

# Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015

TEAM MANAGER: Nancy Richards

<b>APPLICANT</b>	City of Liberty
<b>TYPE OF ASSISTANCE</b>	\$915,000 Loan
<b>LEGAL PLEDGE</b>	First Lien Utility System Revenues

#### STAFF RECOMMENDATION

Approve       No Action

Approve, by resolution, a request from the City of Liberty (**Liberty County**) for a \$915,000 loan from the Drinking Water State Revolving Fund to finance planning, acquisition and design cost for the rehabilitation of an existing groundwater well, proposed construction of new well and storage capacity improvements.

#### PROJECT

North Well Site Rehabilitation and Storage Tank  
Project Number 62678

#### BACKGROUND

The City of Liberty currently has \$8,100,000 in a prior loan commitment from the Texas Water Development Board for sewer system improvements. The attached debt service schedule reflects the impact of the issuance of the proposed commitment and the proposed Clean Water funding request.

The financial assistance is for the planning, acquisition and design costs associated with the rehabilitation of an existing well site in the City's northern service area. The City plans to rehabilitate an existing groundwater well and construct a new groundwater well and elevated storage tank in the City's northern service area.

<b>COMMITMENT PERIOD: SIX MONTHS TO EXPIRE ON JUNE 30, 2016</b>
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## **FINANCIAL**

### Key Issues

The City is presently pursuing an additional \$900,000 commitment from the Clean Water State Revolving Fund Program for wastewater plant improvements, which is also under consideration at this meeting.

### Pledge and Repayment

The City is pledging the combined revenues of the waterworks and sewer systems as proposed sources for loan repayment. The Bonds will be secured with a first lien on the net revenues of the combined utility system; defined as the system's Gross Revenues less the Operational and Maintenance Expenses. In analyzing the applicant's loan request, a no-growth system revenues scenario was used. Based on this scenario, the City's current system revenues will be sufficient to service its current and proposed debt service for both loans.

Staff's analysis is based on the project and financial documents received from the City and its consultants. The debt service analysis is based on estimation of the interest rate for the tax-exempt Drinking and Clean Water loans at the time of Board consideration.

### Cost Savings

Based on a 10-year maturity schedule and current interest rates, the City could save approximately \$43,996 over the life of the loan.

### Internal Risk Score

The City is assigned a risk score of 2B. A risk score of 2B means the City's repayment capacity is adequate. The applicant's earning trends and coverage ratios are sound and may be less susceptible to moderate changes in circumstances and economic conditions.

The City's population has increased 5.2% since 2010, to its current population of 8,743 compared to the State's average annual population increase of 5.4% during the same period. The City's median household income of \$45,238 in 2013 is 87% of the State median income of \$51,900. The current unemployment rate of the City's service area is 9.4%, which is higher than the State's current 4.6% unemployment rate.

On average, the residential user pays 1.55 % of their annual income for water and sewer service. This is below the TWDB's benchmark of 2% for two services. Staff has assigned a 2B risk rating to the proposed project. The risk score is established on an analysis of the City's economic indicators.

**LEGAL**

Key Issues

None.

**CONDITIONS**

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

- Water Rights Certification

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 Liberty
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	L1000444
<b>Project Number</b>	62678
<b>Intended Use Plan Year</b>	2015
<b>Fund Number</b>	951
<b>Type of Pledge</b>	3
<b>Revenue Pledge Level</b>	First
<b>Legal Description</b>	\$915,000 Utility System Revenue Proposed Series 2016B
<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>	8,743
<b>Rural</b>	Yes
<b>Water Connections</b>	2,582
<b>Wastewater Connections</b>	2,408
<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, Acquisition and Design
<b>Pre-Design</b>	No
<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>	2B
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	AA-
<b>Moody's</b>	A2
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**Project Team**

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

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Liberty

\$900,000 Clean Water and \$915,000 Drinking Water Utility System Revenue Bonds, Proposed Series 2016

