

Texas Water Development Board

6-105 PROJECT FUNDING REQUEST

BOARD DATE: October 5, 2023

Team Manager: Nancy Richards

ACTION REQUESTED

Consider approving by resolution a request from the City of La Porte (Harris County) to amend Texas Water Development Board Resolution No. 16-105 to authorize a \$13,840,000 increase in financial assistance from the Clean Water State Revolving Fund for costs related to a wastewater systems improvement project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The City of La Porte (City) is located approximately 25 miles southeast of downtown Houston. The City provides water and wastewater services to a population of approximately 35,000 residents through 13,500 connections.

PROJECT NEED AND DESCRIPTION

The City is under enforcement from the Texas Commission on Environmental Quality for sanitary sewer overflows. The project area is contained within the Armand Bayou, home to one of the largest urban wildlife refuges in the United States.

The City is requesting additional construction funds to address a shortfall due to escalated construction costs for the Lomax Area Wastewater Lift Station Consolidation Project. The project includes 4 phases to extend approximately 20,000 linear feet of gravity sewer, 8,100 linear feet of forcemain and new manholes to replace 9 existing sanitary lift stations with a single lift station, for a net reduction of 8 lift stations.

PROJECT SCHEDULE

Task	Schedule Date
Closing	January 15, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	October 22, 2019
Design Phase Completion	March 5, 2024
Start of Construction	December 11, 2023
Construction Completion	January 26, 2026

KEY ISSUES

The City is requesting funding from the 2023 Clean Water State Revolving Fund Project Reserve dedicated to existing projects with cost increases. The request is for additional funds resulting from cost increases to the original project only, no additional work is proposed.

COMMITMENT PERIOD: TWELVE (12) MONTHS TO EXPIRE OCTOBER 31, 2024

Attachments:

1. Financial Review
2. Project Budget
3. Resolution (23-)
4. Resolution No. 16-105
5. Water Conservation Review
6. Location Map

Financial Review City of La Porte

Risk Score: 2A

Audit Reviewed: FY 2022

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: 0.38%	State: 1.49%
Top 10 Customers % of Total Revenue	9%	10-15%
Median Household Income as % of State	122%	70-174%
Days of Cash on Hand (3-year Average)	599 days	30-149 days
Net Direct Debt/Total Assessed Valuation	0.57%	2-4.99%
Debt Service Coverage Ratio	1.47x	1.1x
Net Direct Debt-to-Operating Revenues	1.74	4.00-5.99x
Unemployment Rate (July 2023)	City: 5.90%	State: 4.50%
Working Capital Ratio	10.09	> 1.0

Key Risk Score Strengths

- A high working capital ratio provides the City with ample resources to cover short-term liabilities and shows a strong liquidity position.
- The City's days of cash on hand is above the benchmark, indicating that they can pay operating expenses with the cash available.
- The top water customers as a percentage of total assessed valuation is below the benchmark, indicating that the City is not reliant on a few taxpayers.

Key Risk Score Concerns

- The unemployment rate, taken from the City of La Porte, is higher than the state's average for the month of July; however, on average, the City has been able to collect 99 percent of its property taxes over the past three years, indicating the high unemployment rate has not impacted the City's ability to collect payments from its citizens.

PLEDGE

Legal Pledge Name	Ad Valorem Tax & Utility System Revenues
Type of Pledge	<input type="checkbox"/> Tax <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input type="checkbox"/> First <input type="checkbox"/> Second <input checked="" type="checkbox"/> Third <input type="checkbox"/> N/A

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (Year 2023)	Current Household Cost Factor	Projected Household Cost Factor
Water	5,000	\$15.89	\$15.89	0.56	0.56
Wastewater	5,000	\$17.25	\$17.25		

TAXES

	2022 Tax Year Rate	Max Projected Tax Rate (Year 2022)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.6220	\$0.6220	\$2.50	99%	\$5,000,891,794
Interest & Sinking	\$0.0880	\$0.0880			
Total Tax Rate	\$0.7100	\$0.7100			

Cost Savings

Based on a 20-year maturity schedule and current interest rates, the City could save approximately \$2,421,343 over the life of the financing.

