

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: August 26, 2015

TEAM MANAGER: Luis Farias

<b>APPLICANT</b>	Greater Texoma Utility Authority on behalf of the City of Sherman
<b>TYPE OF ASSISTANCE</b>	\$27,310,000 Loan
<b>LEGAL PLEDGE</b>	Contract Revenues

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve, by resolution, a request from the **Greater Texoma Utility Authority on behalf of the City of Sherman (Grayson County)** for a) \$27,310,000 loan from the Drinking Water State Revolving Fund to finance the planning, design and construction for a water treatment plant expansion and new elevated storage tank and b) a waiver to the requirement to mitigate water loss.

### PROJECT

Sherman Water Treatment Plant Expansion and Upgrade/Elevated Storage Tank  
Project Number 62648

### BACKGROUND

The Greater Texoma Utility Authority (Authority) and the City of Sherman's (City) water supply project will provide additional surface water for water user groups in Grayson County, supplementing the existing groundwater and surface water supplies. The water supply project includes the expansion of the Sherman Surface Water Treatment Plant to address regional needs.

The project will include a dual membrane treatment process for expansion of the water treatment plant, and a concentrated disposal pipeline to a lift station. In addition to a growing region and aging infrastructure, the City's water system does not have adequate capacity to maintain required storage and pressure requirements during scheduled maintenance and rehabilitation of the existing facilities. The City will construct a 1.5 million gallon elevated storage tank to ensure necessary storage and pressure requirements.

<b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE AUGUST 31, 2016</b>
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## **FINANCIAL**

### Key Issues

The Authority on behalf of the City closed on a \$2,515,000 Drinking Water State Revolving Fund (DWSRF) loan from the Texas Water Development Board (TWDB) in February 2015 for the planning, acquisition, and design (PAD) of the City's water plant expansion. The additional PAD requested in this funding will be used for the proposed elevated storage tank. Construction funds will be used to build the new elevated storage tank and expand the water treatment plant.

### Pledge and Repayment

The Authority is pledging contract revenues from the City, who is pledging system revenues of the water and wastewater system. The City's net revenues available for debt service increased 53% from a prior three-year average of \$7,683,355 to \$11,731,508 in 2014. The attached pro forma conservatively use the current three-year average net revenues. Based on a no-growth scenario, the City's current rates are sufficient for the repayment of the existing and proposed debt service.

### Cost Savings

Based on a 20-year maturity schedule, current interest rates, and DWSRF subsidy, the City could save approximately \$3,761,328 over the life of the loan by utilizing TWDB funding.

### Internal Risk Score

Staff assigns a 2B to the City, and the proposed project to be funded by the TWDB. This means that the City's payment capacity is adequate.

The City's results on socioeconomic indicators are lower than or similar to the State overall. The City's population has increased at an average annual rate of 0.81% from 2004 to 2013, compared to a rate of 2% for the population of the State of Texas overall during the same period. The City's average median household income is \$41,296, 79.6% of the median for the State of Texas overall. The unemployment rate for Grayson County, where the City is located, was 3.7% in May 2015, compared to 4.1% in the State of Texas overall, and the national rate of 5.3%. Residents currently pay 1.60% of their annual income for water and wastewater service. This is below the TWDB's benchmark of 2% for two services.

The results of the City's financial indicators are mixed. The City's current outstanding per capita debt totals \$1,528, and would increase to \$2,241 with the proposed financing. This is considered to be a moderate level of debt. The City maintains good liquidity with unrestricted net assets representing approximately 5 months of operating expenses. Overall the City's financial condition is sound.

In addition, the Authority has demonstrated strong management in providing financing and other services for its member cities. There is approximately \$620,000 in unrestricted cash and equivalents at the Authority level.

The assigned risk score is based on the underlying entity's financial position and administration of the project, as well as the City's strong coverage and steady growth in operating revenues.

**LEGAL**

Key Issues

None.

