

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015

TEAM MANAGER: Nancy Richards

|                           |  |
|---------------------------|--|
| <b>APPLICANT</b>          | Harris County Municipal Utility District No. 50      |
| <b>TYPE OF ASSISTANCE</b> | \$2,470,000 Loan and \$1,034,409 in Loan Forgiveness |
| <b>LEGAL PLEDGE</b>       | Unlimited Tax  |

### STAFF RECOMMENDATION

Approve  No Action

Approve, by resolution, a request from the **Harris County Municipal Utility District No. 50 (Harris County)** for a \$2,470,000 loan and \$1,034,409 in loan forgiveness from the Drinking Water State Revolving Fund to finance design and construction costs for the rehabilitation and upgrading of an existing water distribution system.

### PROJECT

Water System Improvements  
Project Number 62683

### BACKGROUND

Harris County Municipal Utility District No.50 (District) is a community in need of substantial improvements to their water infrastructure. The District will be required to convert from its present groundwater supplies to surface water within the next few years as required by the Harris-Galveston Subsidence District. Much of the District's existing infrastructure is in need of repair or replacement. The District is requesting \$3,504,409 in funding from the Drinking Water State Revolving Fund program rehabilitate the water system to improve accountability and quality of service in preparation of the conversion to surface water.

|   |
|---|
| <b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON DECEMBER 31, 2016</b> |
|---|

**FINANCIAL**Key Issues

None.

Pledge and Repayment

The District is pledging unlimited tax to repay the proposed debt. The District currently levies a \$1.12 operations and maintenance tax (O&M). Approximately \$0.65 of that tax rate will be dedicated as interest and sinking fund tax (I&S) for repayment of current and proposed debt services. Utilizing a no-growth scenario, the District's \$0.65 I&S tax rate is sufficient to fund the existing and proposed debt service.

Loan Forgiveness

The District received an additional \$1,034,409 in principal forgiveness subsidy from the FY15 Drinking Water State Revolving Fund Disadvantaged funds program.

Cost Savings

Based on a 20-year maturity schedule, current interest rates, and loan forgiveness funding, the District could save approximately \$421,851 over the life of the loan financing utilizing the Drinking Water funding and an additional \$1,034,409 of saving in loan forgiveness for a total of \$1,456,260.

Internal Risk Score

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

Based on the District's historical tax collection rate of 80%, the District collects additional \$100,000 of revenue per year from delinquent taxes and penalty and interest charges, which have historically resulted in \$40,000 per year available for debt services.

The District's repayment capacity is sufficient to cover the existing and proposed debt. Assessed valuation in the District's service area has increased 4.35% from 2012. The District's debt service reserve fund has a balance in excess of 1.5 years of average annual debt service payments. The household cost factor is 2.5% of the average annual income of a residential user. This is above the Texas Water Development Board's (TWDB) benchmark of 2% for two services. The unemployment rate for the Houston Metropolitan Statistical Area is 4.9%, compared to the state average of 4.8%.

**LEGAL**

Key Issues

None.

**CONDITIONS**

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

- Executed Loan Forgiveness Agreement;
- Conveyance; and
- Conversion

- 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>                                 | Harris County Municipal Utility District #50   |
| <b>Program</b>   | Drinking Water State Revolving Fund  |
| <b>Commitment Code</b>                                       | L1000471<br>LF1000492  |
| <b>Project Number</b>  | 62683  |
| <b>Intended Use Plan Year</b>                                | 2015   |
| <b>Fund Number</b>   | 951  |
| <b>Type of Pledge</b>  | 1  |
| <b>Revenue Pledge Level</b>                                  | Unlimited Tax  |
| <b>Legal Description</b>                                     | \$2,470,000 Waterworks and Sewer System<br>Unlimited Tax Bonds Proposed Series 2016 and<br>\$1,034,409 in Loan Forgiveness |
| <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>  | 3,199  |
| <b>Rural</b>   | Yes  |
| <b>Water Connections</b>                                     | 1,232  |
| <b>Wastewater Connections</b>                                | 1,189  |
| <b>Qualifies as Disadvantaged</b>                            | Yes  |
| <b>Disadvantaged Level</b>                                   | 6  |
| <b>Clean Water State Revolving Fund Type</b>                 | N/A  |
| <b>Financial, Managerial, and Technical Review Complete?</b> | No   |
| <b>Phase Committing</b>                                      | Design and Construction  |
| <b>Pre-Design</b>  | N/A  |
| <b>Project Consistent with Water Plan</b>                    | Yes  |
| <b>Water Conservation Plan</b>                               | Adopted  |
| <b>Water Rights Certification Required</b>                   | No   |
| <b>Internal Risk Score</b>                                   | 2C   |
| <b>External Ratings (for SRF rates)</b>                      |  |
| <b>Standard and Poor's</b>                                   | Non-Rated  |
| <b>Moody's</b>   | Non-Rated  |
| <b>Fitch</b>   | Non-Rated  |
| <b>Special Issues</b>  | None   |

