



## PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015

TEAM MANAGER: Luis Farias

<b>APPLICANT</b>	City of Willow Park
<b>TYPE OF ASSISTANCE</b>	\$995,000 Loan \$44,350 Loan Forgiveness
<b>LEGAL PLEDGE</b>	Combination Tax and Surplus Revenues of the Waterworks and Sewer System

### STAFF RECOMMENDATION

Approve       No Action

Approve, by resolution, a request from the City of Willow Park (Parker County) for financial assistance of \$1,039,350 consisting of a \$995,000 loan and \$44,350 in loan forgiveness from the Drinking Water State Revolving Fund to finance planning, design, and construction for water system improvements.

### PROJECT

Water System Improvements  
Project Number 62682

### BACKGROUND

The City of Willow Park (City) is located in Parker County and is approximately 21 miles west of Fort Worth. Due to the deterioration and age of the waterlines, the City has experienced significant water loss and low pressure through its system.

In order to resolve this issue, the City received funding from the Texas Water Development Board (TWDB) in 2013 to begin replacing water lines. The project was bid and awarded, but due to unforeseen circumstances regarding the contractor, the project was delayed. This request is a continuation of the project funded in 2013 and the City will combine both projects to create greater cost effectiveness.

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON DECEMBER 31, 2016**

## **FINANCIAL**

### Key Issues

None.

### Pledge and Repayment

The City is pledging ad valorem taxes and surplus net revenues of the water and sewer system for the repayment of the proposed loan. The City has an interest and sinking fund tax rate of \$0.1516 per \$100 of assessed valuation. The current combined average monthly water and sewer bill is \$119.81. Based on staff's analysis of financial documentation received, the City generates sufficient revenues to meet the current and proposed debt service. However, the City intends to pay the proposed debt with surplus revenues, and therefore plans to increase the average monthly water bill by \$2.00 per customer.

### Principal Forgiveness

The City qualifies for \$44,350 in loan forgiveness from the Drinking Water State Revolving Fund as green, due to the conservation aspect of the 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 \$204,490 over the life of the loan.

### Internal Risk Score

The City is assigned a risk score of 2A. A risk score of 2A means that the applicant's repayment capacity is strong. The applicant's earnings trends and coverage ratios, while sound, may be more susceptible to adverse effects of changes in circumstances and economic conditions than the higher rated obligations.

Overall, the City is in good financial condition with strong reserves and a growing customer base. Operating revenues have steadily increased over the last 3 years, along with connections to the system. Unrestricted net assets of the water and wastewater system represent over 12.5 months of operating expenses. In addition, the system maintains over 697 days of unrestricted cash on hand. This is a very high level of liquidity.

The City's population has increased an average of 4.5% per year since 2005, to its current population of 4,738, compared to the State's average annual population increase of 2% during the same period. The City's median household income of \$103,346 is nearly double the median income of \$51,900 for the State overall. The unemployment rate of Parker County for the month of September was 4.1%, which is lower than the current State unemployment rate of 4.4%.

Including the proposed financing, the per capita debt level would be \$1,742. This is a moderate level of debt for a City this size. On average, the residential user pays 1.39% of their annual income for water and sewer service. This is below the TWDB's benchmark of 2% for two services.

Staff's risk score is based on the City's high median household income, affordable rates, and strong reserves.

**LEGAL**

Key Issues

None

**CONDITIONS**

Standard tax-exempt, tax and surplus net revenue, and Drinking Water State Revolving Fund conditions and additional conditions as follows:

- Pre-design funding;
- Return surplus forgiveness funds;
- Standard emergency discovery conditions; and
- Loan forgiveness agreement.

- 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

**PROJECT DATA SUMMARY**

<b>Responsible Authority</b>	City of Willow Park
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	L1000468 LF1000490
<b>Project Number</b>	62682
<b>Intended Use Plan Year</b>	2015
<b>Fund Number</b>	951
<b>Type of Pledge</b>	3- Combo Tax & Rev
<b>Revenue Pledge Level</b>	Third
<b>Legal Description</b>	\$995,000 Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016 \$44,350 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 Release
<b>Population</b>	4,738
<b>Rural</b>	Yes
<b>Water Connections</b>	1,793
<b>Wastewater Connections</b>	658
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	N/A
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>Financial, Managerial, and Technical Review Complete?</b>	No
<b>Phase Committing</b>	Planning, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Yes
<b>Water Rights Certification Required</b>	No
<b>Internal Risk Score</b>	2A
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	AA
<b>Moody's</b>	Non-Rated
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**Project Team**

