

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: February 25, 2015

PRESENTED BY: Brenner Brown

APPLICANT	City of Malone
TYPE OF ASSISTANCE	\$179,000 Loan Forgiveness
LEGAL PLEDGE	N/A; 100% Loan Forgiveness

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, a request from the **City of Malone (Hill County)** for \$179,000 in loan forgiveness from the Drinking Water State Revolving Fund to finance the planning, design, and construction phases of water meter placement.

PROJECT

Water Meter Replacement
Project Number 62668

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 City of Malone (City) qualifies for a \$179,000 in Loan Forgiveness from the Drinking Water State Revolving Fund Very Small Systems Program.

Cost Savings

Based on a 100% Loan Forgiveness amount of \$179,000 the City could save approximately \$288,077 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 City 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:

- Executed loan forgiveness agreement;
- Standard emergency discovery conditions;
- 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	City of Malone
Program	Drinking Water State Revolving Fund
Commitment Code	LF1000403
Project Number	62668
Intended Use Plan Year	2015
Fund Number	951
Type of Pledge	N/A
Revenue Pledge Level	N/A
Legal Description	\$179,000 Loan Forgiveness
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	285
Rural	Yes
Water Connections	173
Wastewater Connections	173
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 (Less than \$500,000)
Water Rights Certification Required	No
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

Malone
Engineering and Environmental Review

Engineering:Key Issues

None known at this time.

Project Need / Description

Need: The City of Malone (City) needs to replace aging water meters to more accurately record the actual water used by customers.

Project Description: The City is proposing to replace all of their aged water meters within their service area to address water loss issues.

Project Schedule

Project Task	Schedule Date
Closing	5/1/2015
Engineering Feasibility Report Completion (End of Planning Phase)	8/15/2015
Design Phase Complete	9/1/2015
Start of Construction	10/1/2015
Construction Completion	1/15/2016

Environmental:Key Issues

None known at this time.

Environmental Summary

A Categorical Exclusion (CE) for this project has been proposed. Pursuant to the requirements of 31 Texas Administrative Code (TAC) §371.41, all financial assistance shall be conditioned to read that funding for design and construction costs for specific project elements will not be released until the environmental review has been completed and a favorable CE has been issued by the Director of Regional Water Planning & Development.

Malone
62668 - Water Meter Replacement

Budget Items	TWDB Funds	TWDB Funding %	Total Cost
Construction			
Construction	\$129,000		\$129,000
Construction Total	\$129,000	72.1%	\$129,000
Basic Engineering Services			
Construction Engineering	\$3,500		\$3,500
Design	\$18,000		\$18,000
Basic Engineering Services Total	\$21,500	12.0%	\$21,500
Special Services			
Environmental	\$4,500		\$4,500
Project Management (by engineer)	\$4,000		\$4,000
Special Services Total	\$8,500	4.7%	\$8,500
Contingency			
Contingency	\$8,000		\$8,000
Contingency Total	\$8,000	4.5%	\$8,000
Other			
Administration	\$10,000		\$10,000
Other Total	\$10,000	5.6%	\$10,000
Fiscal Services			
Fiscal/Legal	\$2,000		\$2,000
Fiscal Services Total	\$2,000	1.1%	\$2,000
Grand Total	\$179,000	100.0%	\$179,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO CITY OF MALONE
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH A LOAN IN THE AMOUNT OF \$179,000
WITH 100% LOAN FORGIVENESS

(15 -)

WHEREAS, the City of Malone (City) has filed an application for financial assistance in the amount of \$179,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62668; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$179,000 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 City for the loan and no taxes or revenues are required to be pledged by the City;
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 City 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 City and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. that the City meets the definition of a small water system in accordance with 31 TAC § 371.1(60) and the current Intended Use Plan, and is therefore eligible for subsidy through the DWSRF; and
7. that the Executive Administrator issued a Categorical Exclusion on December 19, 2014, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract

documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the City of Malone for financial assistance in the amount of \$179,000 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 City'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 City 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 City 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 City, 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 City 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 City 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 City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

State Revolving Fund Conditions

9. the City 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 City, 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 City 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 City 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 City will adhere to the approved project schedule;
13. the Loan Forgiveness Agreement must contain a covenant that the City 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 City 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 City 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 closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
3. the Loan Forgiveness Agreement must include a provision stating that the City shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator; and
4. the City must comply with the standard emergency discovery conditions for threatened and endangered species and for cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

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

**City of Malone,
Hill County**

