



PROJECT FUNDING REQUEST

BOARD DATE: December 17, 2024

Team Manager: William Alfaro

ACTION REQUESTED

Consider approving by resolution a request from the East Rio Hondo Water Supply Corporation (Cameron County) for \$4,880,400 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction of a project to address emerging contaminants.

STAFF RECOMMENDATION

☒ Approve ☐ No Action

BACKGROUND

The Infrastructure Investment and Jobs Act, 2021, Pub. L. 117-58 (IIJA) appropriated capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 to reduce exposure to perfluoroalkyl and polyfluoroalkyl substance (PFAS) and other emerging contaminants (EC) through drinking water and to help address discharges through wastewater and, potentially, nonpoint sources. All financial assistance will be made as 100 percent principal forgiveness.

The East Rio Hondo Water Supply Corporation (Corporation) is located in Rio Hondo approximately 10 miles northeast of Harlingen. The Corporation provides water and wastewater services to a population of approximately 34,269 residents and 8,957 connections.

PROJECT NEED AND DESCRIPTION

Testing results from the Corporation's Martha Ann Simpson and Nelson Road water treatment plants filter backwash sludge revealed the presence of emerging contaminants, Perfluoro-n-pentanoic acid (PFPeA), Perfluorooctanesulfonate (PFOS), and Lithium, exceeding the thresholds set by the Environmental Protection Agency's Safe Drinking Water Act Fifth Unregulated Contaminant Monitoring Rule. To comply with these environmental regulations, the Corporation needs to prevent the infiltration of these contaminants from the sludge disposal sites into the local groundwater and nearby water bodies.

The proposed project involves replacing the existing permeable disposal basin liners at the combined disposal site for the Martha Ann Simpson and Nelson Road water treatment plants with impermeable liners. This will include the installation of a combination of high-density polyethylene and clay liners to create an impermeable barrier within the two sludge basins at the disposal facility. The Resaca de Los Fresnos, located approximately 1,000 feet south of the disposal area, serves as the raw water transport method for Cameron County Irrigation District No. 2. This proximity poses a significant risk of contaminant leaching from the existing permeable liners. Additionally, the Corporation is considering the Gulf Coast Aquifer as a future source of drinking water. The impermeable liners will mitigate the infiltration of emerging

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE JUNE 30, 2025
--

contaminants into the local groundwater and nearby water bodies, ensuring compliance with environmental regulations.

PROJECT SCHEDULE

Task	Schedule Date
Closing	February 17, 2025
Engineering Feasibility Report Completion (End of Planning Phase)	August 15, 2025
Design Phase Completion	December 19, 2025
Start of Construction	June 01, 2026
Construction Completion	June 01, 2027

KEY ISSUES

The Corporation qualifies for 100 percent principal forgiveness through the emerging contaminants program through the Clean Water State Revolving Fund. Therefore, this funding is not subject to our internal risk score analysis. For this request, staff reviewed the Corporation's annual audit and funding application information to assess the Corporation's ability to manage existing obligations and business practices. Based on this analysis, staff believes the Corporation has adequate capabilities to manage its obligations.

Attachments:

1. Project Data Summary
2. Project Budget
3. Resolution (24-)
4. Water Conservation Review
5. Location Map

Responsible Authority	East Rio Hondo Water Supply Corporation
Program	CWSRF
Commitment Number	LF1001967
Project Number	73972
List Year	2024
Type of Pledge	N/A
Pledge Level (if applicable)	N/A
Legal Description	\$4,880,400 Principal Forgiveness Agreement
Tax-exempt or Taxable	Taxable
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	N/A
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	N/A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
William Alfaro	Jacob Berdoll	Sam Kiger	Lauren Dill	Michael Perez



Project Budget Summary
East Rio Hondo Water Supply Corporation
73972 - ERHWSC Disposal Site Improvements

Budget Items	TWDB Funds	Total
Construction		
Construction	\$3,374,000.00	\$3,374,000.00
Subtotal for Construction	\$3,374,000.00	\$3,374,000.00
Basic Engineering Services		
Construction Engineering	\$73,750.00	\$73,750.00
Design	\$270,150.00	\$270,150.00
Planning	\$125,000.00	\$125,000.00
Subtotal for Basic Engineering Services	\$468,900.00	\$468,900.00
Special Services		
Geotechnical	\$10,000.00	\$10,000.00
Inspection	\$42,000.00	\$42,000.00
Surveying	\$42,000.00	\$42,000.00
Testing	\$100,000.00	\$100,000.00
Subtotal for Special Services	\$194,000.00	\$194,000.00
Contingency		
Contingency	\$843,500.00	\$843,500.00
Subtotal for Contingency	\$843,500.00	\$843,500.00
Total	\$4,880,400.00	\$4,880,400.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO THE EAST RIO HONDO WATER SUPPLY CORPORATION
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH \$4,880,400 IN PRINCIPAL FORGIVENESS

(24-)

Recitals:

The East Rio Hondo Water Supply Corporation (Corporation), located in Cameron County, has filed an application for financial assistance in the amount of \$4,880,400 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, design and construction of improvements to address emerging contaminants identified as Project No. 73972.