<b>Dated Date:</b> 3/1/2016	<b>Source:</b> CWSRF-NON-EQUIVALENCY	<b>Dated Date:</b> 3/1/2016	<b>Source:</b> DWSRF
<b>Delivery Date:</b> 3/1/2016	<b>Rate:</b> 1.64%	<b>Delivery Date:</b> 3/1/2016	<b>Rate:</b> 1.59%
<b>First Interest:</b> 9/1/2016	<b>Insurance:</b> No	<b>First Interest:</b> 9/1/2016	<b>Insurance:</b> no
<b>First Principal:</b> 3/1/2017	<b>Case:</b>	<b>First Principal:</b> 3/1/2017	<b>Case:</b>
<b>Last Principal:</b> 3/1/2026	<b>Admin.Fee:</b> \$ 16,348	<b>Last Principal:</b> 3/1/2026	<b>Admin.Fee:</b> \$ 20,134
<b>Fiscal Year End:</b> 09/30	<b>Admin. Fee</b>	<b>Fiscal Year End:</b> 9/30	<b>Admin. Fee Payment</b>
<b>Required Coverage:</b> 1.0	<b>Payment Date:</b> 3/1/2016	<b>Required Coverage:</b> 1.0	<b>Date:</b> 3/1/2016

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	\$900,000 ISSUE			\$915,000 ISSUE			TOTAL DEBT SERVICE	ACTUAL COVERAGE	
				INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			TOTAL PAYMENT
2016	1,416,297	507,454	-		7,380	7,380	-		7,274	7,274	522,108	2.71
2017	1,416,297	508,651	85,000	1.64%	14,063	99,063	85,000	1.59%	13,873	98,873	706,587	2.00
2018	1,416,297	509,426	85,000	1.64%	12,669	97,669	85,000	1.59%	12,521	97,521	704,616	2.01
2019	1,416,297	504,928	85,000	1.64%	11,275	96,275	90,000	1.59%	11,130	101,130	702,333	2.02
2020	1,416,297	505,045	90,000	1.64%	9,840	99,840	90,000	1.59%	9,699	99,699	704,584	2.01
2021	1,416,297	504,713	90,000	1.64%	8,364	98,364	90,000	1.59%	8,268	98,268	701,345	2.02
2022	1,416,297	508,973	90,000	1.64%	6,888	96,888	90,000	1.59%	6,837	96,837	702,698	2.02
2023	1,416,297	507,816	90,000	1.64%	5,412	95,412	95,000	1.59%	5,366	100,366	703,594	2.01
2024	1,416,297	506,183	95,000	1.64%	3,895	98,895	95,000	1.59%	3,856	98,856	703,934	2.01
2025	1,416,297	508,998	95,000	1.64%	2,337	97,337	95,000	1.59%	2,345	97,345	703,680	2.01
2026	1,416,297	506,375	95,000	1.64%	779	95,779	100,000	1.59%	795	100,795	702,949	2.01
		\$ 5,578,562	\$ 900,000		\$ 82,902	\$ 982,902	\$ 915,000		\$ 81,965	\$ 996,965	\$ 7,558,429	

\$900,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	5.62 YEARS
NET INTEREST RATE	1.640%
COST SAVINGS	\$40,713
AVERAGE ANNUAL REQUIREMENT	\$89,355

\$915,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	5.63 YEARS
NET INTEREST RATE	1.590%
COST SAVINGS	\$ 43,996
AVERAGE ANNUAL REQUIREMENT	\$90,633

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$687,130

**Liberty**  
**62678 North Groundwater Well Site**  
**Rehabilitation**  
**Engineering and Environmental Review**

**Engineering:**

Key Issues:

None known at this time.

Project Need/Description

Project Need: The City of Liberty's (City) needs to upgrade its existing water system to address pressure issues and inadequate line sizing.

Project Description: The City is proposing to use funding from a Drinking Water State Revolving Fund (DWSRF) Program loan to fund the planning and design of the rehabilitation of the existing water system to address water loss and pressure issues. Project construction may include construction of a new well, ground storage tank, and booster pump station as well as rehabilitation of an existing water well and upsizing small diameter lines throughout the City.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing	3/1/2016
Engineering Feasibility Report Completion (End of Planning Phase)	4/30/2016
Design Phase Complete	9/30/2016

**Environmental Section:**

Key Issues:

None known at this time.