Responsible Authority	La Porte
Program	CWSRF
Commitment Number	L1001718
Project Number	73733
List Year	2023
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Second Lien
Legal Description	\$13,840,000 City of La Porte, Texas Certificates of Obligation, Proposed Series 2024
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay <> Escrow Release
Qualifies as Disadvantaged	No
State Revolving Fund Type	Non-Equivalency
Financial Managerial & Technical Complete	N/A
Phases Funded	Construction
Pre-Design	No
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	2A

PROJECT TEAM

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

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of La Porte

\$13,840,000 City of La Porte, Texas Certificates of Obligation, Proposed Series 2024

Dated Date: 1/15/2024
 Delivery Date: 1/15/2024
 First Interest: 3/15/2024
 First Principal: 3/15/2026
 Last Principal: 3/15/2043
 Fiscal Year End: 09/30
 Required Coverage: 1.1

Source: CWSRF-NON-EQUIVALENCY
 Rate: 2.33%
 IUP Year: 2023
 Case: Tax & Revenue
 Admin.Fee: \$238,034
 Admin. Fee Payment Date: 1/15/2024
 Total Assessed Valuation: \$5,000,891,794

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 99%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$13,840,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE	
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			
2024	\$0.0880	\$4,356,777	\$1,493,656	\$5,850,433	\$5,006,402	\$0	-	\$200,962	\$200,962	\$5,207,365	1.12
2025	0.0880	4,356,777	1,493,656	5,850,433	4,955,587	-	-	301,444	301,444	5,257,030	1.11
2026	0.0880	4,356,777	1,493,656	5,850,433	3,088,480	590,000	1.90%	295,839	885,839	3,974,318	1.47
2027	0.0880	4,356,777	1,493,656	5,850,433	3,020,642	605,000	1.82%	284,728	889,728	3,910,370	1.50
2028	0.0880	4,356,777	1,493,656	5,850,433	3,016,239	625,000	1.79%	273,629	898,629	3,914,868	1.49
2029	0.0880	4,356,777	1,493,656	5,850,433	3,021,130	645,000	1.75%	262,391	907,391	3,928,521	1.49
2030	0.0880	4,356,777	1,493,656	5,850,433	2,195,359	665,000	1.72%	251,029	916,029	3,111,388	1.88
2031	0.0880	4,356,777	1,493,656	5,850,433	1,487,568	685,000	1.70%	239,487	924,487	2,412,055	2.43
2032	0.0880	4,356,777	1,493,656	5,850,433	1,491,364	705,000	1.72%	227,602	932,602	2,423,966	2.41
2033	0.0880	4,356,777	1,493,656	5,850,433	1,491,566	725,000	1.77%	215,122	940,122	2,431,688	2.41
2034	0.0880	4,356,777	1,493,656	5,850,433	1,485,305	750,000	1.93%	201,469	951,469	2,436,773	2.40
2035	0.0880	4,356,777	1,493,656	5,850,433	1,492,455	770,000	2.07%	186,262	956,262	2,448,716	2.39
2036	0.0880	4,356,777	1,493,656	5,850,433	1,492,922	795,000	2.22%	169,468	964,468	2,457,390	2.38
2037	0.0880	4,356,777	1,493,656	5,850,433	1,490,726	820,000	2.35%	151,008	971,008	2,461,734	2.38
2038	0.0880	4,356,777	1,493,656	5,850,433	871,925	845,000	2.46%	130,980	975,980	1,847,905	3.17
2039	0.0880	4,356,777	1,493,656	5,850,433	873,000	870,000	2.51%	109,668	979,668	1,852,668	3.16
2040	0.0880	4,356,777	1,493,656	5,850,433	873,325	895,000	2.56%	87,293	982,293	1,855,618	3.15
2041	0.0880	4,356,777	1,493,656	5,850,433	872,900	920,000	2.61%	63,831	983,831	1,856,731	3.15
2042	0.0880	4,356,777	1,493,656	5,850,433	-	950,000	2.67%	39,143	989,143	989,143	5.91
2043	0.0880	4,356,777	1,493,656	5,850,433	-	980,000	2.70%	13,230	993,230	993,230	5.89
					\$38,226,893	\$13,840,000		\$3,704,581	\$17,544,581	\$55,771,473	

AVERAGE (MATURITY) LIFE	11.47 YEARS
NET INTEREST RATE	2.334%
COST SAVINGS	\$ 2,421,343
AVERAGE ANNUAL REQUIREMENT	\$877,229

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.