**Project Team**

|                        |                    |
|------------------------|--------------------|
| Manager                | Nancy Richards     |
| Financial Analyst      | Charles R. Nichols |
| Engineering Reviewer   | James Bronikowski  |
| Environmental Reviewer | Jean Devlin        |
| Attorney               | Annette Mass       |

ISSUE BEING EVALUATED  
 FOR ILLUSTRATION PURPOSES ONLY  
 Harris County Municipal Utility District No.50  
 \$2,470,000 Waterworks and Sewer System Unlimited Tax Bonds, Proposed Series 2016

**Dated Date:** 3/1/2016  
**Delivery Date:** 3/1/2016  
**First Interest:** 9/1/2016  
**First Principal:** 3/1/2017  
**Last Principal:** 3/1/2035  
**Fiscal Year End:** 05/30  
**Required Coverage:** 1.0

**Source:** DWSRF  
**Rate:** 2.21%  
**Insurance:** No  
**Case:** -  
**Admin.Fee:** \$ 54,352  
**Admin. Fee Payment Date:** 3/1/2016  
**Total Assessed Valuation:** \$ 59,555,829

| FISCAL YEAR | REQUIRED TAX RATE | TAX REVENUES WITH COLL. @ 80% | PROJECTED NET SYSTEM REVENUES | PROJECTED TOTAL REVENUES | CURRENT DEBT SERVICE | PRINCIPAL PAYMENT | INTEREST RATE | \$2,470,000 ISSUE |               |                    | TOTAL DEBT SERVICE | COVERAGE |
|-------------|-------------------|-------------------------------|-------------------------------|--------------------------|----------------------|-------------------|---------------|-------------------|---------------|--------------------|--------------------|----------|
|             |                   |                               |                               |                          |                      |                   |               | INTEREST PAYMENT  | TOTAL PAYMENT | TOTAL DEBT SERVICE |                    |          |
| 2017        | 1.177             | 560,575                       | -                             | 560,575                  | 345,086              | 115,000           | 0.09%         | 45,606            | 160,606       | 505,692            | 1.11               |          |
| 2018        | 1.192             | 568,005                       | -                             | 568,005                  | 352,516              | 115,000           | 0.40%         | 45,503            | 160,503       | 513,019            | 1.11               |          |
| 2019        | 1.196             | 569,755                       | -                             | 569,755                  | 354,406              | 115,000           | 0.64%         | 45,043            | 160,043       | 514,449            | 1.11               |          |
| 2020        | 1.187             | 565,357                       | -                             | 565,357                  | 350,628              | 115,000           | 0.93%         | 44,307            | 159,307       | 509,935            | 1.11               |          |
| 2021        | 1.197             | 570,072                       | -                             | 570,072                  | 356,335              | 115,000           | 1.26%         | 43,237            | 158,237       | 514,572            | 1.11               |          |
| 2022        | 1.193             | 568,549                       | -                             | 568,549                  | 356,253              | 120,000           | 1.52%         | 41,788            | 161,788       | 518,041            | 1.10               |          |
| 2023        | 1.198             | 570,954                       | -                             | 570,954                  | 355,611              | 120,000           | 1.66%         | 39,964            | 159,964       | 515,575            | 1.11               |          |
| 2024        | 1.201             | 572,331                       | -                             | 572,331                  | 359,420              | 120,000           | 1.79%         | 37,972            | 157,972       | 517,392            | 1.11               |          |
| 2025        | 1.203             | 572,964                       | -                             | 572,964                  | 357,709              | 125,000           | 1.91%         | 35,824            | 160,824       | 518,533            | 1.10               |          |
| 2026        | 1.213             | 577,811                       | -                             | 577,811                  | 365,510              | 125,000           | 2.02%         | 33,437            | 158,437       | 523,947            | 1.10               |          |
| 2027        | 1.210             | 576,690                       | -                             | 576,690                  | 362,540              | 130,000           | 2.11%         | 30,912            | 160,912       | 523,452            | 1.10               |          |
| 2028        | 1.217             | 579,876                       | -                             | 579,876                  | 364,160              | 130,000           | 2.20%         | 28,169            | 158,169       | 522,329            | 1.11               |          |
| 2029        | 0.980             | 467,149                       | -                             | 467,149                  | 255,126              | 135,000           | 2.28%         | 25,309            | 160,309       | 415,435            | 1.12               |          |
| 2030        | 0.990             | 471,843                       | -                             | 471,843                  | 258,670              | 140,000           | 2.35%         | 22,231            | 162,231       | 420,901            | 1.12               |          |
| 2031        | 0.988             | 470,796                       | -                             | 470,796                  | 256,727              | 140,000           | 2.42%         | 18,941            | 158,941       | 415,668            | 1.13               |          |
| 2032        | 0.995             | 474,133                       | -                             | 474,133                  | 259,411              | 145,000           | 2.48%         | 15,553            | 160,553       | 419,964            | 1.13               |          |
| 2033        | 0.990             | 471,726                       | -                             | 471,726                  | 256,602              | 150,000           | 2.53%         | 11,957            | 161,957       | 418,559            | 1.13               |          |
| 2034        | 0.774             | 368,858                       | -                             | 368,858                  | 153,570              | 150,000           | 2.57%         | 8,162             | 158,162       | 311,732            | 1.18               |          |
| 2035        | 0.452             | 215,228                       | -                             | 215,228                  | -                    | 165,000           | 2.61%         | 4,307             | 169,307       | 169,307            | 1.27               |          |
|             |                   |                               |                               | \$ 9,792,666             | \$ 5,720,280         | \$ 2,470,000      |               | \$ 578,216        | \$ 3,048,216  | \$ 8,768,496       |                    |          |