Environmental Summary:

As set forth in the preliminary environmental information submitted by the City, there are no known social, environmental, or permitting issues that would preclude project planning or cause additional alternatives to be examined.

The level of environmental review (categorical exclusion or full review) will depend on the project details and locations to be developed during the planning phase. 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 environmental determination has been issued by the Executive Administrator according to the program requirements of that loan.

**62678 - North Groundwater Well Site Rehabilitation**

Budget Items	TWDB Funds	Local Funds	Other Funds	Total
<b>Basic Engineering Services</b>				
Design	\$548,250.00	\$0.00	\$0.00	\$548,250.00
Planning	\$65,000.00	\$0.00	\$0.00	\$65,000.00
<b>Subtotal for Basic Engineering</b>	<b>\$613,250.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$613,250.00</b>
<b>Special Services</b>				
Environmental	\$39,000.00	\$0.00	\$0.00	\$39,000.00
Geotechnical	\$7,500.00	\$0.00	\$0.00	\$7,500.00
Permits	\$8,000.00	\$0.00	\$0.00	\$8,000.00
Special Service Other (Describe)	\$15,000.00	\$0.00	\$0.00	\$15,000.00
Surveying	\$70,000.00	\$0.00	\$0.00	\$70,000.00
Water Conservation Plan	\$7,500.00	\$0.00	\$0.00	\$7,500.00
<b>Subtotal for Special Services</b>	<b>\$147,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$147,000.00</b>
<b>Fiscal Services</b>				
Bond Counsel	\$12,500.00	\$0.00	\$0.00	\$12,500.00
Financial Advisor	\$20,000.00	\$0.00	\$0.00	\$20,000.00
Issuance Costs	\$2,116.00	\$0.00	\$0.00	\$2,116.00
Loan Origination Fee	\$20,134.00	\$0.00	\$0.00	\$20,134.00
<b>Subtotal for Fiscal Services</b>	<b>\$54,750.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$54,750.00</b>
<b>Other</b>				
Land/Easements Acquisition	\$45,000.00	\$0.00	\$0.00	\$45,000.00
Administration	\$55,000.00	\$0.00	\$0.00	\$55,000.00
<b>Subtotal for Other</b>	<b>\$100,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$100,000.00</b>
<b>Total</b>	<b>\$915,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$915,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$915,000 TO CITY OF LIBERTY  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$915,000 CITY OF LIBERTY, TEXAS UTILITY SYSTEM REVENUE BONDS,  
PROPOSED SERIES 2016B

(15- )

WHEREAS, the City of Liberty (City) has filed an application for financial assistance in the amount of \$915,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, and design of certain water system improvements identified as Project No. 62678; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$915,000 City of Liberty, Texas Utility System Revenue Bonds, Proposed Series 2016B (together with all authorizing documents, "Obligations"), all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of a first lien on the net revenues of the utility 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); and
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).

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

A commitment is made by the TWDB to the City of Liberty for financial assistance in the amount of \$915,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$915,000 City of Liberty, Texas Utility System Revenue Bonds, Proposed Series 2016B. This commitment will expire on June 30, 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 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. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial twenty-four (24) months following the issuance of the Obligations; and
35. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if net system revenues are at least 1.25 times the average annual debt service

requirements after giving effect to the additional obligations when net revenues are a) determined from the last completed fiscal year or a 12 consecutive calendar month period ending not more than ninety (90) days preceding the adoption of the additional obligations as certified by a certified public accountant; or b) the City certifies that the City is expected to continue to meet or exceed the net system revenue test with a minimum coverage of 1.25 times the average annual debt service requirement. An authorized representative of the City must provide the calculations, identifying reasonable assumptions, in a manner and format that is acceptable to the Executive Administrator.

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

Special Conditions:

36. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the City has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;

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 Liberty,  
Liberty County**

