PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015 TEAM MANAGER: Clay Schultz

APPLICANT	Kerr County
TYPE OF ASSISTANCE	$185,000 Loan $416,000 Loan Forgiveness
LEGAL PLEDGE	Ad valorem taxes and surplus revenues

STAFF RECOMMENDATION
☒ Approve ☐ No Action

ACTION REQUESTED
Approve by resolution, a request from **Kerr County (Kerr County)** for a $185,000 loan and $416,000 in loan forgiveness from the Clean Water State Revolving Fund to finance the acquisition costs associated with a new wastewater system intended to provide first-time wastewater service to Center Point and surrounding areas in eastern Kerr County.

PROJECT:
Center Point Wastewater System
Project Number 10366

BACKGROUND
The community of Center Point is an unincorporated area located in eastern Kerr County (County), approximately 10 miles southeast of Kerrville. Residents of Center Point and surrounding areas currently rely on individual on-site sewer facilities, many of which do not meet current minimum standards. In order to address these deficiencies, Kerr County is proposing to construct a new wastewater collection system and associated lift stations to allow for service to this area in eastern Kerr County. The wastewater will be transferred to the existing Kendall County Water Control and Improvement District No. 1 (District) system that serves the Comfort area.

The County has previously received funding for the planning, acquisition, and design phases from the Economically Distressed Areas Program (EDAP) and the Clean Water State Revolving Fund (CWSRF) program. The current request will allow the County to complete the acquisition phase of the proposed project, which will include approximately 75 easements. Due to current funding availability, construction of the proposed project is expected to be completed in two phases. Construction phase funding for Phase 1, which will provide service to approximately 513 connections, is included in a separate application that is also being considered by the Board.

COMMITMENT PERIOD: SIX MONTHS TO EXPIRE JUNE 30, 2016

FINANCIAL

Key Issues

The Texas Water Development Board (TWDB) has thus far provided $2,102,500 for the proposed project, including $242,500 from the EDAP and $1,860,000 from the CWSRF program.

Due to a lack of available EDAP funding, the County proposes to complete construction in two phases. The current estimate to complete construction of both phases is approximately $44.9 million. In a separate application, the County has requested $30.8 million for Phase 1 construction funding from the EDAP and the State Fiscal Year (SFY) 2016 CWSRF program. The requested $601,000 from the SFY 2015 CWSRF program is for acquisition costs associated with the project. If approved, the current combined CWSRF and EDAP request of $31,461,891 will bring the total TWDB funding to approximately $33.5 million. The current 2015 and 2016 CWSRF loan requests are both included in the debt service schedules provided in Attachment 2.

At the completion of construction of Phase 1, the project is expected to serve 513 connections. The County anticipates financing construction of Phase 2 with future funding from the CWSRF and EDAP programs. Phase 2 is planned to add an additional 354 connections.

Pledge and Repayment

The County is pledging ad valorem taxes, surplus revenues from the parks system and revenues from the new wastewater collection system. The County anticipates using revenues from the monthly charges to the users of the new wastewater system when construction is complete. For purposes of the financial analysis, revenues from the new connections resulting from the first phase of construction are assumed to be available in 2017. The County's existing interest and sinking fund tax rate of $0.0778 is sufficient for its existing debt service, and the requirements to repay the debt for the first phase of construction.

While the County is responsible for repayment of the proposed debt, customer billing will be handled by the District. The District's estimated monthly wastewater service bill for the new connections includes both an estimated $61.69 for the repayment of debt service, and an additional estimated $27.44 for operations and maintenance. This is a projected monthly bill of $89.13. The monthly charge for the repayment of debt service would produce $379,764 annually for the first 513 connections, and $641,823 annually at full build-out with 867 total new connections. This is compared to an average combined annual requirement of $231,149 for the acquisition phase and Phase 1 construction loans. The proposed monthly charge would be enough for the project to be self-sufficient in repaying the proposed and anticipated future financing.

Principal Forgiveness

The County qualifies for $416,000 in loan forgiveness as a disadvantaged community.