|                                   |                       |
|-----------------------------------|-----------------------|
| <b>AVERAGE (MATURITY) LIFE</b>    | <b>10.58 YEARS</b>    |
| <b>NET INTEREST RATE</b>          | <b>2.213%</b>         |
| <b>COST SAVINGS</b>               | <b>\$1,456,260.00</b> |
| <b>AVERAGE ANNUAL REQUIREMENT</b> | <b>\$461,500</b>      |



**Harris Co MUD # 50  
62683 Water System Improvements  
Engineering and Environmental Review**

**Engineering:**

Key Issues:

None known at this time.

Project Need/Description

Project Need: An analysis of the District's water system has shown inadequacies in the distribution system and at two of the water treatment plants.

Project Description: This District is requesting financial assistance for the design and construction of water system improvements at the Crosby-Lynchburg and St. Charles water plants. These improvements include but are not limited to booster pump station expansion, well rehabilitation, increased water storage, electrical, and other relevant enhancements. The proposed project also includes an increase in distribution system line sizing at two locations.

**Project Schedule:**

| <b>Project Task</b>     | <b>Schedule Date</b> |
|-------------------------|----------------------|
| Closing                 | 3/1/2016             |
| Design Phase Complete   | 7/31/2016            |
| Start of Construction   | 10/1/2016            |
| Construction Completion | 10/31/2017           |

**Environmental Section:**

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) §371.41, all financial assistance shall be conditioned to read that funding for acquisition, design, and construction costs for specific project elements will not be released until the environmental review has been completed and a favorable CE has been issued. Coordination with Texas Parks and Wildlife and the Texas Historical Commission will be required prior to the release of construction funds. A subsequent Affirmation of Commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.

