



**PROJECT FUNDING REQUEST**

**BOARD DATE:** November 9, 2023

**Team Manager:** Dain Larsen

**ACTION REQUESTED**

Consider approving by resolution a request from the Avalon Point Water Services, LLC dba Medina Highlands (Bandera County) for \$300,000 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of water system improvements.

**STAFF RECOMMENDATION**

Approve       No Action

**BACKGROUND**

The Avalon Point Water Services, LLC, dba Medina Highlands (Medina Highlands) is an investor-owned utility that provides water service to a community with 44 connections and an approximate population of 120. It is located 30 miles northwest of San Antonio.

**PROJECT NEED AND DESCRIPTION**

Medina Highlands’ existing 20 gallons per minute water well provides inadequate production and results in pressure in the distribution system below Texas Commission on Environmental Quality (TCEQ) requirements.

Medina Highlands proposes to construct a new 75 gallons-per-minute water well to provide a more reliable source of water supply for the community. High water loss in the system will be addressed by replacing approximately 12 water meters that are over 10 years old. An asset management plan will also be developed for the system.

<b>Task</b>	<b>Schedule Date</b>
Closing	December 13, 2023
Engineering Feasibility Report Completion(End of Planning Phase)	January 15, 2024
Design Phase	January 29, 2024
Start of Construction	April 1, 2024
Construction Completion	May 31, 2024

**COMMITMENT PERIOD:** SIX (6) MONTHS TO EXPIRE MARCH 31, 2024

## **KEY ISSUES**

Medina Highlands qualifies for principal forgiveness as a very small system.

The funding being provided by the TWDB is in the form of 100 percent principal forgiveness and therefore is not subject to a risk score analysis. Medina Highlands is an individual investor owned utility. Staff reviewed the owner's tax returns filed from 2019 to 2022 and unaudited financial information submitted to the Public Utility Commission (PUC) as part of a request to increase system rates. Historically, the system did not provide sufficient revenues to meet expenses primarily due to rates not being increased for approximately 10 years.

Staff concludes that with the rate increase approved by the PUC and implemented in March 2023 that the average monthly bill increase from approximately \$32 to \$80 will provide sufficient revenues for operations. In support of the proposed project, Medina Highlands closed on a \$54,000 loan with a 15-year repayment term from Communities Unlimited.

Including the additional debt service expense, staff projects positive net revenues of approximately \$6,000 annually and that the system has sufficient financial and managerial capacity. The TCEQ's Capacity Assessment Report resulting from its Financial, Managerial, and Technical (FMT) capacity review recommends that the system utilize the FMT assistance for capital improvements planning, training, and development of a maintenance program. A resolution condition has been added to require documentation of the implementation or completion of these recommendations prior to closing. Medina Highlands continues to work together with Communities Unlimited on the project and plans to formalize a technical assistance agreement for help with meeting the condition.

## **LEGAL/SPECIAL CONDITIONS**

- Conveyance and conversion
- Water rights determination
- FMT recommendation implemented

### **Attachments:**

1. Financial Review
2. Project Budget
3. Resolution (23- )
4. Water conservation review
5. Location Map

<b>Responsible Authority</b>	Medina Highlands
<b>Program</b>	DWSRF
<b>Commitment Number</b>	LF1001574
<b>Project Number</b>	62933
<b>List Year</b>	2022
<b>Type of Pledge</b>	N/A
<b>Pledge Level (if applicable)</b>	N/A
<b>Legal Description</b>	\$300,000 Principal Forgiveness Agreement
<b>Tax-exempt or Taxable</b>	Taxable
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow Release
<b>Qualifies as Disadvantaged</b>	No
<b>State Revolving Fund Type</b>	Equivalency
<b>Financial Managerial &amp; Technical Complete</b>	Yes
<b>Phases Funded</b>	Planning, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with State Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Exempt (\$500,000 or less)
<b>Overall Risk Score</b>	N/A

**PROJECT TEAM**

<b>Team Manager</b>	<b>Financial Analyst</b>	<b>Engineering Reviewer</b>	<b>Environmental Reviewer</b>	<b>Attorney</b>
Dain Larsen	Arnoldo Rubio	David Firgens	Kristin Miller	Marshall Walters