Project Budget Summary
La Porte
73733 - Lomax Area WWLS Consolidation

Budget Items	This Commitment	Previous Commitments	Local and Other Funds	Total
Construction				
Construction	\$12,431,875	\$7,468,134	\$2,987,374	\$22,887,383
Subtotal for Construction	\$12,431,875	\$7,468,134	\$2,987,374	\$22,887,383
Basic Engineering Services				
Basic Engineering Other (Bid Phase)	\$261,730	\$5,500	\$0	\$267,230
Construction Engineering	\$0	\$72,800	\$0	\$72,800
Design	\$0	\$642,465	\$0	\$642,465
Planning	\$0	\$17,600	\$0	\$17,600
Subtotal for Basic Engineering Services	\$261,730	\$738,365	\$0	\$1,000,095
Special Services				
Environmental	\$0	\$46,830	\$0	\$46,830
Geotechnical	\$0	\$97,940	\$0	\$97,940
Permits	\$0	\$6,100	\$0	\$6,100
Project Management (by engineer)	\$0	\$36,150	\$0	\$36,150
Surveying	\$0	\$122,745	\$0	\$122,745
Testing	\$294,150	\$0	\$0	\$294,150
Subtotal for Special Services	\$294,150	\$309,765	\$0	\$603,915
Fiscal Services				
Bond Counsel	\$44,282	\$33,650	\$0	\$77,932
Financial Advisor	\$40,131	\$31,063	\$0	\$71,194
Issuance Costs	\$2,000	\$1,500	\$0	\$3,500
Loan Origination Fee	\$238,034	\$193,174	\$0	\$431,208
Subtotal for Fiscal Services	\$324,447	\$259,387	\$0	\$583,834
Other				
Land/Easements Acquisition	\$0	\$0	\$0	\$0
Project Legal Expenses	\$0	\$25,000	\$0	\$25,000
Subtotal for Other	\$0	\$25,000	\$0	\$25,000
Contingency				
Contingency	\$527,798	\$1,834,349	\$0	\$2,362,147
Subtotal for Contingency	\$527,798	\$1,834,349	\$0	\$2,362,147
Total	\$13,840,000	\$10,635,000	\$2,987,374	\$27,462,374

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TWDB RESOLUTION NO. 16-105
TO PROVIDE ADDITIONAL FINANCIAL ASSISTANCE IN THE AMOUNT OF \$13,840,000
TO THE CITY OF LA PORTE

(23_-)

Recitals:

At its October 5, 2016 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 16-105, made a commitment to provide financial assistance to the City of La Porte (City) for the purpose of financing improvements to the City's wastewater system in the amount of \$10,635,000, consisting of the TWDB's purchase of \$10,635,000 City of La Porte, Texas Certificates of Obligation, Series 2017, from the Clean Water State Revolving Fund program, all as is more specifically set forth in the TWDB's Resolution and accompanying documentation, to which documents express reference is made.

The City has requested that the TWDB amend the previous TWDB Resolution, No. 16-105, to provide additional financial assistance to enable the City to continue the sewer system improvements to reduce sanitary sewer overflows.

The City has offered a pledge of ad valorem taxes and surplus revenues of the City's waterworks and sewer system as sufficient security for the repayment of the Obligations.

In accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law.

Findings:

The TWDB finds that the amendment to the amount of financial assistance is reasonable and that the request is in the public interest and will serve a public purpose; and

The term of the Obligations does not exceed the expected useful life of the project proposed by the City.

The Executive Administrator issued a Finding of No Significant Impact on July 18, 2019. These findings are subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the City of La Porte for financial assistance in the amount of \$13,840,000 from the Clean Water State Revolving Fund through the TWDB's purchase of \$13,840,000 City of La Porte, Texas Certificates of

Obligation, Proposed Series 2024. This commitment will expire on October 31, 2024.

All other terms and conditions of TWDB Resolution No. 16-105 shall remain in full force and effect except as follows:

1. TWDB Resolution No. 16-105 Condition No. 8 is replaced with: The Obligations must require the City to use any proceeds from the Obligations that are determined to be surplus funds in a manner approved by the Executive Administrator. Surplus funds are funds remaining after completion of the project and completion of a final accounting.
2. TWDB Resolution No. 16-105 Condition No. 28 is replaced with: The Obligations must provide that the City will 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 will obtain a Unique Entity Identification Number and will register with System for Award Management (SAM) and maintain current registration at all times during which the Obligations are outstanding.
3. TWDB Resolution Condition No. 33 is replaced with: The City must pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375.

