

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: March 26, 2015

PRESENTED BY: Brenner Brown

<b>APPLICANT</b>	Lee County Fresh Water Supply District No.1
<b>TYPE OF ASSISTANCE</b>	\$151,839 Loan Forgiveness
<b>LEGAL PLEDGE</b>	N/A; 100% Loan Forgiveness

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution, a request from **Lee County Fresh Water Supply District No. 1 (Lee County)** for \$151,839 in loan forgiveness from the Drinking Water State Revolving Fund to finance the planning and design phase of a new water pump station to include ground storage and a pressure tank.

### PROJECT

New water pump station, ground storage, and pressure tank  
Project Number 62669

### FINANCIAL SUMMARY

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

**COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE ON SEPTEMBER 30, 2015**

## **FINANCIAL**

### Key Issues

Lee County Fresh Water Supply District No. 1 (District) qualifies for \$151,839 in Loan Forgiveness from the Drinking Water State Revolving Fund Very Small Systems Program.

### Cost Savings

Based on a 100% Loan Forgiveness amount of \$151,839 the District could save approximately \$173,430 over the life of the commitment when compared to market interest rates and a 10 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 District 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;
- Executed loan forgiveness agreement; 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**

<b>Authority</b>	Lee County Fresh Water Supply District No.1
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	LF1000406
<b>Project Number</b>	62669
<b>Intended Use Plan Year</b>	2015
<b>Fund Number</b>	951
<b>Type of Pledge</b>	N/A
<b>Revenue Pledge Level</b>	N/A
<b>Legal Description</b>	\$151,839 Loan Forgiveness
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow
<b>Population</b>	390
<b>Rural</b>	Yes
<b>Water Connections</b>	131
<b>Wastewater Connections</b>	108
<b>Qualifies as Disadvantaged</b>	N/A
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>Financial Managerial &amp; Technical Complete</b>	No
<b>Phase Committing</b>	Planning and Design
<b>Pre-Design</b>	No
<b>Project Consistent with Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Exempt (Less than \$500,000)
<b>Water Rights Certification Required</b>	No
<b>Internal Risk Score</b>	N/A
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	Non-Rated
<b>Moody's</b>	Non-Rated
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**Project Team**

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

**Lee Co FWSD # 1**  
**Engineering and Environmental Review**

**Engineering:**Key Issues

None

Project Need / Description

Need: Lee County Fresh Water Supply District No.1 (District) needs to construct new storage tanks and a pump station to replace an existing standpipe that does not meet current Texas Commission on Environmental Quality (TCEQ) criteria.

Proposed Project: The District is proposing to construct 2 new ground storage tanks, booster pumping station, pressure tank, piping to connect to the existing system, electrical controls, fencing and site work.

Project Schedule

<b>Project Task</b>	<b>Schedule Date</b>
Closing	5/1/2015
Engineering Feasibility Report Completion (End of Planning Phase)	7/30/2015
Design Phase Complete	10/30/2015

**Environmental:**Key Issues

None known at this time.

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 §371.41 all financial assistance shall be conditioned to read that funding for acquisition and design costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued. A subsequent affirmation of commitment will be necessary for this loan in order to comply with the National Environmental Policy Act

**Lee Co FWSD # 1**  
**62669 - New Ground Storage and Pump Station**

Budget Items	TWDB Funds	Total Cost
<b>Basic Engineering Services</b>		
Design	\$60,250	\$60,250
Planning	\$38,089	\$38,089
<b>Basic Engineering Services Total</b>	<b>\$98,339</b>	<b>\$98,339</b>
<b>Special Services</b>		
Application	\$0	\$0
Environmental	\$10,000	\$10,000
Surveying	\$5,000	\$5,000
<b>Special Services Total</b>	<b>\$15,000</b>	<b>\$15,000</b>
<b>Contingency</b>		
Contingency	\$15,000	\$15,000
<b>Contingency Total</b>	<b>\$15,000</b>	<b>\$15,000</b>
<b>Fiscal Services</b>		
Financial Advisor	\$10,000	\$10,000
Fiscal/Legal	\$12,500	\$12,500
Issuance Costs	\$1,000	\$1,000
<b>Fiscal Services Total</b>	<b>\$23,500</b>	<b>\$23,500</b>
<b>Grand Total</b>	<b>\$151,839</b>	<b>\$151,839</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE  
TO LEE COUNTY FRESH WATER SUPPLY DISTRICT NO. 1  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH A LOAN IN THE AMOUNT OF \$151,839  
WITH 100% LOAN FORGIVENESS

(15 - )

WHEREAS, the Lee County Fresh Water Supply District No. 1 (District) has filed an application for financial assistance in the amount of \$151,839 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning and design of certain water system improvements identified as Project No. 62669; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$151,839 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 District for the loan and no taxes or revenues are required to be pledged by the District;
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 District 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 District and filed with the TWDB in accordance with Texas Water Code § 16.053(j); and
6. that the District 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.

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

A commitment is made by the TWDB to the Lee County Fresh Water Supply District No. 1 for financial assistance in the amount of \$151,839 from the Drinking Water State Revolving Fund with 100% of the loan forgiven. This commitment will expire on September 30, 2015.

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 District'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 District 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 District 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 District, 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 District 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 District 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 District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

#### State Revolving Fund Conditions

9. the District 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 District, 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 District 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 District 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 District will adhere to the approved project schedule;
13. the Loan Forgiveness Agreement must contain a covenant that the District 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 District 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 District 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 District 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;
2. prior to closing, the District shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
3. the Loan Forgiveness Agreement must include a provision stating that the District shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 26<sup>th</sup> day of March, 2015.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Carlos Rubinstein, Chairman

DATE SIGNED: \_\_\_\_\_

ATTEST:

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Kevin Patteson  
Executive Administrator

# Lee County FWSD #1, Lee County