Conditions

Standard Drinking Water State Revolving Fund, tax-exempt, and contract revenue conditions and further conditioned as follows:

- Water Rights Certification;
- Notification prior to actions altering the legal status of the Authority; and
- TWDB approval of any conveyance and assumption of the Obligations.

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

<b>Responsible Authority</b>	Greater Texoma Utility Authority on behalf of the City of Sherman
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Codes</b>	L1000456
<b>Project Number</b>	62648
<b>Intended Use Plan Year</b>	2015
Fund Number	951
<b>Type of Pledge</b>	4- Contract Revenue
<b>Revenue Pledge Level</b>	First
<b>Legal Description</b>	\$27,310,000 Greater Texoma Utility Authority Contract Revenue Bonds, Series 2015B (City of Sherman Projects)
<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 Release
<b>Population</b>	43,199
<b>Rural</b>	No
<b>Water Connections</b>	13,127
<b>Wastewater Connections</b>	11,979
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	9 – N/A
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>Financial, Managerial and Technical Review Complete?</b>	Yes
<b>SWIFT Financing Type</b>	N/A
<b>SWIFT Project Type</b>	N/A
<b>Phase Committing</b>	P, D, C
<b>Pre-Design</b>	Yes
<b>Project Consistent with Water Plan</b>	Yes- A recommended water management strategy.
<b>Water Conservation Plan</b>	Adopted
<b>Water Rights Certification Required</b>	Yes
<b>Internal Risk Score</b>	2B
<b>External Ratings</b>	
<b>Standard and Poor's</b>	AA
<b>Moody's</b>	A1
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**Project Team**

Team Manager	Luis Farias
Financial Analyst	Ben Munguia
Engineering Reviewer	Joe Koen
Environmental Reviewer	Kathy Calnan
Attorney	Joe Reynolds

ISSUE BEING EVALUATED  
 FOR ILLUSTRATION PURPOSES ONLY  
 Greater Texoma Utility Authority on behalf of the City of Sherman

**Greater Texoma Utility Authority Contract Revenue**  
**Bonds, Proposed Series 2015B (City of Sherman Projects)**

<b>Dated Date:</b> 12/15/2015	<b>Source:</b> DWSRF
<b>Delivery Date:</b> 12/15/2015	<b>Rate:</b> 1.89%
<b>First Interest:</b> 10/1/2016	<b>Insurance:</b> No
<b>First Principal:</b> 10/1/2016	<b>Case:</b> Contract Revenues
<b>Last Principal:</b> 10/1/2035	<b>Admin.Fee:</b> \$600,954
<b>Fiscal Year End:</b> 09/30	<b>Admin. Fee Payment Date:</b> 12/15/2015
<b>Required Coverage:</b> 1.0	