Cost Savings

Based on a 10-year maturity schedule, current interest rates, and loan forgiveness funding, the County could save approximately $492,426 over the life of the acquisition phase financing by utilizing Texas Water Development Board funding.

Internal Risk Score

Staff assigns a 2B to the County, and the proposed project to be funded by the Texas Water Development Board. This means that the County's payment capacity is adequate.

The County's results on socioeconomic indicators are similar to the State overall. The County's population has increased at an average annual rate of 1.00% since 2000, compared to a rate of 1.60% for the population of the State of Texas overall. The County's average median household income is $43,601, 84% of the median for the State of Texas overall. A 2008 income survey indicated that the median household income for the project area was $28,000, which qualified the project for EDAP funding. The unadjusted, unemployment rate for Kerr County was 3.6% in September 2015, compared to 4.4% in the State of Texas overall, and the national rate of 4.9%.

The results of the County's financial indicators are positive. The County's current outstanding per capita debt totals $519, and would increase to $626 with the proposed acquisition and Phase 1 construction phase financing. This is considered to be a low level of debt. The County maintains approximately 3 months of cash operating expenses in the form of liquid net assets. This is a typical level of liquidity. For determination of an appropriate internal risk score, the benchmark is 2 to 3 months of cash operating expenses.

The County's net revenues from its general fund declined 24% from 2012 to 2014. The decline is due to a broad increase in expenses, not to any specific expense category. Current net revenues from the general fund and revenues from the interest and sinking fund tax are sufficient to repay a projected $2.4 million in current debt service.

The estimated monthly bill of $89.13, which includes both a charge for operations and maintenance and debt service, results in a 3.82% household cost factor for wastewater services. The high household cost factor is mostly attributable to the low median household income of the service area, rather than the cost of wastewater service. A projected household cost factor of less than 1% is considered affordable for a single service, and 2% for both water and wastewater services. These benchmarks also include the cost of rate increases required for the repayment of debt service for a proposed project.

The County's socioeconomic indicators are mixed, with moderate population growth and a median household income that is similar to the State overall. However, the median household income in the project area is significantly less than the State overall, resulting in utility system rates that are relatively high. The County's financial performance is good. The debt level is moderate and liquidity is appropriate. In addition, the debt service charge to the new connections resulting from the project will provide adequate coverage for the proposed debt service. The County is pledging ad valorem tax revenues, providing appropriate security for any potential cash flow problems associated with the project.

LEGAL

Key Issues

Service will be provided in accordance with an interlocal cooperation contract between the County and the District. The County and the District are local governments as defined by Tex. Gov't Code § 791.003(4). Local governments are allowed to enter into interlocal cooperation contracts with other local governments under Tex. Gov't Code § 791.011(a) in order to provide a governmental function or service that one party to the contract is authorized to perform individually. The County is authorized by Section 562.016(a), Texas Local Government Code, to acquire, own, finance, operate, or contract for the operation of, a water or sewer utility system to serve an unincorporated area of the county in the same manner and under the same regulations as a municipality under Chapter 552 of the Local Government Code. The District is authorized by Tex. Water Code Ch. 17 and by a Certificate of Convenience and Necessity from the Texas Commission on Environmental Quality to provide retail wastewater services. The County and the District have entered into an interlocal cooperation contract under which the District will obtain any necessary amendments to its current Certificate of Convenience and Necessity to provide retail wastewater services to residents of the Center Point area. In return, the County applied for, and agreed to administer and repay, funds to construct the facilities necessary to connect residents of Center Point to the District. When the project is completed, service will be provided in accordance with the interlocal cooperation contract.

Conditions

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

- Executed loan forgiveness agreement;
- Return surplus loan forgiveness funds; and,
- Emergency discovery conditions.