**Project Budget Summary**

Medina Highlands

62933 - Medina Highlands Well

Budget Items	This Commitment	Local and Other Funds	Total
<b>Construction</b>			
Construction	\$267,000.00	\$0.00	\$267,000.00
<b>Subtotal for Construction</b>	<b>\$267,000.00</b>	<b>\$0.00</b>	<b>\$267,000.00</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$8,000.00	\$0.00	\$8,000.00
Design	\$15,000.00	\$0.00	\$15,000.00
Planning	\$1,500.00	\$0.00	\$1,500.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$24,500.00</b>
<b>Special Services</b>			
Application	\$3,000.00	\$0.00	\$3,000.00
Testing	\$0.00	\$18,750.00	\$18,750.00
<b>Subtotal for Special Services</b>	<b>\$3,000.00</b>	<b>\$18,750.00</b>	<b>\$21,750.00</b>
<b>Fiscal Services</b>			
Fiscal/Legal	\$500.00	\$0.00	\$500.00
<b>Subtotal for Fiscal Services</b>	<b>\$500.00</b>	<b>\$0.00</b>	<b>\$500.00</b>
<b>Contingency</b>			
Contingency	\$5,000.00	\$35,250.00	\$40,250.00
<b>Subtotal for Contingency</b>	<b>\$5,000.00</b>	<b>\$35,250.00</b>	<b>\$40,250.00</b>
<b>Total</b>	<b>\$300,000.00</b>	<b>\$54,000.00</b>	<b>\$354,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE  
TO THE AVALON POINT WATER SERVICES, LLC  
DOING BUSINESS AS MEDINA HIGHLANDS  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH \$300,000 IN PRINCIPAL FORGIVENESS

(23 - )

Recitals:

The Avalon Point Water Services, LLC (LLC), located in Bandera County, Texas, has filed an application for financial assistance in the amount of \$300,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design, and construction of certain water system improvements identified as Project No. 62933.

The LLC seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$300,000 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 § 371.13.

Findings:

1. No debt obligations are to be assumed by the LLC for the financial assistance and no taxes or revenues are required to be pledged by the LLC in accordance with Texas Water Code § 15.607.
2. 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. The LLC is exempt from requirements to adopt a water conservation program because the TWDB's financial assistance will be \$500,000 or less.
4. 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. The LLC has completed a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 and filed it with the TWDB in accordance with Texas Water Code § 16.053(j).

6. That the LLC 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 \$300,000.

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

A commitment is made by the TWDB to the Avalon Point Water Services, LLC for financial assistance in the amount of \$300,000 from the Drinking Water State Revolving Fund with 100 percent to be forgiven. This commitment will expire on March 31, 2024.

The 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 LLC's compliance with all applicable requirements contained in 31 TAC Chapter 371.
3. This commitment is contingent on the LLC executing a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator.
4. The LLC shall return any principal forgiveness funds determined to be surplus funds in a manner determined by the Executive Administrator.
5. The Principal Forgiveness Agreement must contain a provision that the LLC agrees to comply with all of the conditions set forth in the TWDB Resolution that incorporates those conditions.
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 be held at a designated state depository institution or other properly chartered 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 LLC when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations must include a provision that states the LLC is solely responsible for liability resulting from acts or omissions of the LLC, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage, sludge, contaminated sediments, or contaminated media that may be generated by the LLC, its contractors, consultants, agents, officials, or 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 LLC shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel 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. Before closing, when any portion of the financial assistance is to be held in escrow or in trust, the LLC shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit the executed agreement to the TWDB.
11. The Obligations must contain a provision requiring the LLC to maintain insurance coverage sufficient to protect the TWDB's interest in the project.

State Revolving Fund Conditions:

12. The LLC 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 LLC, 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 in this commitment shall insert in full, in any contract in excess of \$2,000, the contract clauses as provided by the TWDB.
14. The Principal Forgiveness Agreement must include a provision stating that the LLC 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 LLC 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 Obligations 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 LLC will adhere to the approved project schedule.
16. The Principal Forgiveness Agreement must contain a covenant that the LLC 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 LLC 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. Before 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 LLC 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.
19. Before release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the LLC 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.

Special Conditions:

20. The LLC must notify the Executive Administrator in writing, thirty (30) days before taking any actions to alter its legal status in any manner.
21. The Obligations must include a provision requiring that the LLC notify the Executive Administrator in writing before taking any action 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.
22. Before 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 LLC 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.

23. Before the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must issue a written finding that the LLC has the right to use the water that the project financed by the TWDB will provide.
24. Prior to closing, the LLC will provide evidence that the LLC has implemented or completed all recommendations made by the Texas Commission Environmental Quality in the financial, managerial, and technical letter provided July 20, 2022.

APPROVED and ordered of record this 9th day of November 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:

ILI<sup>1</sup>:

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.

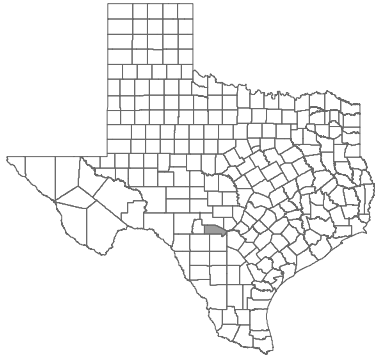
**Water loss** is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

**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.



# Medina Highlands Bandera County