The following conditions are added to TWDB Resolution No. 16-105:

4. The Obligations must provide that the City must comply with all applicable federal laws and TWDB laws and rules related to the use of the financial assistance.
5. The Obligations must provide that the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator including the standard emergency discovery conditions for threatened and endangered species and cultural resources.
6. The Obligations must require the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
7. The City must immediately notify TWDB in writing of any suit against it by the Attorney General of Texas under Texas Government Code § 2.103 and Texas Penal Code § 1.10(f), related to federal laws regulating firearms, firearm accessories, and firearm ammunition.
8. The Obligations must provide that the City must submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.

9. The Obligations must provide that the City shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216.

APPROVED and ordered of record this the 5th day of October 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$10,635,000 TO THE CITY OF LA PORTE
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$10,635,000 CITY OF LA PORTE, TEXAS COMBINATION TAX AND SURPLUS
REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2017

(16-105)

WHEREAS, the City of La Porte, Texas (City) has filed an application for financial assistance in the amount of \$10,635,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, acquisition, design and construction of certain wastewater system improvements identified as Project No. 73733; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$10,635,000 City of La Porte, Texas Certificates of Obligation, Proposed Series 2017 (together with all authorizing documents, "Obligations"), all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of tax and surplus system revenue as sufficient security for the repayment of the Obligations; 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 the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed 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 has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules; and
4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007.

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

A commitment is made by the TWDB to the City of La Porte for financial assistance in the amount of \$10,635,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$10,635,000 City of La Porte, Texas Certificates of Obligation, Proposed Series 2017. This commitment will expire on October 31, 2017.

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 issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
5. the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;
6. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
7. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements

are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;

8. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) deposit into a reserve fund;
9. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
10. loan proceeds are public funds and, as such, the Obligations 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;
11. loan 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 Obligations 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;
12. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;
13. 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;
14. 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;

15. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

Conditions Related To Tax-Exempt Status

16. the City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion;
17. the City's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;
18. the Obligations must include a provision prohibiting the City from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
19. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:
 - a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;
 - b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and
 - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
20. the Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 148 of the Code. The Obligations must provide that the City will:

- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;
 - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the making of the loan, and in order to induce the making of the loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
21. the Obligations must include a provision prohibiting the City from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
 22. the Obligations must provide that the City will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;
 23. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the City's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
 24. the transcript must include evidence that the information reporting requirements of § 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;

25. the Obligations must provide that neither the City nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the City by the TWDB;

State Revolving Fund Conditions

26. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
27. the Obligations 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;
28. the Obligations 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 which the Obligations are outstanding;
29. 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 City will adhere to the approved project schedule;
30. the Obligations 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;
31. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
32. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not

exceed 120% of the average projected useful life of the project, as determined by the schedule;

Clean Water State Revolving Fund Conditions

33. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;
34. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. 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;

Pledge Conditions For The Loan

35. the Obligations must contain a provision that provides as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;
 - ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and

- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than **1.10** times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

APPROVED and ordered of record this 5th day of October, 2016.

TEXAS WATER DEVELOPMENT BOARD

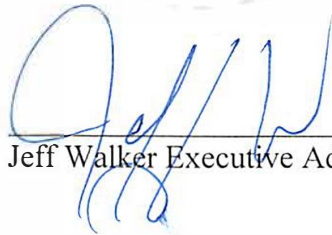


Bech K. Bruun

Bech K. Bruun, Chairman

DATE SIGNED: 10-5-16

ATTEST:



Jeff Walker

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.

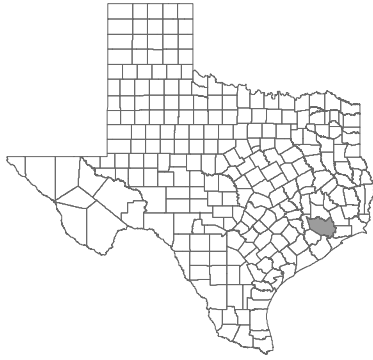
Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

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.



City of La Porte Harris County

