Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: December 13, 2018 TEAM MANAGER: Nancy Richards

APPLICANT	City of Bevil Oaks
TYPE OF ASSISTANCE	$500,000 Principal Forgiveness Agreement
LEGAL PLEDGE	N/A; 100 percent Principal Forgiveness

STAFF RECOMMENDATION
☒ Approve ☐ No Action

ACTION REQUESTED
Approve by resolution a request from the City of Bevil Oaks (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
Project B - Sanitary Sewer Lift Station Restoration Project
Project Number 73830

BACKGROUND
The City of Bevil Oaks (City) is part of the Beaumont-Port Arthur Metropolitan Statistical area and is approximately thirteen miles northwest of Beaumont, Texas. The City provides service to 648 water and 570 sewer connections with a population service area of 1,274.

The City experienced over five feet of rainfall during Hurricane Harvey and qualified for emergency relief funding to restore operations to two of its lift stations. This project will replace critical electrical and control equipment at the Boulevard Lift Station that services the City and at the River Bend Lift Station. Both lift stations were severely damaged or destroyed during the Hurricane Harvey flooding event.

FINANCIAL
Key Issues
The City's audit firm was impacted by Hurricane Harvey and has multiple auditees with disaster issues. As a result, the September 30, 2017 audit was approved in November 2018. There are currently no audit concerns listed within the unaudited 2018 financial statements included with the application.

COMMITMENT PERIOD: THREE (3) MONTHS TO EXPIRE MARCH 31, 2019.

Principal Forgiveness
In September 2017, the City experienced over five feet of rainfall during Hurricane Harvey and 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 (TWDB) is in the form of 100 percent principal forgiveness and therefore is not subject to a risk score analysis. To assess the entity's ability to manage existing obligations and business practices, staff reviewed the City's funding application and its audited financial statements for the year ended September 30, 2016 and 2017, as well as unaudited financial statements for the year ended September 30, 2018. Based on this analysis, staff has determined that the City has adequate capabilities to manage its obligations.

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 (18-)
5. Water Conservation Review
6. Location Map

Project Data Summary

Responsible Authority	City of Bevil Oaks
Program	Clean Water State Revolving Fund
Commitment Code	LF1000923
Project Number	73804
Intended Use Plan Year	2019
Type of Pledge	N/A
Revenue Pledge Level	N/A
Legal Description	$500,000 City of Bevil Oaks 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	1,274
Rural	Yes
Water Connections	648
Wastewater Connections	570
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

Bevil Oaks
73830 City of Bevil Oaks - Disaster Recovery - Project B - Sanitary Sewer Lift Station Restoration Project
Engineering and Environmental Review

Engineering:

Key Issues:

None.

Project Need/Description

Project Need: The City of Bevil Oaks is requesting funding to repair damage to two of the City's sanitary sewer lift stations caused by Hurricane Harvey. Critical electrical and control equipment at the City's Boulevard and River Bend sanitary sewer lift stations were destroyed during the flooding event of Hurricane Harvey.

Project Description: The project includes replacing electrical switch gear, standby generators, electrical and controls. The equipment will be installed on steel platforms that will be elevated approximately eight feet above grade.

Project Schedule:

Project Task	Schedule Date
Closing	03-15-2019
Engineering Feasibility Report Completion (End of Planning Phase)	03-15-2019
Design Phase Complete	03-15-2019
Start of Construction	06-15-2019
Construction Completion	02-15-2020

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.

Texas Water Development Board

Project Budget Summary

Bevil Oaks

73830 - City of Bevil Oaks - Disaster Recovery - Project B - Sanitary Sewer Lift Station Restoration Project

Budget Items	TWDB Funds	Total
Construction		
Construction	$331,715.00	$331,715.00
Subtotal for Construction	**$331,715.00**	**$331,715.00**
Basic Engineering Services		
Construction Engineering	$9,000.00	$9,000.00
Design	$58,600.00	$58,600.00
Planning	$20,000.00	$20,000.00
Subtotal for Basic Engineering Services	**$87,600.00**	**$87,600.00**
Special Services		
Geotechnical	$10,000.00	$10,000.00
Inspection	$8,000.00	$8,000.00
Subtotal for Special Services	**$18,000.00**	**$18,000.00**
Contingency		
Contingency	$61,185.00	$61,185.00
Subtotal for Contingency	**$61,185.00**	**$61,185.00**
Administration (Special Services)	$1,500.00	$1,500.00
Subtotal for	**$1,500.00**	**$1,500.00**
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 BEVIL OAKS FROM THE CLEAN WATER STATE REVOLVING FUND THROUGH $500,000 IN PRINCIPAL FORGIVENESS

(18 -)

WHEREAS, the City of Bevil Oaks, located in Jefferson County (City) 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. 73830; and

WHEREAS, the City 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 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 no debt obligations are to be assumed by the City for the financial assistance and no taxes or revenues are required to be pledged 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, the City is therefore eligible for principal forgiveness through the CWSRF in a total amount not to exceed $500,000;

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

A commitment is made by the TWDB to the City of Bevil Oaks for financial assistance in the amount of $500,000 from the Clean Water State Revolving Fund with 100% to be forgiven. This commitment will expire on March 31, 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. this commitment is contingent on the City executing a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

4. the City 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 City 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 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;

9. 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;

10. 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;

State Revolving Fund Conditions

11. the City 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 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;

13. 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;

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 City will adhere to the approved project schedule;

15. 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;

APPROVED and ordered of record this 13th day of December, 2018.