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$27,310,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE
					INTEREST PAYMENT	TOTAL PAYMENT		
2017	8,657,444	4,076,098	970,000	1.89%	658,973	1,628,973	5,705,071	1.52
2018	8,657,444	4,083,485	1,150,000	1.89%	486,959	1,636,959	5,720,444	1.51
2019	8,657,444	4,087,187	1,175,000	1.89%	464,987	1,639,987	5,727,174	1.51
2020	8,657,444	4,084,742	1,200,000	1.89%	442,544	1,642,544	5,727,286	1.51
2021	8,657,444	4,090,087	1,220,000	1.89%	419,675	1,639,675	5,729,762	1.51
2022	8,657,444	2,894,909	1,245,000	1.89%	396,380	1,641,380	4,536,289	1.91
2023	8,657,444	2,673,166	1,270,000	1.89%	372,614	1,642,614	4,315,780	2.01
2024	8,657,444	2,680,306	1,295,000	1.89%	348,374	1,643,374	4,323,680	2.00
2025	8,657,444	2,684,748	1,325,000	1.89%	323,615	1,648,615	4,333,363	2.00
2026	8,657,444	2,412,234	1,350,000	1.89%	298,337	1,648,337	4,060,571	2.13
2027	8,657,444	2,415,628	1,380,000	1.89%	272,538	1,652,538	4,068,166	2.13
2028	8,657,444	2,267,375	1,405,000	1.89%	246,220	1,651,220	3,918,595	2.21
2029	8,657,444	1,861,244	1,435,000	1.89%	219,382	1,654,382	3,515,626	2.46
2030	8,657,444	1,869,222	1,465,000	1.89%	191,977	1,656,977	3,526,199	2.46
2031	8,657,444	1,374,337	1,495,000	1.89%	164,005	1,659,005	3,033,342	2.85
2032	8,657,444	1,377,340	1,525,000	1.89%	135,466	1,660,466	3,037,806	2.85
2033	8,657,444	1,226,283	1,555,000	1.89%	106,360	1,661,360	2,887,643	3.00
2034	8,657,444	820,213	1,585,000	1.89%	76,687	1,661,687	2,481,900	3.49
2035	8,657,444	556,167	1,615,000	1.89%	46,447	1,661,447	2,217,614	3.90
2036	8,657,444	231,886	1,650,000	1.89%	15,593	1,665,593	1,897,479	4.56
		\$ 47,766,657	\$ 27,310,000		\$ 5,687,129	\$ 32,997,129	\$ 80,763,786	

<b>AVERAGE (MATURITY) LIFE</b>	<b>11.02 YEARS</b>
<b>NET INTEREST RATE</b>	<b>1.890%</b>
<b>COST SAVINGS</b>	<b>\$3,761,328</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$4,038,189</b>

**Greater Texoma Utility Authority  
Engineering and Environmental Review**

**Engineering:**

Key Issues

The City's water loss is greater than the water loss threshold as established by TWDB and required by Texas Administrative Code §358.6. Therefore, the City is required to include funds to mitigate their water loss as part of their request for financial assistance. The City has requested a waiver from using TWDB funds to mitigate water loss based on the City's current water loss mitigation efforts. The City's current mitigation efforts include meter replacement, water line replacement, and planned rehabilitation of the Gallagher elevated storage tank. Rehabilitation of the Gallagher elevated storage tank is dependent on the proposed DWSRF funded elevated storage tank associated with this project, in order to maintain storage and pressure requirements during the rehabilitation.

Project Need / Description

Need: Outlined in the Region C Regional Water Plan, the Grayson County Water Supply Project will provide additional surface water for water user groups in Grayson County, supplementing the existing groundwater and surface water supplies. Part of the Grayson County Water Supply Project includes the expansion of the Sherman surface water treatment plant.

In addition to a growing region and an aging infrastructure, the City's water system does not have adequate capacity to maintain required storage and pressure requirements during scheduled maintenance and rehabilitation of the existing facilities.

Project Description: The City will expand and upgrade the water treatment plant to address regional needs. The project will include a dual membrane treatment process for expansion of the water treatment plant, and a concentrated disposal pipeline to a lift station. To ensure necessary storage and pressure requirements, the City will construct a 1.5 million gallon elevated storage tank.

Project Schedule

<b>Project Task</b>	<b>Schedule Date</b>
Engineering Feasibility Report Completion (End of Planning Phase)	3/20/2015
Closing	12/15/2015
Design Phase Complete	12/20/2015
Start of Construction	1/30/2016
Construction Completion	8/1/2017

**Environmental:**

Key Issues

None known at this time.

Environmental Summary

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude construction of the project. Based on this initial environmental review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect project implementation.

Pursuant to the requirements of 31 Texas Administrative Code (TAC) §371, Subchapter E, all financial assistance shall be conditioned to read that funding for acquisition and design costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued by the Executive Administrator. A subsequent Affirmation of commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.

