

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: February 25, 2015

TEAM MANAGER: Clay Schultz

<b>APPLICANT</b>	City of San Marcos
<b>TYPE OF ASSISTANCE</b>	\$4,275,000 Loan \$342,955 Loan Forgiveness
<b>LEGAL PLEDGE</b>	Parity First Lien on the Net Revenues of the Water and Wastewater System

### STAFF RECOMMENDATION

Approve                       No Action

### ACTION REQUESTED

Approve by resolution, a request from the **City of San Marcos (Hays, Caldwell, Guadalupe, and Comal Counties)** for financial assistance totaling \$4,617,955 consisting of a \$4,275,000 loan and \$342,955 in loan forgiveness from the Clean Water State Revolving Fund to finance construction of wastewater system improvements as part of its sanitary sewer overflow initiative.

### PROJECT

Utility Infrastructure Rehabilitation  
Project Number 73703

### FINANCIAL SUMMARY

Risk Score:	2B
Pledge for Repayment:	Net Revenues
Proposed Repayment Method:	Net Revenues
Average Monthly Water and Wastewater Bill:	\$75
Operating Trends:	Increasing
Assessed Valuation Trend:	Increasing
Revenue Coverage Range (First 5 Years):	1.26x

<b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON FEBRUARY 29, 2016</b>
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## **FINANCIAL**

### Key Issues

None.

### Pledge and Repayment

The City of San Marcos (City) is offering a parity first lien pledge on the net revenues of the water and wastewater system for repayment of the proposed debt. Current rates and charges are sufficient to meet the existing and proposed debt service requirements.

### Principal Forgiveness

The City qualifies for \$342,955 in loan forgiveness as a green project.

### Cost Savings

Based on a 20-year maturity schedule, current interest rates, and the financing of loan forgiveness funds, the City could save approximately \$1,098,000 over the life of the financing by utilizing Texas Water Development Board funding.

### Internal Risk Score

Staff assigns a risk score of 2B. A risk score of 2B means that the City's repayment capacity is adequate. The City's earnings trends and coverage ratios, while stable, may be more susceptible to moderate changes in circumstances and economic conditions than the higher rated obligations. Certain risk elements may exist that suggest susceptibility to future impairment, if not managed.

The City's median household income is \$27,360. This represents approximately 53% of the median for the State overall. The unemployment rate for the City is 4.7%, compared to 4.1 % in the State overall. Water and sewer connections have increased annually by 2% per year over the last five years. Including this proposed financing and the unclosed \$410,000 commitment, total debt per capita is approximately \$5,000. Sales tax collections have increased 25% over the last five years.

Currently, the average combined water and sewer bill is \$75 per month. Due to the median household income of the service area, the household cost factor is approximately 3%. This is higher than the 2% benchmark for assessing the affordability of rates. The City's operating trends are increasing as it continues meeting its responsibility for sound financial management. An operating budget is adopted annually and adjustments are made when necessary. In July 2013, Standard & Poor's Financial Services and Moody's Corporation assigned AA and A1 ratings, respectively, to the City's underlying revenue debt. Sound financial management practices and positive operating trends support the 2B risk rating.

## **LEGAL**

### Key Issues

None.

**CONDITIONS**

Standard tax-exempt, first lien net revenue, Clean Water State Revolving Fund conditions, and further conditioned as follows:

- Loan Forgiveness Agreement; and
- Surplus Funds.

- Attachments:
1. Project Data Summary
  2. Debt Service
  3. Engineering/Environmental Review
  4. Project Budget
  5. Resolution (15- )
  6. Water Conservation Review
  7. Location Map

