

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: May 4, 2023

Team Manager: Nancy Richards

ACTION REQUESTED

Consider approving by resolution a request from the Commodore Cove Improvement District (Brazoria County) for \$314,696 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of a water system improvement project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

Commodore Cove Improvement District (District), founded in 1970, is a small water supply system located in Freeport, Texas. The District provides water and sewage treatment to approximately 180 homes. The District also manages residential canal and waterway maintenance.

PROJECT NEED AND DESCRIPTION

The District's existing 60,000-gallon ground storage tank is approximately 40 years old and in need of replacement. While the tank has been maintained and cleaned on a regular basis, it is showing signs of rust and deterioration. In addition, the District is in violation of the Texas Commission on Environmental Quality's maximum contaminant level for trihalomethanes.

The District intends to replace its existing ground storage tank with a new tank and install a new sight gauge, level controls, safety climb cage and harness. The tank will also include a recirculation system, pump, piping and spray nozzle to circulate the water to help reduce the trihalomethanes and bring the District into compliance with the disinfection byproduct rule.

PROJECT SCHEDULE

Task	Schedule Date
Closing	September 1, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	January 12, 2024
Design Phase Completion	May 1, 2024
Start of Construction	July 1, 2024
Construction Completion	October 31, 2024

KEY ISSUES

The District qualifies for 100 percent principal forgiveness as a very small system and is not subject to our internal risk score analysis that is applied to loans. For this request, staff

COMMITMENT PERIOD: FOUR (4) MONTHS TO EXPIRE SEPTEMBER 30, 2023

reviewed the District's annual audit and funding application information to assess the District'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/SPECIAL CONDITIONS

- Conversion and conveyance

Attachments

1. Project Data Summary
2. Project Budget
3. Resolution (23-)
4. Water Conservation Review
5. Location Map

Responsible Authority	Commodore Cove ID
Program	DWSRF
Commitment Number	LF1001620
Project Number	62950
List Year	2023
Type of Pledge	N/A
Pledge Level (if applicable)	N/A
Legal Description	\$314,696 Principal Forgiveness Agreement between Texas Water Development Board and Commodore Cove Improvement District
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Non-Equivalency
Financial Managerial & Technical Complete	Yes
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	Yes
Water Conservation Plan	Exempt (\$500,000 or less)
Overall Risk Score	N/A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Nancy Richards	Chelsea Duran	Matthew Young	Britt Paredes	Annette Mass



Project Budget Summary

Commodore Cove ID

62950 - Drinking Water Storage Tank with
circulation pump

Budget Items	TWDB Funds	Total
Construction		
Construction	\$235,700.00	\$235,700.00
Subtotal for Construction	\$235,700.00	\$235,700.00
Basic Engineering Services		
Design	\$30,641.00	\$30,641.00
Planning	\$10,000.00	\$10,000.00
Subtotal for Basic Engineering Services	\$40,641.00	\$40,641.00
Other		
Project Legal Expenses	\$3,000.00	\$3,000.00
Subtotal for Other	\$3,000.00	\$3,000.00
Contingency		
Contingency	\$35,355.00	\$35,355.00
Subtotal for Contingency	\$35,355.00	\$35,355.00
Total	\$314,696.00	\$314,696.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO THE COMMODORE COVE IMPROVEMENT DISTRICT
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH \$314,696 IN PRINCIPAL FORGIVENESS

(23 -)

WHEREAS, the Commodore Cove Improvement District (District), located in Brazoria County has filed an application for financial assistance in the amount of \$314,696 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62950; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$314,696 with 100 percent 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 § 371.13; and

WHEREAS, the TWDB hereby finds:

1. that no debt obligations are to be assumed by the District for the financial assistance and no taxes or revenues are required to be pledged by the District in accordance with Texas Water Code § 15.607
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);

6. that the District meets the definition of a very small system in accordance with the current Intended Use Plan and is therefore eligible for principal forgiveness in the amount of \$314,696.

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

A commitment is made by the TWDB to the Commodore Cove Improvement District for financial assistance in the amount of \$314,696 from the Drinking Water State Revolving Fund with 100 percent to be forgiven. This commitment will expire on September 30, 2023.

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 District's compliance with all applicable requirements contained in 31 TAC Chapter 371;
3. this commitment is contingent on the District executing a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
4. the District 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 District 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 District when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations 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;
9. 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 under 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 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;
11. the District 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 District 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 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;
14. the Principal 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 Unique Entity Identification Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;

15. the Principal 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;
16. The Principal 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 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines;
17. The Principal Forgiveness Agreement must contain a covenant that the District shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216;

Drinking Water State Revolving Fund Conditions:

18. 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 Obligations;

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

Special Conditions:

19. the District must notify the Executive Administrator in writing, thirty (30) days prior to taking any actions to alter its legal status in any manner; and
20. the Obligations must include a provision requiring that the District notify the Executive Administrator in writing prior to any action by it 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.

APPROVED and ordered of record this 4th day of May 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, 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:

ILI¹:

1 – Infrastructure Leakage Index only applicable if > 16 connections per mile and > 3,000 service connections

WATER LOSS THRESHOLDS

Water Loss Project:

Wholesale Adjusted:

Threshold Type:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day

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.

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 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.

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.



Commodore Cove Improvement District Brazoria County