**Greater Texoma UA**  
**62648 - Sherman Water Treatment Plant Expansion and Upgrade/Elevated**

<b>Budget Items</b>	<b>Previous Commitments</b>	<b>This Commitment</b>	<b>Total Cost</b>
<b>Construction</b>			
Construction	\$0	\$21,244,000	\$21,244,000
<b>Construction Total</b>	<b>\$0</b>	<b>\$21,244,000</b>	<b>\$21,244,000</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$43,400	\$38,010	\$81,410
Design	\$1,520,600	\$152,040	\$1,672,640
Planning	\$555,000	\$63,350	\$618,350
<b>Basic Engineering Services Total</b>	<b>\$2,119,000</b>	<b>\$253,400</b>	<b>\$2,372,400</b>
<b>Special Services</b>			
Application	\$1,976	\$3,000	\$4,976
Environmental	\$20,000	\$6,000	\$26,000
<b>Special Services Total</b>	<b>\$21,976</b>	<b>\$9,000</b>	<b>\$30,976</b>
<b>Contingency</b>			
Contingency	\$175,109	\$4,944,611	\$5,119,720
<b>Contingency Total</b>	<b>\$175,109</b>	<b>\$4,944,611</b>	<b>\$5,119,720</b>
<b>Other</b>			
Administration	\$1,200	\$11,000	\$12,200
Land/Easements Acquisition	\$100,000	\$0	\$100,000
Paying Agent	\$1,200	\$2,216	\$5,816
Project Legal Expenses	\$0	\$2,400	\$5,817
<b>Other Total</b>	<b>\$102,400</b>	<b>\$15,616</b>	<b>\$118,016</b>
<b>Fiscal Services</b>			
Bond Counsel	\$20,113	\$155,300	\$175,413
Financial Advisor	\$16,325	\$75,619	\$91,944
Fiscal/Legal	\$2,515	\$9,500	\$12,015
Issuance Costs	\$2,000	\$2,000	\$4,000
Loan Origination Fee	\$55,562	\$600,954	\$656,516
<b>Fiscal Services Total</b>	<b>\$96,515</b>	<b>\$843,373</b>	<b>\$939,888</b>
<b>Grand Total</b>	<b>\$2,515,000</b>	<b>\$27,310,000</b>	<b>\$29,825,000</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$27,310,000 TO GREATER TEXOMA UTILITY AUTHORITY  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$27,310,000 GREATER TEXOMA UTILITY AUTHORITY  
CONTRACT REVENUE BONDS,  
PROPOSED SERIES 2015B (CITY OF SHERMAN PROJECTS)

(15- )

WHEREAS, the Greater Texoma Utility Authority (Authority), on behalf of the City of Sherman, located in Grayson County, Texas, has filed an application for financial assistance in the amount of \$27,310,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62648; and

WHEREAS, the Authority seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$27,310,000 Greater Texoma Utility Authority Contract Revenue Bonds, Proposed Series 2015B (City of Sherman Projects) 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 Authority has offered a pledge of contract revenues from the City of Sherman as sufficient security for the repayment of the Obligations; and

WHEREAS, the Authority is requesting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City of Sherman's system water loss because the City of Sherman is currently engaged in mitigating its water loss through meter and line replacement; and

WHEREAS, the loan is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC Chapter 371;

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the Authority will be sufficient to meet all the Obligations assumed by the Authority, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the Authority 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 TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j);
5. that based on the conditions, as described above, that the City of Sherman is satisfactorily addressing the City's system water loss, which supports a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss in accordance with Texas Water Code § 16.0121(g).