**Project Data Summary**

<b>Authority</b>	City of San Marcos
<b>Program</b>	Clean Water State Revolving Fund
<b>Commitment Code</b>	L1000413/LF1000412
<b>Project Number</b>	73703
<b>Intended Use Plan Year</b>	2015
<b>Fund Number</b>	651
<b>Type of Pledge</b>	2-Revenue
<b>Revenue Pledge Level</b>	First
<b>Legal Description</b>	\$4,275,000 Waterworks and Wastewater System Revenue Bonds, Proposed Series 2015 \$342,955 Loan Forgiveness Agreement
<b>Tax-exempt or Taxable</b>	Tax-Exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow
<b>Population</b>	69,873
<b>Rural</b>	No
<b>Water Connections</b>	10,599
<b>Wastewater Connections</b>	8,827
<b>Qualifies as Disadvantaged</b>	Yes
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	Equivalency
<b>Financial Managerial &amp; Technical Complete</b>	N/A
<b>Funding Phase Code</b>	Construction
<b>Pre-Design</b>	No
<b>Project Consistent with Water Plan</b>	N/A
<b>Water Conservation Plan</b>	Adopted
<b>Water Rights Certification Required</b>	N/A
<b>Internal Risk Score</b>	2B
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	AA
<b>Moody's</b>	A1
<b>Fitch</b>	N/A
<b>Special Issues</b>	loan forgiveness as a green project

**Project Team**

Team Manager	Clay Schultz
Financial Analyst	Maxine Gilford
Engineering Reviewer	Joel Smith
Environmental Reviewer	Nicki Hise
Attorney	Barbara Watson

**ISSUE BEING EVALUATED**  
**City of San Marcos**  
**\$4,275,000 Waterworks and Wastewater System Revenue Bonds, Proposed Series 2015**

<b>Dated Date</b>	<b>05/01/15</b>	<b>Source: SRF</b>
<b>Delivery Date</b>	<b>05/01/15</b>	<b>Rate: 1.07%</b>
<b>First Interest</b>	<b>11/01/15</b>	<b>Insurance: No</b>
<b>First Principal</b>	<b>05/01/16</b>	<b>Case: Revenue Only</b>
<b>Last Principal</b>	<b>05/01/35</b>	<b>Admin. Fee Payment Date: 5/1/2015</b>
<b>Fiscal Year End</b>	<b>9/30</b>	<b>Administrative Fee: \$77,651</b>

**FOR ILLUSTRATION PURPOSES ONLY**

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE**	----- THIS \$4,275,000 ISSUE -----				TOTAL DEBT SERVICE	COVERAGE BEING REQUIRED	ACTUAL COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT			
2016	13,000,000	10,100,735	195,000	1.07%	45,743	240,743	10,341,478	1.00	1.26
2017	13,000,000	10,106,085	195,000	1.07%	43,656	238,656	10,344,741	1.00	1.26
2018	13,000,000	10,102,227	195,000	1.07%	41,570	236,570	10,338,797	1.00	1.26
2019	13,000,000	10,085,877	200,000	1.07%	39,483	239,483	10,325,360	1.00	1.26
2020	13,000,000	10,086,072	200,000	1.07%	37,343	237,343	10,323,415	1.00	1.26
2021	13,000,000	7,190,474	205,000	1.07%	35,203	240,203	7,430,677	1.00	1.75
2022	13,000,000	7,183,838	205,000	1.07%	33,010	238,010	7,421,848	1.00	1.75
2023	13,000,000	7,135,847	210,000	1.07%	30,816	240,816	7,376,663	1.00	1.76
2024	13,000,000	7,131,839	210,000	1.07%	28,569	238,569	7,370,408	1.00	1.76
2025	13,000,000	7,060,004	210,000	1.07%	26,322	236,322	7,296,326	1.00	1.78
2026	13,000,000	7,081,610	215,000	1.07%	24,075	239,075	7,320,685	1.00	1.78
2027	13,000,000	7,089,574	215,000	1.07%	21,775	236,775	7,326,349	1.00	1.77
2028	13,000,000	3,016,630	220,000	1.07%	19,474	239,474	3,256,104	1.00	3.99
2029	13,000,000	3,022,640	220,000	1.07%	17,120	237,120	3,259,760	1.00	3.99
2030	13,000,000	3,020,290	225,000	1.07%	14,766	239,766	3,260,056	1.00	3.99
2031	13,000,000	1,376,345	225,000	1.07%	12,359	237,359	1,613,704	1.00	8.06
2032	13,000,000	1,379,478	230,000	1.07%	9,951	239,951	1,619,429	1.00	8.03
2033	13,000,000	1,379,775	230,000	1.07%	7,490	237,490	1,617,265	1.00	8.04
2034	13,000,000	1,062,405	235,000	1.07%	5,029	240,029	1,302,434	1.00	9.98
2035	13,000,000	-	235,000	1.07%	2,515	237,515	237,515	1.00	54.73
		\$ 114,611,745	\$ 4,275,000		\$ 496,266	\$ 4,771,266	\$ 119,383,011		