**Harris Co MUD # 50  
62683 - Water System Improvements**

| Budget Items                            | TWDB Funds         | Local &<br>Other Funds | Total Cost         |
|---|--------------------|------------------------|--------------------|
| <b>Construction</b>                     |                    |                        |                    |
| Construction                            | \$2,445,450        | \$0                    | \$2,445,450        |
| <b>Construction Total</b>               | <b>\$2,445,450</b> | <b>\$0</b>             | <b>\$2,445,450</b> |
| <b>Basic Engineering Services</b>       |                    |                        |                    |
| Construction Engineering                | \$86,111           | \$0                    | \$86,111           |
| Design                                  | \$266,057          | \$0                    | \$266,057          |
| <b>Basic Engineering Services Total</b> | <b>\$352,168</b>   | <b>\$0</b>             | <b>\$352,168</b>   |
| <b>Special Services</b>                 |                    |                        |                    |
| Geotechnical                            | \$30,000           | \$0                    | \$30,000           |
| Project Management (by engineer)        | \$8,840            | \$0                    | \$8,840            |
| Surveying                               | \$44,000           | \$0                    | \$44,000           |
| Testing                                 | \$130,000          | \$0                    | \$130,000          |
| <b>Special Services Total</b>           | <b>\$212,840</b>   | <b>\$0</b>             | <b>\$212,840</b>   |
| <b>Contingency</b>                      |                    |                        |                    |
| Contingency                             | \$295,799          | \$0                    | \$295,799          |
| <b>Contingency Total</b>                | <b>\$295,799</b>   | <b>\$0</b>             | <b>\$295,799</b>   |
| <b>Fiscal Services</b>                  |                    |                        |                    |
| Bond Counsel                            | \$68,900           | \$0                    | \$68,900           |
| Financial Advisor                       | \$68,900           | \$0                    | \$68,900           |
| Fiscal/Legal                            | \$3,000            | \$0                    | \$3,000            |
| Issuance Costs                          | \$3,000            | \$0                    | \$3,000            |
| Loan Origination Fee                    | \$54,352           | \$0                    | \$54,352           |
| <b>Fiscal Services Total</b>            | <b>\$198,152</b>   | <b>\$0</b>             | <b>\$198,152</b>   |
| <b>Grand Total</b>                      | <b>\$3,504,409</b> | <b>\$0</b>             | <b>\$3,504,409</b> |

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$3,504,409 TO HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 50  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$2,470,000 HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 50  
UNLIMITED TAX BONDS, PROPOSED SERIES 2016  
AND  
\$1,034,409 IN LOAN FORGIVENESS

(15- )

WHEREAS, the Harris County Municipal Utility District (District) has filed an application for financial assistance in the amount of \$3,504,409 from the Drinking Water State Revolving Fund (DWSRF) to finance the acquisition, design and construction of certain water system improvements identified as Project No. 62683; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$2,470,000 Harris County Municipal Utility District No. 50 Unlimited Tax Bonds, Proposed Series 2016 (together with all authorizing documents "Obligations") and the execution of a Loan Forgiveness Agreement in the amount of \$1,034,409, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of unlimited taxes 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 District will be sufficient to meet all the Obligations assumed by the District, 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 District 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 loss audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the District and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. that the District exceeds applicable water loss threshold established in 31 TAC § 358.6, and is using a portion of additional financial assistance provided by the TWDB for the purpose of mitigating the water loss in conformity with Texas Water Code § 16.0121(g); and
7. that the District meets the definition of Disadvantaged Community in 31 TAC § 371.1(24) and is therefore eligible for subsidy through the DWSRF.

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

1. For the reasons state 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 Harris County Municipal Utility District No. 50 for financial assistance in the amount of \$3,504,409 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$2,470,000 Harris County Municipal Utility District No. 50 Unlimited Tax Bonds, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of \$1,034,409. 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 District;
3. this commitment is contingent upon the District'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 District, 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 District'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 District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;

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

#### State Revolving Fund Conditions

26. the District 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 District, 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 District 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 District 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 District will adhere to the approved project schedule;
30. The Obligations and Loan Forgiveness Agreement must contain a covenant that the District 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 District 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 District 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 District 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. the Obligations must contain a provision that for each year the Bonds are outstanding, the District will levy a debt service tax rate, and collect taxes sufficient for the repayment of annual principal and interest requirements on the Obligations;

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

#### Special Conditions:

35. 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;
36. the District 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;
37. the Obligations must include a provision requiring that, prior to any action by the District 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;

38. prior to closing, the District shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
39. the Loan Forgiveness Agreement must include a provision stating that the District 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 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<br>Gallons per connection per day | Real Loss<br>Gallons per mile per day | Real Loss<br>Gallons per connection per day | Apparent Threshold<br>Gallons per connection per day | Real Threshold<br>Gallons per mile per day | Real Threshold<br>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.