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

Project Data Summary

Authority	Kerr County
Program	Clean Water State Revolving Fund
Commitment Code	L1000434, LF1000485
Project Number	10366
Intended Use Plan Year	2015
Fund Number	651
Type of Pledge	3-Combo Tax and Rev
Revenue Pledge Level	Third
Legal Description	$185,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A; $416,000 Loan Forgiveness
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Population	1,737 (project area)
Rural	Yes
Water Connections	0
Wastewater Connections	0 (513 proposed)
Qualifies as Disadvantaged	Yes
Disadvantaged Level	6
Clean Water State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	No
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
Funding Phase Code	Acquisition
Pre-Design	No
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	No
Internal Risk Score	2B
External Ratings (for SRF rates)	
Standard and Poor's	AA
Moody's	Non-Rated
Fitch	Non-Rated
Special Issues	None

Project Team

Team Manager	Clay Schultz
Financial Analyst	Dain Larsen
Engineering Reviewer	David Firgens
Environmental Reviewer	William Alfaro
Attorney	Joe Reynolds

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Kerr County

Attachment 2

$185,000 Combination Tax and Surplus Revenues Certificates of Obligation, proposed Series 2016A

Dated Date:	**6/1/2016**	**Source:**	**CWSRF-EQUIVALENCY**
Delivery Date:	**6/1/2016**	**Rate:**	**0.57%**
First Interest:	**2/1/2017**	**Insurance:**	**No**
First Principal	**8/1/2017**	**Case:**	**Tax and Revenue**
Last Principal:	**8/1/2026**	**Admin.Fee:**	**$ 3,360**
Fiscal Year End:	**09/30**	**Admin. Fee Payment Date:**	**6/1/2016**
Required Coverage:	**1.10**	**Total Assessed Valuation:**	**$ 4,367,139,625**

$5,110,000 Combination Tax and Surplus Revenues Certificates of Obligation, proposed Series 2016B

Dated Date:	**6/1/2016**	**Source:**	**CWSRF-EQUIVALENCY**
Delivery Date:	**6/1/2016**	**Rate:**	**1.50%**
First Interest:	**2/1/2017**	**Insurance:**	**No**
First Principal	**8/1/2017**	**Case:**	**Tax and Revenue**
Last Principal:	**8/1/2046**	**Admin.Fee:**	**$ 92,818**
Fiscal Year End:	**9/30**	**Admin. Fee**	
Required Coverage:	**1.10**	**Payment Date:**	**6/1/2016**