\*\*Includes \$410,000 unclosed CWSRF commitment approved by the TWDB in November, 2014

<b>AVERAGE (MATURITY) LIFE</b>	<b>10.85 YEARS</b>
<b>NET INTEREST RATE</b>	<b>1.070%</b>
<b>COST SAVINGS</b>	<b>\$ 1,098,000</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$5,969,151</b>

## San Marcos

## Engineering and Environmental Review

**Engineering:**Key Issues

The proposed project is eligible for a green subsidy of \$342,955. The project includes the decommissioning and removal of three lift stations and sanitary sewer line replacement to address infiltration and inflow (I&I) issues.

I&I correction projects that save energy from pumping and reduced treatment costs and are cost effective, are business case green eligible under Part A, Section 3.5-4, Energy Efficiency. The proportional cost of the increase in pipe diameter for some lines is not considered green eligible as it creates additional flow capacity for those lines. This portion is not Green Project Reserve eligible under Part A, Section 3.5-4a.

Project Need / Description

**Need:** The City of San Marcos (City) entered into a Sanitary Sewer Overflow Initiative Agreement with the Texas Commission on Environmental Quality (TCEQ) in July 2008. As part of the agreement, an assessment was made on the entire system through three sewer system evaluation surveys (SSES). Those areas contributing most to causing sanitary sewer overflows were prioritized for rehabilitation or replacement.

**Project:** The City is requesting construction funding for three highest prioritized areas, one in each SSES. The project will replace 27,620 feet of wastewater line in these areas. In addition, one lift station will be enlarged and three will be eliminated. The City estimates 42.3 million gallons of I&I will be eliminated for a savings of \$14.4 million in operation costs, over the 50-year lifespan.

Project Schedule

<b>Project Task</b>	<b>Schedule Date</b>
Closing	5/1/2015
Engineering Feasibility Report Completion (End of Planning Phase)	5/29/2015
Design Phase Complete	10/30/2015
Start of Construction	1/1/2016
Construction Completion	4/30/2018

**Environmental:**Key Issues

None known at this time.

Environmental Summary

A Categorical Exclusion (CE) for this project has been proposed. Pursuant to the requirements of 31 Texas Administrative Code (TAC) §375, all financial assistance shall be

**San Marcos**

**Engineering and Environmental Review**

conditioned to read that funding for construction costs for specific project elements will not be released until the environmental review has been completed and a favorable CE has been issued by the Director of Regional Water Planning & Development. A subsequent Affirmation of Commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.

**San Marcos**  
**73703 - Utility Infrastructure Rehabilitation**

Budget Items	TWDB Funds	Local & Other Funds	Total Cost
<b>Construction</b>			
Construction	\$4,128,724	\$0	\$4,128,724
<b>Construction Total</b>	<b>\$4,128,724</b>	<b>\$0</b>	<b>\$4,128,724</b>
<b>Special Services</b>			
Application	\$0	\$2,500	\$2,500
Environmental	\$0	\$25,181	\$25,181
Inspection	\$0	\$53,857	\$53,857
O&M Manual	\$0	\$5,084	\$5,084
Permits	\$0	\$103,153	\$103,153
Project Management (by engineer)	\$0	\$29,709	\$29,709
Surveying	\$0	\$28,654	\$28,654
<b>Special Services Total</b>	<b>\$0</b>	<b>\$248,138</b>	<b>\$248,138</b>
<b>Contingency</b>			
Contingency	\$411,580	\$0	\$411,580
<b>Contingency Total</b>	<b>\$411,580</b>	<b>\$0</b>	<b>\$411,580</b>
<b>Fiscal Services</b>			
Bond Counsel	\$0	\$10,000	\$10,000
Financial Advisor	\$0	\$17,500	\$17,500
Issuance Costs	\$0	\$12,500	\$12,500
Loan Origination Fee	\$77,651	\$0	\$77,651
<b>Fiscal Services Total</b>	<b>\$77,651</b>	<b>\$40,000</b>	<b>\$117,651</b>
<b>Grand Total</b>	<b>\$4,617,955</b>	<b>\$288,138</b>	<b>\$4,906,093</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$4,617,955 TO THE CITY OF SAN MARCOS  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$4,275,000 CITY OF SAN MARCOS, TEXAS WATERWORKS AND WASTEWATER  
SYSTEM REVENUE BONDS,  
PROPOSED SERIES 2015  
AND  
\$342,955 IN LOAN FORGIVENESS