The Corporation seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$4,880,400 with 100 percent to be forgiven, as is more specifically set forth in the application and in recommendations of the TWDB's staff.

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.

Findings:

1. No debt obligations are to be assumed by the Corporation for the financial assistance and no taxes or revenues are required to be pledged by the Corporation in accordance with Texas Water Code § 15.607.
2. The application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, and §§ 1382(b) and 1383(c), as well as state law, in accordance with Texas Water Code § 15.607.
3. That the Corporation has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules.
4. The Corporation has identified the contaminants to be addressed and demonstrated in a manner acceptable to the executive administrator that the project is viable, feasible, and sustainable.
5. In accordance with the applicable IUP, the Corporation is eligible for principal forgiveness through the CWSRF in a total amount not to exceed \$4,880,400.

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

A commitment is made by the TWDB to the East Rio Hondo Water Supply Corporation for financial assistance in the amount of \$4,880,400 from the Clean

Water State Revolving Fund with 100 percent to be forgiven. This commitment will expire on June 30, 2025.

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 as determined by the TWDB. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution.
2. This commitment is contingent upon the Corporation's compliance with all applicable requirements contained in 31 TAC Chapter 375.
3. This commitment is contingent on the Corporation executing a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator.
4. The Corporation 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 Corporation 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 shall not be used by the Corporation when sampling, testing, removing or disposing of contaminated soils and/or media at the project site except for an EC project to address PFAs or any contaminant listed on EPA's Contaminant Candidate Lists. The Principal 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;

9. Before 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.
10. Before 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.
11. The Corporation must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition).

State Revolving Fund Conditions:

12. The Corporation shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.
13. 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 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.
14. The Principal 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 Unique Entity Identification 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.
15. 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 Corporation will adhere to the approved project schedule.
16. The Principal 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 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines.

17. The Principal Forgiveness Agreement must contain a covenant that the Corporation will abide by all applicable requirements related to the Build America, Buy America Act, Public Law 117-58.
18. The Principal Forgiveness Agreement must contain a covenant that the Corporation shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216.

Clean Water State Revolving Fund Conditions:

19. Before release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the Corporation must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq* and 33 U.S.C. § 1382(b)(14).
20. Before 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:

21. During construction of the Project, the Corporation must notify the Executive Administrator in writing thirty (30) days prior to taking any actions to alter its legal status in any manner including the conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility including conveying its assets and liabilities to any nonprofit water supply corporation, for profit water supply corporation, or investor-owned utility, or private person.

APPROVED and ordered of record this 17th day of December 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Bryan McMath, Executive Administrator

Review Date:

Project ID:

Water

Wastewater

Other

WATER CONSERVATION REVIEW

Entity:

Other entity:

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

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

WATER LOSS AUDIT YEAR:

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:

ILI:

Real Loss GMD:

WATER LOSS THRESHOLDS

Water Loss Project:

Waiver Requested:

Wholesale Adjusted:

Threshold Type:

Apparent Loss GCD		Real Loss GCD	
Reported	Threshold	Reported	Threshold

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 losses are paper losses that occur when the water reaches a customer, but the volume is not accurately measured and/or recorded due to unauthorized consumption, customer meter inaccuracy, or billing system and collection data errors.

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.

GCD means gallons per connection per day.

GMD means gallons per mile 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 3,000 connections and a connection density of more than 16 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.

Real losses are the physical losses, largely leakage, from the infrastructure: mains, valves, and storage tank overflows. Real loss constitutes background leakage (unreported and difficult to detect), unreported leakage (leaks that do not surface but could be detected), and reported leakage (leaks that often surface and those that are detected by the utility through leak detection).

Residential GPCD is the amount of residential water use (single and multi-family customer use) divided by the residential population divided by 365.

Total GPCD is the amount of total system input volume divided by the retail population 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 GPCD is the amount of water loss divided by the retail population divided by 365.

Water Loss per Connection per Day Calculated as the water loss volume divided by the number service connections divided by 365. This indicator allows for reliable performance tracking in the water utility's efforts to reduce water losses. It replaces water loss percentage.

Water Loss Thresholds are levels of real and apparent water loss determined by the 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.

Wholesale Adjusted represents that some utilities provide large volumes of wholesale water to other providers that travel through the general distribution system, so a calculation has been established to adjust for that volume of wholesale water. These adjustments are only applicable for use in determining whether a utility meets or exceeds water loss thresholds in review of their application for financial assistance. These adjustments should not be used for performance tracking or benchmarking.



East Rio Hondo WSC Cameron County

