

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: January 22, 2019

TEAM MANAGER: Nancy Richards

APPLICANT	City of Nome
TYPE OF ASSISTANCE	\$500,000 Principal Forgiveness
LEGAL PLEDGE	N/A; 100 percent principal forgiveness

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution a request from the City of Nome (Jefferson County) for \$500,000 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction of a Hurricane Harvey disaster recovery project.

PROJECT

2018 CWSRF Sanitary Sewer Urgent Need Project
Project Number 73817

BACKGROUND

The City of Nome (City) is approximately twenty-two miles west of Beaumont, Texas. It is part of the Beaumont–Port Arthur Metropolitan Statistical Area. The City provides water and sewer services to approximately 257 connections with a service area population of 600.

The City plans to use funding to rehabilitate its wastewater treatment plant. The City experienced flooding of the entire plant during Hurricane Harvey. The floodwater completely submerged the plant's control building, which damaged the pump control panels. The City intends to rehabilitate the control building and replace electrical control panels that were damaged. The City will also stabilize the facultative lagoon and constructed wetland levees that were also damaged by the flooding.

FINANCIAL

Key Issues

None.

COMMITMENT PERIOD: THREE (3) MONTHS TO EXPIRE APRIL 30, 2019.

Principal Forgiveness

The City qualifies for emergency relief funding under the Clean Water State Revolving Fund program.

Cost Savings

Based on 100 percent principal forgiveness, the City will save \$500,000 over the life of the commitment.

Internal Risk Score

The funding being provided by the Texas Water Development Board is in the form of 100 percent principal forgiveness and therefore is not subject to a risk score analysis. For this request, staff reviewed the City's audited financial statements for the year ending June 30, 2017, and the funding application to assess the entity's ability to manage existing obligations and its business practices. Based on this analysis, staff has determined that the City reports positive net revenues and has adequate capabilities to maintain its commitments. Audited financial statements will be required over the duration of the project per program requirements.

LEGAL

Key Issues

None.

Conditions

Standard Clean Water State Revolving Fund conditions, principal forgiveness conditions, and further conditioned as follows:

- Executed principal forgiveness agreement; and,
- Return of surplus principal forgiveness funds.

- Attachments:
1. Project Data Summary
 2. Engineering/Environmental Review
 3. Project Budget
 4. Resolution (19-)
 5. Water Conservation Review
 6. Location Map

Project Data Summary

Responsible Authority	The City of Nome
Program	Clean Water State Revolving Fund
Commitment Code	LF1000935
Project Number	73817
Intended Use Plan Year	2018
Type of Pledge	N/A
Revenue Pledge Level	N/A
Legal Description	\$500,000 City of Nome Principal Forgiveness Agreement
Tax-exempt or Taxable	N/A; 100% principal forgiveness
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	600
Rural	Yes
Water Connections	257
Wastewater Connections	257
Qualifies as Disadvantaged	No
Clean Water State Revolving Fund Type	Non-Equivalency
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
Financial Managerial & Technical Complete	N/A
Funding Phase Code	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Exempt (\$500,000 or less)
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	Emergency Relief Funding

Project Team

Team Manager	Nancy Richards
Financial Analyst	Charles Nichols
Engineering Reviewer	Lucia Loera
Environmental Reviewer	Sara Sopczynski
Attorney	Annette Mass

**Nome
73817 2018 CWSRF Sanitary Sewer Urgent Need Project
Engineering and Environmental Review**

Engineering:

Key Issues:

None.

Project Need/Description

Project Need: The City of Nome is requesting funding to repair damage to the wastewater treatment plant (WWTP) caused by Hurricane Harvey.

Project Description: The proposed project will restore the WWTP to pre-storm condition. The project includes: stabilizing the facultative lagoon and constructed wetland's levees, restoring wetland vegetation, rehabilitating the control building and replacing the air pumps, surface aerators, equalization basin pumps and generator.

Project Schedule:

Project Task	Schedule Date
Closing	3/15/2019
Engineering Feasibility Report Completion (End of Planning Phase)	3/15/2019
Design Phase Complete	3/15/2019
Start of Construction	6/15/2019
Construction Completion	2/15/2020

Environmental Section:

Key Issues:

None.

Environmental Summary:

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude construction of the project. Based on this initial environmental review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect project implementation.

Pursuant to the requirements of 31 Texas Administrative Code § 375.61, all financial assistance shall be conditioned to read that funding for planning, design, and construction costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued.



Project Budget Summary
 Nome
 73817 - 2018 CWSRF Sanitary Sewer
 Urgent Need Project

Budget Items	TWDB Funds	Total
Construction		
Construction	\$400,000.00	\$400,000.00
Subtotal for Construction	\$400,000.00	\$400,000.00
Basic Engineering Services		
Construction Engineering	\$10,000.00	\$10,000.00
Design	\$35,000.00	\$35,000.00
Planning	\$12,000.00	\$12,000.00
Subtotal for Basic Engineering Services	\$57,000.00	\$57,000.00
Special Services		
Application	\$7,500.00	\$7,500.00
Inspection	\$12,000.00	\$12,000.00
Surveying	\$3,000.00	\$3,000.00
Subtotal for Special Services	\$22,500.00	\$22,500.00
Contingency		
Contingency	\$20,500.00	\$20,500.00
Subtotal for Contingency	\$20,500.00	\$20,500.00
Total	\$500,000.00	\$500,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO THE CITY OF NOME
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH \$500,000 IN PRINCIPAL FORGIVENESS

(19 -)

WHEREAS, the City of Nome (City), located in Jefferson County has filed an application for financial assistance in the amount of \$500,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, design and construction of certain wastewater system improvements identified as Project No. 73817; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$500,000 with 100 percent to be forgiven, as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 375.14; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *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 City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;
5. that the project has been rated an emergency relief project as determined by 31 TAC § 375.31(f) and the current Intended Use Plan and is eligible for principal forgiveness through the CWSRF.

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

A commitment is made by the TWDB to the City of Nome for financial assistance in the amount of \$500,000 from the Clean Water State Revolving Fund with 100 percent to be forgiven. This commitment will expire on April 30, 2019.

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 375;
3. the Principal 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 Principal Forgiveness Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
4. financial assistance funds are public funds and, as such, the Principal 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. financial assistance funds 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 Principal 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 Principal 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 Principal 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 Principal Forgiveness Agreement;
12. the Principal Forgiveness Agreement shall provide that all funds 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 Principal 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 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;

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

Special Conditions:

1. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

2. the Principal Forgiveness Agreement must include a provision stating that the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 22nd day of January, 2019.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, Chairman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

Water
Wastewater
Other

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:

Total water loss (GPCD): _____ Total water loss (percent): _____ Wholesale Water
 Total no. of connections: _____ Length of mains (miles): _____ Connections per mile: _____
 If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (ILI): _____

WATER LOSS THRESHOLDS:

	Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
If population ≤ 10K, connections/mile < 32 :			NA			NA
If population ≤ 10K, connections/mile ≥ 32 :		NA			NA	
If population > 10K :		NA			NA	

Does the applicant meet Water Loss Threshold requirements? Yes No NA

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 formally 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.

Best Management Practices are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

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 benchmarking 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.

Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

Water Loss Thresholds are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.



City of Nome Jefferson County