						$185,000 ISSUE					**$5,110,000 ISSUE**					
FISCAL YEAR	**ACTUAL TAX RATE**	**TAX REVENUES WITH COLL. @ 90%**	**PROJECTED NET SYSTEM REVENUES**	**PROJECTED TOTAL REVENUES**	**CURRENT DEBT SERVICE**	**PRINCIPAL PAYMENT**	**INTEREST RATE**	**INTEREST PAYMENT**	**TOTAL PAYMENT**	**PRINCIPAL PAYMENT**	**INTEREST RATE**	**INTEREST PAYMENT**	**TOTAL PAYMENT**	**DEBT SERVICE**	**ACTUAL COVERAGE**
2017	0.078	3,057,871	379,764	3,437,635	2,382,838	5,000	0.00%	894	5,894	150,000	0.00%	71,865	221,865	2,610,597	1.32
2018	0.078	3,057,871	379,764	3,437,635	2,229,527	20,000	0.00%	766	20,766	150,000	0.00%	61,599	211,599	2,461,892	1.40
2019	0.078	3,057,871	641,823	3,699,694	2,228,530	20,000	0.00%	766	20,766	150,000	0.00%	61,599	211,599	2,460,895	1.50
2020	0.078	3,057,871	641,823	3,699,694	1,904,711	20,000	0.00%	766	20,766	150,000	0.00%	61,599	211,599	2,137,076	1.73
2021	0.078	3,057,871	641,823	3,699,694	1,910,461	20,000	0.22%	766	20,766	150,000	0.22%	61,599	211,599	2,142,826	1.73
2022	0.078	3,057,871	641,823	3,699,694	1,914,558	20,000	0.47%	722	20,722	150,000	0.47%	61,269	211,269	2,146,549	1.72
2023	0.078	3,057,871	641,823	3,699,694	1,847,331	20,000	0.61%	628	20,628	150,000	0.61%	60,564	210,564	2,078,523	1.78
2024	0.078	3,057,871	641,823	3,699,694	1,843,906	20,000	0.73%	506	20,506	155,000	0.73%	59,649	214,649	2,079,061	1.78
2025	0.078	3,057,871	641,823	3,699,694	1,848,856	20,000	0.84%	360	20,360	155,000	0.84%	58,517	213,517	2,082,733	1.78
2026	0.078	3,057,871	641,823	3,699,694	1,848,106	20,000	0.96%	192	20,192	155,000	0.96%	57,215	212,215	2,080,513	1.78
2027	0.078	3,057,871	641,823	3,699,694	1,846,153	-	-	-	-	155,000	1.06%	55,727	210,727	2,056,880	1.80
2028	0.078	3,057,871	641,823	3,699,694	1,846,388	-	-	-	-	160,000	1.15%	54,084	214,084	2,060,472	1.80
2029	0.078	3,057,871	641,823	3,699,694	1,479,075	-	-	-	-	160,000	1.22%	52,244	212,244	1,691,319	2.19
2030	0.078	3,057,871	641,823	3,699,694	1,484,200	-	-	-	-	160,000	1.29%	50,292	210,292	1,694,492	2.18
2031	0.078	3,057,871	641,823	3,699,694	1,486,350	-	-	-	-	165,000	1.36%	48,228	213,228	1,699,578	2.18
2032	0.078	3,057,871	641,823	3,699,694	1,476,075	-	-	-	-	165,000	1.41%	45,984	210,984	1,687,059	2.19
2033	0.078	3,057,871	641,823	3,699,694	1,189,250	-	-	-	-	170,000	1.46%	43,658	213,658	1,402,908	2.64
2034	0.078	3,057,871	641,823	3,699,694	1,185,500	-	-	-	-	170,000	1.50%	41,176	211,176	1,396,676	2.65
2035	0.078	3,057,871	641,823	3,699,694	1,189,000	-	-	-	-	175,000	1.54%	38,626	213,626	1,402,626	2.64
2036	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	175,000	1.57%	35,931	210,931	210,931	17.54
2037	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	180,000	1.61%	33,183	213,183	213,183	17.35
2038	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	180,000	1.64%	30,285	210,285	210,285	17.59
2039	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	185,000	1.67%	27,333	212,333	212,333	17.42
2040	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	190,000	1.70%	24,244	214,244	214,244	17.27
2041	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	190,000	1.72%	21,014	211,014	211,014	17.53
2042	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	195,000	1.73%	17,746	212,746	212,746	17.39
2043	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	200,000	1.74%	14,372	214,372	214,372	17.26
2044	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	200,000	1.75%	10,892	210,892	210,892	17.54
2045	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	205,000	1.76%	7,392	212,392	212,392	17.42
2046	0.078	3,057,871	641,823	3,699,694	-	-	-	-	-	215,000	1.76%	3,784	218,784	218,784	16.91
				$ 110,466,707	$ 33,140,815	$ 185,000		$ 6,366	$ 191,366	$ 5,110,000		$ 1,271,663	$ 6,381,663	$ 39,713,844	

$185,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	6.03 YEARS
NET INTEREST RATE	0.570%
COST SAVINGS	$ 20,792
AVERAGE ANNUAL REQUIREMENT	$19,137

$5,110,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	16.6 YEARS
NET INTEREST RATE	1.499%
COST SAVINGS	$ 1,460,696
AVERAGE ANNUAL REQUIREMENT	$212,722

TOTAL AVERAGE ANNUAL REQUIREMENTS
$992,846

Kerr County
10366 Center Point Wastewater System
Engineering and Environmental Review

Engineering:

Key Issues:

None known at this time.

Project Need/Description

Need: Currently there is no centralized wastewater collection or treatment system serving the community of Center Point and surrounding areas in eastern Kerr County. These areas rely on on-site septic systems for wastewater disposal, many of which do not meet current minimum standards and have a history of poor performance and violations.