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

1. For the reasons stated above, the TWDB hereby waives the requirements of Texas Water Code § 16.0121(g); and
2. A commitment is made by the TWDB to the Greater Texoma Utility Authority for financial assistance in the amount of \$27,310,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$27,310,000 Greater Texoma Utility Authority Contract Revenue Bonds, Proposed Series 2015B (City of Sherman Projects). This commitment will expire on August 31, 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 Authority;
3. this commitment is contingent upon the Authority's compliance with all applicable requirements contained in 31 TAC Chapter 371;
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 Authority, 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 Authority'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 Authority's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the Authority is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the Authority 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 Authority 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 Authority 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 Authority 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 Authority, 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 Authority 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 Authority 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 Authority 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 Authority execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
15. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;

#### Conditions Related To Tax-Exempt Status

16. the Authority'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 Authority when rendering this opinion;
17. the Authority'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 Authority when rendering this opinion;
18. the Obligations must include a provision prohibiting the Authority 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 Authority 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 Authority 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 Authority may, however, to the extent permitted by law, commingle Gross Proceeds of its Loan with other money of the Authority, provided that the Authority 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 Authority 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 Authority 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 Authority 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 Authority’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 Authority 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 Authority by the TWDB;

#### State Revolving Fund Conditions

26. the Authority 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 Authority, 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 Authority 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 Authority 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 Authority will adhere to the approved project schedule;

30. The Obligations must contain a covenant that the Authority 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;

#### Drinking Water State Revolving Fund Conditions

31. prior to or at closing, the Authority shall pay a 2.25% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371;
32. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the Authority 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;
33. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the Authority 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

34. if the Authority 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. upon request by the Executive Administrator, the Authority shall submit annual audits of contracting parties for the Executive Administrator's review;
36. the Obligations must contain a provision requiring the Authority to maintain rates and charges sufficient to meet the debt service requirements on the outstanding debt Obligations that are being supported by the pledged contract revenues and will further require its customers to maintain rates and charges sufficient to pay all of their revenue obligations arising from the operation of the water and sewer system;
37. the Obligations must contain a provision that the pledged contract revenues from the Authority may not be pledged to the payment of any additional parity obligations of the Authority secured by a pledge of the same contract revenues unless the Authority demonstrates to the Executive Administrator's satisfaction that the pledged contract revenues will be sufficient for the repayment of all Obligations and additional parity obligations;

38. prior to closing, the Authority must submit executed contracts between the Authority and the contracting parties regarding the contract revenues pledged to the payment of the Authority's Obligations, in form and substance acceptable to the Executive Administrator. Such contracts shall include provisions consistent with the provisions of this Resolution regarding the contracting parties' annual audits, the setting of rates and charges and collection of revenues sufficient to meet the Authority's debt service obligations and additional parity obligations; and
39. the Authority shall not amend or revise the Water and Sewer Facilities contract with the City of Sherman, which is the revenue source for the pledge, if the revision or amendment affects the financial condition of the Authority or its ability to repay the loan described in this Commitment without receiving the written approval of the Executive Administrator.

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

Special Conditions:

1. the Authority must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility;
2. the Obligations must include a provision requiring that, prior to any action by the Authority 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; and
3. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the Authority has the right to use the water that the project financed by the TWDB will provide.

APPROVED and ordered of record this 26<sup>th</sup> day of August, 2015.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Bech K. Bruun, 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:**

Total water loss (GPCD): \_\_\_\_\_      Total water loss (percent): \_\_\_\_\_      Wholesale Water  
 Total no. of connections: \_\_\_\_\_      Length of mains (miles): \_\_\_\_\_      Connections per mile: \_\_\_\_\_  
 If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (ILI): \_\_\_\_\_

**WATER LOSS THRESHOLDS:**

	Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
If population ≤ 10K, connections/mile < 32 :						
If population ≤ 10K, connections/mile ≥ 32 :						
If population > 10K :						

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 loss** refers to unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

**Approvable** refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

**Best Management Practices** are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

**GPCD** means gallons per capita per day.

**Infrastructure Leakage Index (ILI)** is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 5,000 connections, average pressure greater than 35 psi, and a connection density of more than 32 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a benchmarking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

**NA** means not applicable.

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

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

**Residential GPCD** is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

**Total baseline GPCD** is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

**Total water loss** is the sum of the apparent and real water losses.

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

**Water Loss Thresholds** are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

**Greater Texoma Utility Authority - City of Sherman  
Grayson County**

