

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: April 10, 2015

PRESENTED BY: Lee Huntoon

APPLICANT	White River Municipal Water District
TYPE OF ASSISTANCE	\$500,000 Loan Forgiveness
LEGAL PLEDGE	N/A; 100% Loan Forgiveness

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, of a request from the **White River Municipal Water District (Crosby, Dickens, and Garza Counties)** for \$500,000 in urgent need loan forgiveness from the Drinking Water State Revolving Fund to finance the planning, design, and construction phase of a project consisting of two new water wells, a new storage tank, and improvements on their well field pumping station to address an urgent need related to drought.

PROJECT

Urgent Need- Regional Water System Upgrade
Project Number 62587

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 APRIL 30, 2016

FINANCIALKey Issues

The White River Municipal Water District (District) qualifies for \$500,000 in Urgent Need Loan Forgiveness from the Drinking Water State Revolving Fund by meeting the Urgent Need category 3a criteria outlined in the guidance for the program. This project is matched with local funding via a Texas Department of Agriculture Community Development Block Grant in the amount of \$550,000

Cost Savings

Based on a 100% Loan Forgiveness amount of \$500,000, the District could save approximately \$716,919 over the life of the commitment when compared to market interest rates and a 20-year term loan term.

Internal Risk Score

The funding being provided by the Texas Water Development Board (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.

LEGALKey Issues

None.

CONDITIONS

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

- Conveyance;
- Conversion;
- Water rights certifications;
- Executed loan forgiveness agreement;
- 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	White River Municipal Water District
Program	Drinking Water State Revolving Fund
Commitment Code	LF1000414
Project Number	62587
Intended Use Plan Year	2015
Fund Number	951
Type of Pledge	N/A
Revenue Pledge Level	N/A
Legal Description	\$500,000 Loan Forgiveness
Tax-exempt or Taxable	N/A
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	10,833
Rural	No
Water Connections	3,829
Wastewater Connections	3,501
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, & Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Exempt
Water Rights Certification Required	Yes
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	Lee Huntoon
Financial Analyst	James Horan
Engineering Reviewer	David Yager
Environmental Reviewer	Chris Caran
Attorney	Barbara Watson

White River MWD
Engineering and Environmental Review

Engineering:Key Issues

White River Municipal Water District (District) has primarily relied on surface water from White River Reservoir. In February of 2013, the District received a commitment for \$2,110,000 to plan and design improvements to their overall system. In the summer of 2013, the reservoir declined rapidly and the District requested that the TWDB allow these funds to be redirected to emergency construction work to rehab and expand their secondary water source, a well field in the Ogallala between Ralls and Crosbyton. The reservoir went dry in late 2013 and the District was completely dependent on the well field. The reservoir is now 3.9% full. The District must continue to expand the well field so that it is able to support the full system requirements in the current drought.

Project Need / Description

Need: The District has experienced depleted surface water supplies during the ongoing drought. To ensure adequate supplies, the District must expand its secondary groundwater supplies.

Project Description: The District plans to drill two new water wells, build a new storage tank, and make improvements to the well field pumping station.

Project Schedule

Project Task	Schedule Date
Closing	6/5/2015
Planning Complete	7/5/2015
Start First Construction Contract	10/15/2015
Finish Last Construction Contract	10/15/2016

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.

White River MWD

Engineering and Environmental Review

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 environmental determination has been issued by the Executive Administrator. A subsequent Affirmation of Commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.

White River MWD
62587 - Regional Water System Upgrade

Budget Items	Previous Commitments	This Commitment	TWDB Funds	Local Funds	Total Cost
Construction					
Construction	\$827,750	\$354,500	\$1,182,250	\$488,000	\$1,670,250
Construction Contract - CID 01					
Ground Storage Tank	\$537,968	\$0	\$537,968	\$0	\$537,968
Construction Total	\$1,365,718	\$354,500	\$1,720,218	\$488,000	\$2,208,218
Basic Engineering Services					
Construction Engineering	\$0	\$15,000	\$15,000	\$0	\$15,000
Design	\$146,227	\$66,775	\$213,002	\$0	\$213,002
Planning	\$9,000	\$7,000	\$16,000	\$0	\$16,000
Basic Engineering Services Total	\$155,227	\$88,775	\$244,002	\$0	\$244,002
Special Services					
Environmental	\$9,000	\$7,000	\$16,000	\$0	\$16,000
Inspection	\$85,000	\$40,000	\$125,000	\$0	\$125,000
Project Mgmt by Eng.		\$2,225	\$2,225		\$2,225
Surveying	\$65,157	\$7,500	\$72,657		\$72,657
Special Services Total	\$159,157	\$56,725	\$215,882	\$0	\$215,882
Contingency					
Contingency	\$36,521		\$36,521		\$36,521
Contingency Total	\$36,521		\$36,521		\$36,521
Other					
Land/Easements	\$307,512		\$307,512		\$307,512
CDBG Grant Admin				\$62,000	\$62,000
Other Total	\$307,512		\$307,512		\$369,512
Fiscal Services					
Financial/Legal	\$85,865		\$85,865		\$85,865
Fiscal Services Total	\$85,865		\$85,865		\$85,865
Grand Total	\$2,110,000	\$500,000	\$2,610,000	\$550,000	\$3,160,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO WHITE RIVER MUNICIPAL WATER DISTRICT
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH A LOAN IN THE AMOUNT OF \$500,000
WITH 100% LOAN FORGIVENESS

(15 -)

WHEREAS, the White River Municipal Water District (District) has filed an application for financial assistance in the amount of \$500,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62587; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$500,000 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 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 project is considered an Urgent Need Project under the current Intended Use Plan, and is therefore eligible for an additional subsidy through the DWSRF.

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

A commitment is made by the TWDB to the White River Municipal Water District for financial assistance in the amount of \$500,000 from the Drinking Water State Revolving Fund with 100% of the loan forgiven. This commitment will expire on April 30, 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 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 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 the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the District has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;
3. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the District has the right to use the water that the project financed by the TWDB will provide;
4. 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;
5. the Obligations must include a provision requiring that, prior to any action by the District to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB;
6. prior to closing, the District shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
7. 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 10th day of April, 2015.

TEXAS WATER DEVELOPMENT BOARD

 Carlos Rubinstein, Chairman

DATE SIGNED: _____

ATTEST:

 Kevin Patteson
 Executive Administrator

**White River MWD,
Crosby, Dickens & Garza Counties**