Manager	Luis Farias
Financial Analyst	Ben Munguia
Engineering Reviewer	Dean Crenshaw
Environmental Reviewer	Kathy Calnan
Attorney	Annette Mass

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY

City of Willow Park

Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016

Dated Date: 3/1/2016  
 Delivery Date: 3/1/2016  
 First Interest: 8/15/2016  
 First Principal: 2/15/2018  
 Last Principal: 2/15/2037  
 Fiscal Year End: 09/30  
 Required Coverage: 1.1

Source: DWSRF  
 Rate: 1.76%  
 Insurance: No  
 Case: Tax and Revenues  
 Admin.Fee: \$ 21,895  
 Admin. Fee Payment Date: 3/1/2016  
 Total Assessed Valuation: \$ 370,736,521

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$995,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE
								INTEREST PAYMENT	TOTAL PAYMENT	TOTAL DEBT SERVICE		
2016	0.152	505,833	578,335	1,084,168	901,038	-	0.00%	7,978	7,978	909,016	1.19	
2017	0.152	505,833	578,335	1,084,168	912,088	-	0.00%	17,512	17,512	929,600	1.17	
2018	0.152	505,833	578,335	1,084,168	925,838	40,000	1.76%	17,160	57,160	982,998	1.10	
2019	0.152	505,833	578,335	1,084,168	745,113	45,000	1.76%	16,412	61,412	806,525	1.34	
2020	0.152	505,833	578,335	1,084,168	759,749	45,000	1.76%	15,620	60,620	820,369	1.32	
2021	0.152	505,833	578,335	1,084,168	787,910	45,000	1.76%	14,828	59,828	847,738	1.28	
2022	0.152	505,833	578,335	1,084,168	647,685	45,000	1.76%	14,036	59,036	706,721	1.53	
2023	0.152	505,833	578,335	1,084,168	674,226	45,000	1.76%	13,244	58,244	732,470	1.48	
2024	0.152	505,833	578,335	1,084,168	44,373	45,000	1.76%	12,452	57,452	101,825	10.65	
2025	0.152	505,833	578,335	1,084,168	43,809	45,000	1.76%	11,660	56,660	100,469	10.79	
2026	0.152	505,833	578,335	1,084,168	43,198	50,000	1.76%	10,824	60,824	104,022	10.42	
2027	0.152	505,833	578,335	1,084,168	42,544	50,000	1.76%	9,944	59,944	102,488	10.58	
2028	0.152	505,833	578,335	1,084,168	41,849	50,000	1.76%	9,064	59,064	100,913	10.74	
2029	0.152	505,833	578,335	1,084,168	41,116	50,000	1.76%	8,184	58,184	99,300	10.92	
2030	0.152	505,833	578,335	1,084,168	40,346	50,000	1.76%	7,304	57,304	97,650	11.10	
2031	0.152	505,833	578,335	1,084,168	44,484	55,000	1.76%	6,380	61,380	105,864	10.24	
2032	0.152	505,833	578,335	1,084,168	43,532	55,000	1.76%	5,412	60,412	103,944	10.43	
2033	0.152	505,833	578,335	1,084,168	42,550	55,000	1.76%	4,444	59,444	101,994	10.63	
2034	0.152	505,833	578,335	1,084,168	41,544	55,000	1.76%	3,476	58,476	100,020	10.84	
2035	0.152	505,833	578,335	1,084,168	40,518	55,000	1.76%	2,508	57,508	98,026	11.06	
2036	0.152	505,833	578,335	1,084,168	-	55,000	1.76%	1,540	56,540	56,540	19.18	
2037	0.152	505,833	578,335	1,084,168	-	60,000	1.76%	528	60,528	60,528	17.91	
				\$ 23,851,694	\$ 6,863,507	\$ 995,000		\$ 210,510	\$ 1,205,510	\$ 8,069,017		

AVERAGE (MATURITY) LIFE	12.02 YEARS
NET INTEREST RATE	1.760%
COST SAVINGS	\$ 204,490
AVERAGE ANNUAL REQUIREMENT	\$366,773

**Willow Park  
62682 Water System Improvements  
Engineering and Environmental Review**

**Engineering:**

Key Issues:

The City of Willow Park's (City) water loss between September 2012 and August 2013 was 30,824,695 gallons, or a 15.1% water loss. For the previous 12 month period the average water loss was 20.7%. After the completion of the project it estimated that the water loss will be reduced by 15% to 20%. The City is actively seeking ways to address water loss.