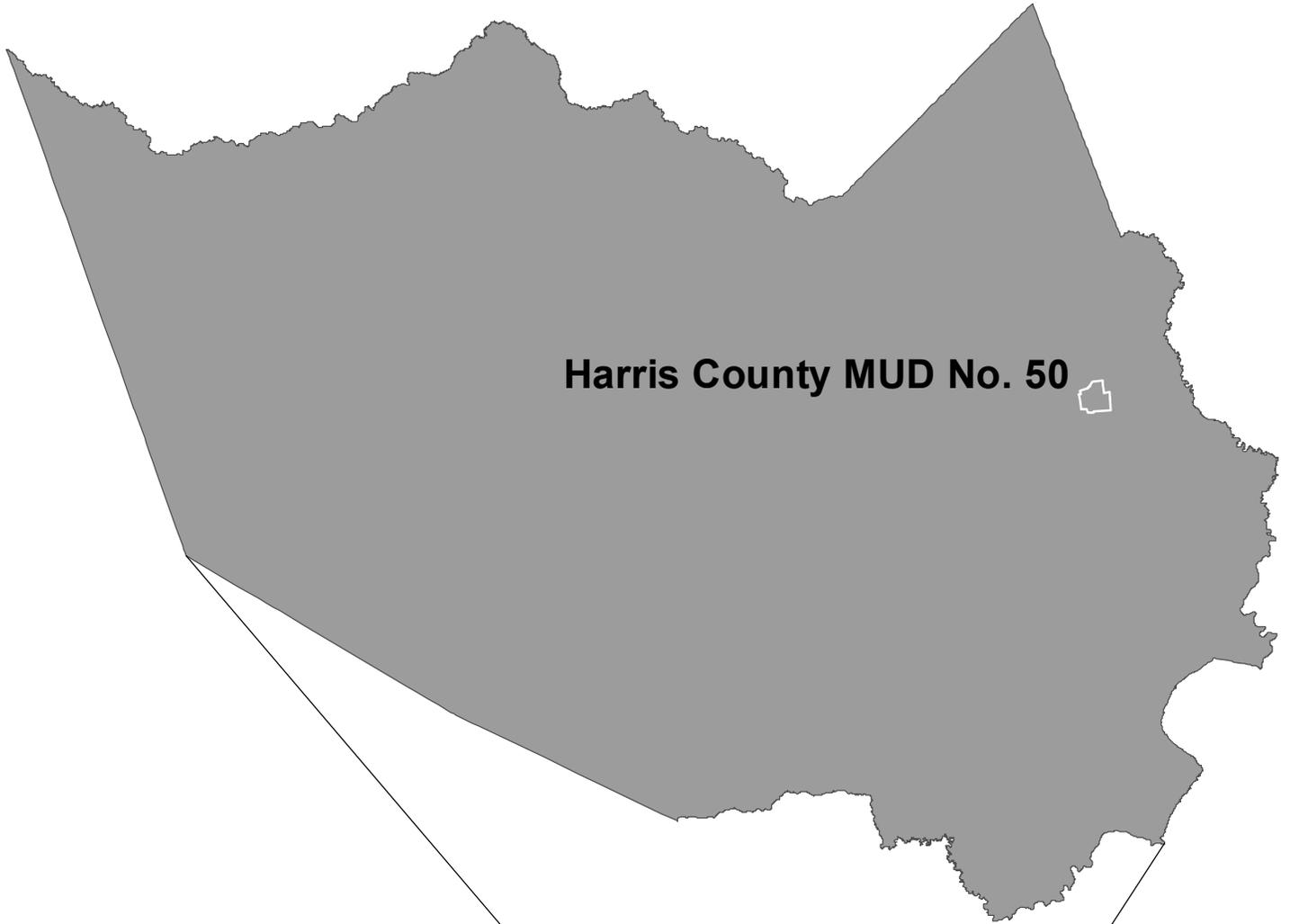
**Total baseline GPCD** is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

**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.

**Harris County MUD No. 50  
Harris County**



**Harris County MUD No. 50**