TEXAS WATER DEVELOPMENT BOARD

_____
Peter M. Lake, Chairman

DATE SIGNED: _____

ATTEST:

_____
Jeff Walker Executive Administrator

Attachment 5

WATER CONSERVATION REVIEW

Entity: City of Bevil Oaks

Review date: November 2018

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

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

WATER LOSS AUDIT YEAR: 2017

Total water loss (GPCD): 14

Total no. of connections: 628

Total water loss (percent): 21

Length of mains (miles): 10

Wholesale Water ☐

Connections per mile: 60

If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (*ILI*): NA

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	NA	NA	NA	NA
If population ≤ 10K, connections/mile ≥ 32 :	NA	NA	NA	NA	NA	NA
If population > 10K :	NA	NA	NA	NA	NA	NA

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

ADDITIONAL INFORMATION:

The city's request for financial assistance is equal to $500,000; therefore, a water conservation plan is not required.

STAFF NOTES AND RECOMMENDATIONS:

In accordance with 31 TAC §358.6(f), review of a retail public utility's water loss in conjunction with an application for financial assistance is limited to water supply projects. This application for financial assistance is for a wastewater project; therefore, water loss thresholds are not applicable.

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 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.

Produced water is the total amount of water purchased or produced by the utility.

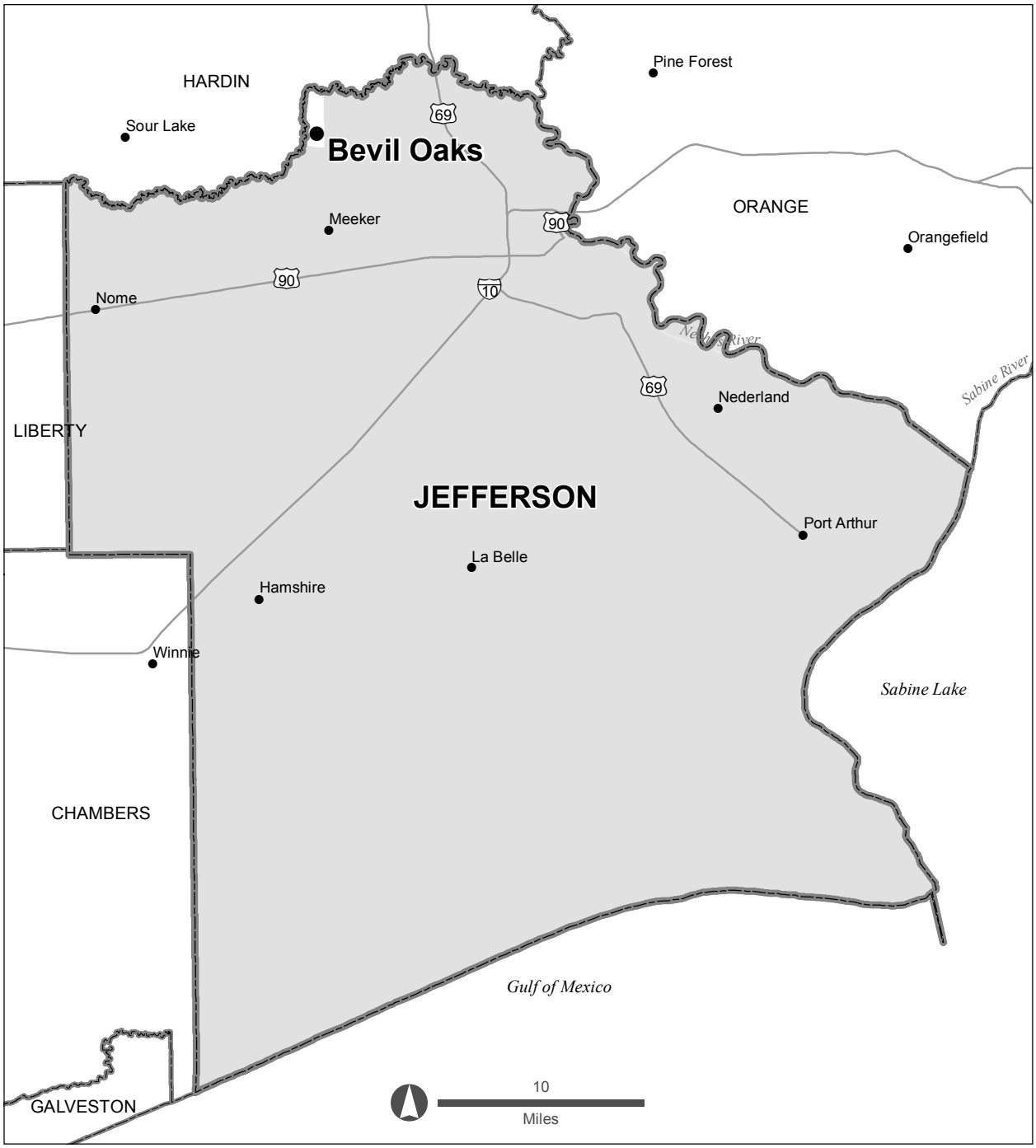
Real loss comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

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 Bevil Oaks
Jefferson County