(15- )

WHEREAS, the City of San Marcos (City) has filed an application for financial assistance in the amount of \$4,617,955 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73703; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$4,275,000 City of San Marcos, Texas Waterworks and Wastewater System Revenue Bonds, Proposed Series 2015 (together with all authorizing documents, (Obligations)), and the execution of a Loan Forgiveness Agreement in an amount of \$342,955, 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 net revenues as sufficient security for the repayment of the Obligations; 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;
4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007; and

5. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects.

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

A commitment is made by the TWDB to the City of San Marcos for financial assistance in the amount of \$4,617,955 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$4,275,000 City of San Marcos, Texas Waterworks and Wastewater System Revenue Bonds, Proposed Series 2015 and the execution of a Loan Forgiveness Agreement in the amount of \$342,955. This commitment will expire on February 29, 2016.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the 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 surplus funds remaining after completion of the project 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) eligible project costs as authorized by the Executive Administrator;
8. 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;
9. 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;
10. 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;
11. 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;
12. 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;
13. 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;

14. 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

15. 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;
16. 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;
17. 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);
18. 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;
19. 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;
20. 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;
  21. 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;
  22. 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;
  23. 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;

24. 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

25. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
26. 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;
27. 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;
28. 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;
29. the Obligations and Loan 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 the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

#### Clean Water State Revolving Fund Conditions

30. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;
31. 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;

32. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City 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;

#### Pledge Conditions for The Loan

33. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations;
34. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;
35. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if the City has secured from a Certified Public Accountant a certificate or report reflecting that for the fiscal year next preceding the date of the proposed Additional parity Obligations or a consecutive twelve (12) month period out of the fifteen (15) month period next preceding the month in which the ordinance authorizing the proposed Additional parity Obligations is adopted, the “net revenues” of the System were equal to at least 1.20 times the combined average annual principal and interest requirements on all Parity Revenue Obligations to be outstanding after the issuance of the proposed Additional Parity Obligations. In making a determination of such net revenues, the Certified Public Accountant may take into consideration a change in the rates and charges for services and facilities afforded by the System that became effective at least sixty (60) days prior to the last day of the period for which such net revenues are determined and, for purposes of satisfying such net revenues test, make a pro forma determination of such net revenues for the period of time covered by the certificate or report based upon such change in rates and charges as being in effect for the entire period covered by the certificate or report. The term “net revenues” shall mean the gross revenues of the System after deduction of maintenance and operating expenses, but not deducting depreciation or expenditures which, under standard accounting practices are classed as capital expenditures.

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

#### Special Conditions:

36. prior to closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
37. the Loan Forgiveness Agreement must include a provision stating that the City shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator;

APPROVED and ordered of record this 25 day of February, 2015.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Carlos Rubinstein, Chairman

DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Kevin Patteson  
Executive Administrator

**WATER CONSERVATION REVIEW**

Entity: \_\_\_\_\_ Review date: \_\_\_\_\_

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

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
<b>Baseline</b>				
<b>5-year Goal</b>				
<b>10-year Goal</b>				

**WATER LOSS AUDIT YEAR:**

Apparent loss (gallons): \_\_\_\_\_

Real loss (gallons): \_\_\_\_\_

Produced water (gallons): \_\_\_\_\_

Total water loss (percent): \_\_\_\_\_

Connections per mile: \_\_\_\_\_

Total water loss (GPCD): \_\_\_\_\_

If &lt; 32 connections per mile, real loss (gallons) per mile per day: \_\_\_\_\_

*(Average real loss for less than 32 connections is 1,154 gal/mile/day)*

If &gt; 32 connections per mile, real loss (gallons) per connection per day: \_\_\_\_\_

*(Average real loss for greater than 32 connections is 47 gal/connection/day)*

If &gt; 16 connections per mile and &gt; 3,000 connections

Infrastructure Leakage Index (ILI): \_\_\_\_\_

**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 formerly 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.

**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.

# City of San Marcos, Hays, Caldwell, Guadalupe, and Comal County