Project Description: In order to address these deficiencies, Kerr County is proposing a first-time wastewater collection system to serve the community of Center Point and surrounding areas. The proposed system will ultimately include over 177,000 feet of collection and transfer mains, 11 lift stations, and wastewater treatment plant improvements. The project will collect wastewater from the Center Point area and a corridor along State Highway 27 through eastern Kerr County. The wastewater will be transferred to the existing Kendall County Water Control and Improvement District No. 1 (District) system that serves the Comfort area. This financial assistance request is for land and easement acquisition costs associated with the proposed project.

Project Schedule:

Project Task	Schedule Date
Planning Phase Complete	5/02/2014
Closing	6/30/2016
Design Phase Complete	3/31/2016
Acquisition Phase Complete	6/01/2016
Construction Start	8/01/2016

Environmental:

Key Issues:

None known at this time.

Environmental Summary:

As required by 31 Texas Administrative Code (TAC) §375, Subchapter E, environmental review of the proposed project has been completed. A Categorical Exclusion for the installation of an excess flow basin and wastewater treatment plant upgrades was issued on September 11, 2015. In addition, a Finding of No Significant Impact for the remainder of the project, including the proposed wastewater collection system and lift stations, was issued on March 5, 2014. The proposed project is in compliance with the National

Environmental Policy Act. In addition to the standard emergency discovery conditions for threatened and endangered species and cultural resources, the project must comply with the following conditions:

- Archaeological site 41KR725 shall be avoided by boring or pipeline route alignment;
- Terms and Conditions of a U.S. Army Corps of Engineers Nationwide Permit 12. In addition, pipeline crossings of state-owned stream beds and waters of the U.S. will be installed by trenchless construction methods; and,
- Nesting surveys will be conducted by a qualified biologist prior to vegetation clearing during the breeding season (March-August). If active nests are observed, a 150-foot buffer of vegetation will remain undisturbed around the nests until the young have fledged or the nest is abandoned.

