

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: December 19, 2019

TEAM MANAGER: Nancy Richards

APPLICANT	H2O Tech, Inc.
TYPE OF ASSISTANCE	\$53,467 Principal Forgiveness
LEGAL PLEDGE	N/A; 100 Percent Principal Forgiveness

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution a request from H2O Tech, Inc. (Harris County) for \$53,467 in principal forgiveness from the Drinking Water State Revolving Fund for construction of a water system transition project.

PROJECT

Water System Improvements
Project Number 62859

BACKGROUND

H2O Tech, Inc (Utility) is an investor owned utility Public Water System (PWS) located within the municipal boundaries of League City, Texas. The Utility provides water to approximately 28 homes.

The Utility's well is located in the floodway and during Hurricane Harvey the well site was inundated resulting in suspended service to residents and increased calcium carbonate levels. The Utility intends to donate the water system and Certificate of Convenience and Necessity (CCN) to the City of League City (City) to integrate the service area with the City's municipal water supply. The project includes replacement of water meters and tie-in connection to an existing water line owned by the City. The Utility anticipates dissolving its CCN within 30 days of submitting an approved application to the Public Utility Commission.

FINANCIAL

Key Issues

The Utility qualifies for urgent need funding. The water well has been subject to frequent flooding events that have suspended operations, destroyed well site equipment, and triggered boil water notices during repairs. After Hurricane Harvey, the well experienced additional damage to equipment and increased calcium carbonate and alkalinity levels.

COMMITMENT PERIOD: FOUR (4) MONTHS TO EXPIRE APRIL 30, 2020.

Principal Forgiveness

The District qualifies for \$53,467 in principal forgiveness as an urgent need project.

Cost Savings

Based on 100 percent principal forgiveness, the Utility will save \$53,467 over the life of the commitment.

Internal Risk Score

The funding being provided by the TWDB 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 Utility's income tax documents and the City's 2018 Annual Audit to assess both entities ability to manage existing obligations and its business practices. Based on this analysis, staff has determined the Utility is able to manage its obligations through the transition to the City and the City has adequate capabilities to maintain the project commitments.

LEGAL

Key Issues

None.

Conditions

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

- Conversion and conveyance.

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	H2O Tech, Inc.
Program	Drinking Water State Revolving Fund
Commitment Code	LF1001084
Project Number	62859
Intended Use Plan Year	2020
Type of Pledge	N/A
Revenue Pledge Level	N/A
Legal Description	\$53,467 H2O Tech, Inc. Principal Forgiveness Agreement
Tax-exempt or Taxable	Taxable
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	71
Rural	No
Water Connections	28
Wastewater Connections	N/A
Qualifies as Disadvantaged	No
State Revolving Fund Type	Non-Equivalency
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
Financial Managerial & Technical Complete	Yes
Funding Phase Code	Construction
Pre-Design	No
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	100 percent Principal Forgiveness Urgent Need; DWSRF Non-Equivalency

Project Team

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

**H2O Tech, Inc.
62859 Water System Improvements
Engineering and Environmental Review**

Engineering:

Key Issues:

Engineering (planning and design) work will be completed by the City of League City (City) in house at no cost. TWDB funds will be used to reimburse the City for construction costs of water meters and the system tie in that will be completed via force account by the City.

Project Need/Description

Project Need: H2O Tech, Inc. (Utility)'s system is located in the floodway, which is subject to repetitive flooding, jeopardizing the water system's integrity. The frequent flooding events have suspended operations, destroyed well site equipment, accelerated corrosion and triggered systemic boil water notices during repairs. The Utility's well is over 40 years old and after Hurricane Harvey has experienced additional damage to equipment and increased calcium carbonate and alkalinity levels.

Project Description: The Utility is seeking financial assistance for replacement of water meters and system tie-in to an existing water line owned by the City of League City (City). The Utility will then transfer the water system and Certificate of Convenience and Necessity (CCN) to the City and integrate the service area with the City's municipal water supply.

Project Schedule:

Project Task	Schedule Date
Design Phase Complete	1/20/2020
Engineering Feasibility Report Completion (End of Planning Phase)	1/20/2020
Closing	2/15/2020
Start of Construction	2/24/2020
Construction Completion	5/25/2020

Environmental Section:

Key Issues:

None.

Environmental Summary:

As required by 31 Texas Administrative Code § 371.41, the environmental review of the proposed project has been completed. A Categorical Exclusion was issued on November 25, 2019. The proposed project is in compliance with the National Environmental Policy Act.



Project Budget Summary
 H2O Tech, Inc.
 62859 - Water System Improvements

Budget Items	This Commitment	Total
Construction		
Construction	\$44,566.00	\$44,566.00
Subtotal for Construction	\$44,566.00	\$44,566.00
Contingency		
Contingency	\$8,901.00	\$8,901.00
Subtotal for Contingency	\$8,901.00	\$8,901.00
Total	\$53,467.00	\$53,467.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO H2O TECH INC.
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH \$53,467 IN PRINCIPAL FORGIVENESS

(19 -)

WHEREAS, H2O Tech Inc. (Utility), located in Harris County, has filed an application for financial assistance in the amount of \$53,467 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62859; and

WHEREAS, the Utility seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$53,467 with 100 percent to be forgiven, as is more specifically set forth in the application and in recommendations of the TWDB's staff.

WHEREAS, the TWDB hereby finds:

1. that no debt obligations are to be assumed by the Utility for the financial assistance and no taxes or revenues are required to be pledged by the Utility;
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 Utility 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 loss audit from the Utility as required by Texas Water Code § 16.0121 and 31 TAC § 358.6 is not necessary to further water use efficiency or conservation, as the Utility will transfer the system to the City of League City which has a current water audit on file;
6. that the Executive Administrator issued a Categorical Exclusion on November 25, 2019, 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; and

7. that the project qualifies as an Urgent Need project in accordance with the applicable Intended Use Plan and 31 TAC § 371.21(f) and is eligible for principal forgiveness in the amount of \$53,467.

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

A commitment is made by the TWDB to the H2O Tech Inc. for financial assistance in the amount of \$53,467 from the Drinking Water State Revolving Fund with 100 percent to be forgiven. This commitment will expire on April 30, 2020.

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 Utility's compliance with all applicable requirements contained in 31 TAC Chapter 371;
3. this commitment is contingent on the Utility executing a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
4. the Utility shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator;
5. the Principal Forgiveness Agreement must contain a provision that the Utility agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein.
6. 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;
7. 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;
8. financial assistance funds proceeds shall not be used by the Utility 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 Utility 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 Utility, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

9. prior to closing, and if not previously provided with the application, the Utility 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;
10. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the Utility 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;

State Revolving Fund Conditions

11. the Utility shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
12. 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 Utility, 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;
13. the Principal Forgiveness Agreement must include a provision stating that the Utility 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 Utility 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;
14. 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 Utility will adhere to the approved project schedule;

15. the Principal Forgiveness Agreement must contain a covenant that the Utility 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 § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

16. 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 Utility has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Principal Forgiveness Agreement;
17. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the Utility must provide documentation that it has met all applicable state procurement requirements.

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

Special Condition:

18. the Utility must comply with all conditions as specified in the final environmental finding of the Executive Administrator, including the standard emergency discovery conditions for threatened and endangered species and cultural resources.

APPROVED and ordered of record this 19th day of December 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.

H2O Tech, Inc. Harris County

