to closing, the Corporation shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
5. 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;
6. the Corporation must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator; and
7. 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 25th day of February, 2015.

TEXAS WATER DEVELOPMENT BOARD

Carlos Rubinstein, Chairman

DATE SIGNED: _____

ATTEST:

Kevin Patteson
Executive Administrator

**Baylor WSC,
Baylor, Archer, Knox, Throckmorton & Young Counties**