Texas Water Development Board

Project Budget Summary

Kerr County

10366 - Center Point Wastewater System

Attachment 4

Budget Items	Previous Commitments	2015 CWSRF This Commitment	2016 CWSRF This Commitment	EDAP This Commitment	Total TWDB Funds	Local and Other Funds	Total
Construction							
Construction	$0.00	$0.00	$14,223,459.00	$11,976,968.00	$26,200,427.00	$452,273.00	$26,652,700.00
Subtotal for Construction	**$0.00**	**$0.00**	**$14,223,459.00**	**$11,976,968.00**	**$26,200,427.00**	**$452,273.00**	**$26,652,700.00**
Basic Engineering Services							
Construction Engineering	$0.00	$0.00	$288,415.00	$235,378.00	$523,793.00	$0.00	$523,793.00
Design	$1,106,381.00	$0.00	$0.00	$0.00	$1,106,381.00	$0.00	$1,106,381.00
Planning	$326,578.00	$0.00	$0.00	$0.00	$326,578.00	$25,800.00	$352,378.00
Subtotal for Basic Engineering Services	**$1,432,959.00**	**$0.00**	**$288,415.00**	**$235,378.00**	**$1,956,752.00**	**$25,800.00**	**$1,982,552.00**
Special Services							
Application	$0.00	$6,129.00	$9,414.00	$12,207.00	$27,750.00	$0.00	$27,750.00
Environmental	$176,300.00	$0.00	$0.00	$0.00	$176,300.00	$33,700.00	$210,000.00
Geotechnical	$60,000.00	$0.00	$0.00	$0.00	$60,000.00	$0.00	$60,000.00
Inspection	$0.00	$0.00	$259,229.00	$211,558.00	$470,787.00	$0.00	$470,787.00
O&M Manual	$0.00	$0.00	$16,519.00	$13,481.00	$30,000.00	$0.00	$30,000.00
Permits	$54,800.00	$0.00	$0.00	$0.00	$54,800.00	$0.00	$54,800.00
Surveying	$210,000.00	$0.00	$0.00	$0.00	$210,000.00	$0.00	$210,000.00
Testing	$0.00	$0.00	$16,519.00	$13,481.00	$30,000.00	$0.00	$30,000.00
Subtotal for Special Services	**$501,100.00**	**$6,129.00**	**$301,681.00**	**$250,727.00**	**$1,059,637.00**	**$33,700.00**	**$1,093,337.00**
Fiscal Services							
Bond Counsel	$15,050.00	$8,451.00	$24,660.00	$0.00	$48,161.00	$0.00	$48,161.00
Financial Advisor	$20,486.52	$24,424.00	$81,826.00	$0.00	$126,736.52	$0.00	$126,736.52
Fiscal/Legal	$0.00	$2,550.00	$13,081.00	$0.00	$15,631.00	$0.00	$15,631.00
Issuance Costs	$2,050.00	$0.00	$0.00	$0.00	$2,050.00	$0.00	$2,050.00
Loan Origination Fee	$10,353.00	$3,360.00	$92,818.00	$0.00	$106,531.00	$0.00	$106,531.00
Subtotal for Fiscal Services	**$47,939.52**	**$38,785.00**	**$212,385.00**	**$0.00**	**$299,109.52**	**$0.00**	**$299,109.52**
Other							
Administration	$1,701.48	$6,600.00	$50,000.00	$50,000.00	$108,301.48	$25,000.00	$133,301.48
Land/Easements Acquisition	$58,100.00	$519,370.00	$0.00	$0.00	$577,470.00	$58,100.00	$635,570.00
Project Legal Expenses	$54,800.00	$0.00	$55,063.00	$44,937.00	$154,800.00	$0.00	$154,800.00
Subtotal for Other	**$114,601.48**	**$525,970.00**	**$105,063.00**	**$94,937.00**	**$840,571.48**	**$83,100.00**	**$923,671.48**
Contingency							
Contingency	$5,900.00	$30,116.00	$1,679,270.00	$1,492,608.00	$3,207,894.00	$53,627.00	$3,261,521.00
Subtotal for Contingency	**$5,900.00**	**$30,116.00**	**$1,679,270.00**	**$1,492,608.00**	**$3,207,894.00**	**$53,627.00**	**$3,261,521.00**
Total	$2,102,500.00	$601,000.00	$16,810,273.00	$14,050,618.00	$33,564,391.00	$648,500.00	$34,212,891.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF $601,000 TO KERR COUNTY FROM THE CLEAN WATER STATE REVOLVING FUND THROUGH THE PROPOSED PURCHASE OF $185,000 KERR COUNTY, TEXAS COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2016A AND $416,000 IN LOAN FORGIVENESS

(15-)

WHEREAS, Kerr County (County) has filed an application for financial assistance in the amount of $601,000 from the Clean Water State Revolving Fund (CWSRF) to finance the acquisition of property related to certain wastewater system improvements identified as Project No. 10366; and

WHEREAS, the County seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of $185,000 Kerr County, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A (together with all authorizing documents) (Obligations), and the execution of a Loan Forgiveness Agreement in an amount of $416,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the County has offered a pledge of ad valorem tax and surplus revenues of the parks system and wastewater system (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 County will be sufficient to meet all the Obligations assumed by the County, in accordance with Texas Water Code § 15.607;

2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq*., as well as state law, in accordance with Texas Water Code § 15.607;

3. that the County 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 County has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;

5. that the County meets the definition of "Disadvantaged Community" in 31 TAC § 375.1(21) and is therefore eligible for subsidy through the CWSRF;

6. that the Executive Administrator issued a Categorical Exclusion on September 11, 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; and

7. that the Executive Administrator issued a Finding of No Significant Impact for the remainder of the project on March 5, 2014, such finding being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in addition to specific conditions set out in TWDB Resolution No. 14-36, approved on April 17, 2014.