In order to resolve this issue, the City received funding from the Texas Water Development Board (TWDB) in 2013 to begin replacing water lines. The project was bid and awarded, but due to unforeseen circumstances regarding the contractor, the project was delayed. This request is a continuation of the project funded in 2013 and the City will combine both projects to create greater cost effectiveness.

Project Need/Description

Need: The City will replace existing old and deteriorated cast iron and ductile waterlines with larger, PVC waterlines. The water system is experiencing significant water loss and low pressures in the area of the West Oak Development.

Project Description: The City is seeking funding to install approximately 10,700 linear feet of 6-inch and 8-inch water distribution lines and two (2) pressure reducing valves.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Engineering Feasibility Report Completion (End of Planning Phase)	12/1/2015
Design Phase Complete	1/15/2016
Closing	3/1/2016
Start of Construction	4/1/2016
Construction Completion	1/15/2017

**Environmental  
Section:**

Key Issues:

None known at this time.

Environmental Summary:

As required by 31 Texas Administrative Code §371.42, environmental review of the proposed project has been completed. A Categorical Exclusion was issued on October 14, 2015. The proposed project is in compliance with the National Environmental Policy Act.



## Current Budget Summary

Willow Park

62682 - Water System Improvements

Budget Items	TWDB Funds	Local Funds	Total
<b>Construction</b>			
Construction	\$717,500.00	\$0.00	\$717,500.00
<b>Subtotal for Construction</b>	<b>\$717,500.00</b>	<b>\$0.00</b>	<b>\$717,500.00</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$12,000.00	\$0.00	\$12,000.00
Design	\$48,000.00	\$0.00	\$48,000.00
Planning	\$20,000.00	\$0.00	\$20,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$80,000.00</b>	<b>\$0.00</b>	<b>\$80,000.00</b>
<b>Special Services</b>			
Environmental	\$5,000.00	\$0.00	\$5,000.00
Inspection	\$70,000.00	\$0.00	\$70,000.00
Surveying	\$20,000.00	\$0.00	\$20,000.00
<b>Subtotal for Special Services</b>	<b>\$95,000.00</b>	<b>\$0.00</b>	<b>\$95,000.00</b>
<b>Fiscal Services</b>			
Bond Counsel	\$10,000.00	\$0.00	\$10,000.00
Financial Advisor	\$22,000.00	\$0.00	\$22,000.00
Fiscal/Legal	\$1,035.00	\$0.00	\$1,035.00
Issuance Costs	\$2,000.00	\$0.00	\$2,000.00
Loan Origination Fee	\$21,895.00	\$0.00	\$21,895.00
<b>Subtotal for Fiscal Services</b>	<b>\$56,930.00</b>	<b>\$0.00</b>	<b>\$56,930.00</b>
<b>Contingency</b>			
Contingency	\$89,920.00	\$0.00	\$89,920.00
<b>Subtotal for Contingency</b>	<b>\$89,920.00</b>	<b>\$0.00</b>	<b>\$89,920.00</b>
<b>Total</b>	<b>\$1,039,350.00</b>	<b>\$0.00</b>	<b>\$1,039,350.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$1,039,350 TO THE CITY OF WILLOW PARK  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$995,000 CITY OF WILLOW PARK TAX AND WATER AND SEWER SYSTEM SURPLUS  
REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2016  
AND  
\$44,350 IN LOAN FORGIVENESS

(15- )

WHEREAS, the City Of Willow Park (City) has filed an application for financial assistance in the amount of \$1,039,350 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62682; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$995,000 City of Willow Park Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016 (together with all authorizing documents "Obligations"), and the execution of a Loan Forgiveness Agreement in an amount of \$44,350, 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 ad valorem taxes and surplus net revenues of the City's waterworks and sewer system 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 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 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 TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project

will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j);

5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. 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; and
7. that the Executive Administrator issued a Categorical Exclusion on October 14, 2015, such findings being 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 Willow Park for financial assistance in the amount of \$1,039,350 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$995,000 City of Willow Park Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of \$44,350. This commitment will expire on December 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 City;
3. this commitment is contingent upon the City'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 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;
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 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 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;

#### Drinking Water State Revolving Fund Conditions

31. prior to or at closing, the City 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 City 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 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

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 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;

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

Special Conditions:

36. 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;
37. prior to closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

38. 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; and
39. the City must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

APPROVED and ordered of record this 14th day of December, 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.

**City of Willow Park,  
Parker County**