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

A commitment is made by the TWDB to Kerr County for financial assistance in the amount of $601,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of $185,000 Kerr County, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A and the execution of a Loan Forgiveness Agreement in the amount of $416,000. This commitment will expire on June 30, 2016.

Such commitment is conditioned as follows:

<u>Standard Conditions</u>

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 County;

3. this commitment is contingent upon the County's compliance with all applicable requirements contained in 31 TAC Chapter 375;

4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;

5. the County, 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 County'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 County's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the County is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the County 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 County 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 County 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 County 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 County, 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 County 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 County 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 County 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 County execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

<u>Conditions Related To Tax-Exempt Status</u>

15. the County'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 County when rendering this opinion;

16. the County'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 County when rendering this opinion;

17. the Obligations must include a provision prohibiting the County from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

18. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:

a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;

b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and

c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;

19. the Obligations must include a provision requiring the County 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 County 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 County may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the County, provided that the County 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 County shall maintain a copy of such calculations for at least six years after the final Computation Date;

c. as additional consideration for the making of the loan, and in order to induce the making of the loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;

d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time

thereafter, including payment to the United States of any interest and any penalty required by the Regulations;

20. the Obligations must include a provision prohibiting the County from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;

21. the Obligations must provide that the County will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;

22. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the County's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;

23. the transcript must include evidence that the information reporting requirements of § 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;

24. the Obligations must provide that neither the County 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 County by the TWDB;

<u>State Revolving Fund Conditions</u>

25. the County shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;

26. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The County, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of $2,000 the contracts clauses as provided by the TWDB;

27. the Obligations must include a provision stating that the County 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 County shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;

28. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the County will adhere to the approved project schedule;

29. the Obligations and Loan Forgiveness Agreement must contain a covenant that the County 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;

30. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq*. related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;

<u>Clean Water State Revolving Fund Conditions</u>

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

32. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;

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

34. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the County must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq*.;

Pledge Conditions For The Loan

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 System revenues are based upon budgeted amounts:

i. the Obligations must include a requirement that the County 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 County shall not transfer any funds from the County's 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 County shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient System 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 County 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 County and other obligations of the County which are secured in whole or in part by the System revenues, for which the County is budgeting the repayment of such Obligations, or the County 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. prior to closing, the County shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

37. the Loan Forgiveness Agreement must include a provision stating that the County shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator; and

38. the County 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: Kerr County - Center Point Wastewater System Review date: October 2014

WATER CONSERVATION PLAN DATE: March 2014 ☐ **Approvable** ☑ **Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
Baseline	NA	NA	NA	NA
5-year Goal	NA	NA	NA	NA
10-year Goal	NA	NA	NA	NA

WATER LOSS AUDIT YEAR: NA

Apparent loss (gallons): NA
Produced water (gallons): NA
Connections per mile: NA
Real loss (gallons): NA
Total water loss (percent): NA
Total water loss (GPCD): NA

If < 32 connections per mile, real loss (gallons) per mile per day: NA
(Average real loss for less than 32 connections is 1,154 gal/mile/day)

If > 32 connections per mile, real loss (gallons) per connection per day: NA
(Average real loss for greater than 32 connections is 47 gal/connection/day)

If > 16 connections per mile and > 3,000 connections
Infrastructure Leakage Index (*ILI*): NA

ADDITIONAL INFORMATION:

The County's request for financial assistance is for a wastewater project. The County does not operate a water system, and the majority of the potential users are supplied by private wells. The wastewater service is currently provided by on-site septic systems. There is no data available on either water or sewer use for the proposed service area. The County plans to coordinate with Kendall County Water Conservation Improvement District to provide customers with water conservation educational materials on a recurring basis with their billing statements and through electronic media.

STAFF NOTES AND RECOMMENDATIONS:

The County is not a retail water supplier; therefore, it is not required to submit a water loss audit.

DEFINITIONS

Adopted refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formerly approved and adopted by the applicant's governing body.

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

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

GPCD means gallons per capita per day.

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

NA means not applicable.

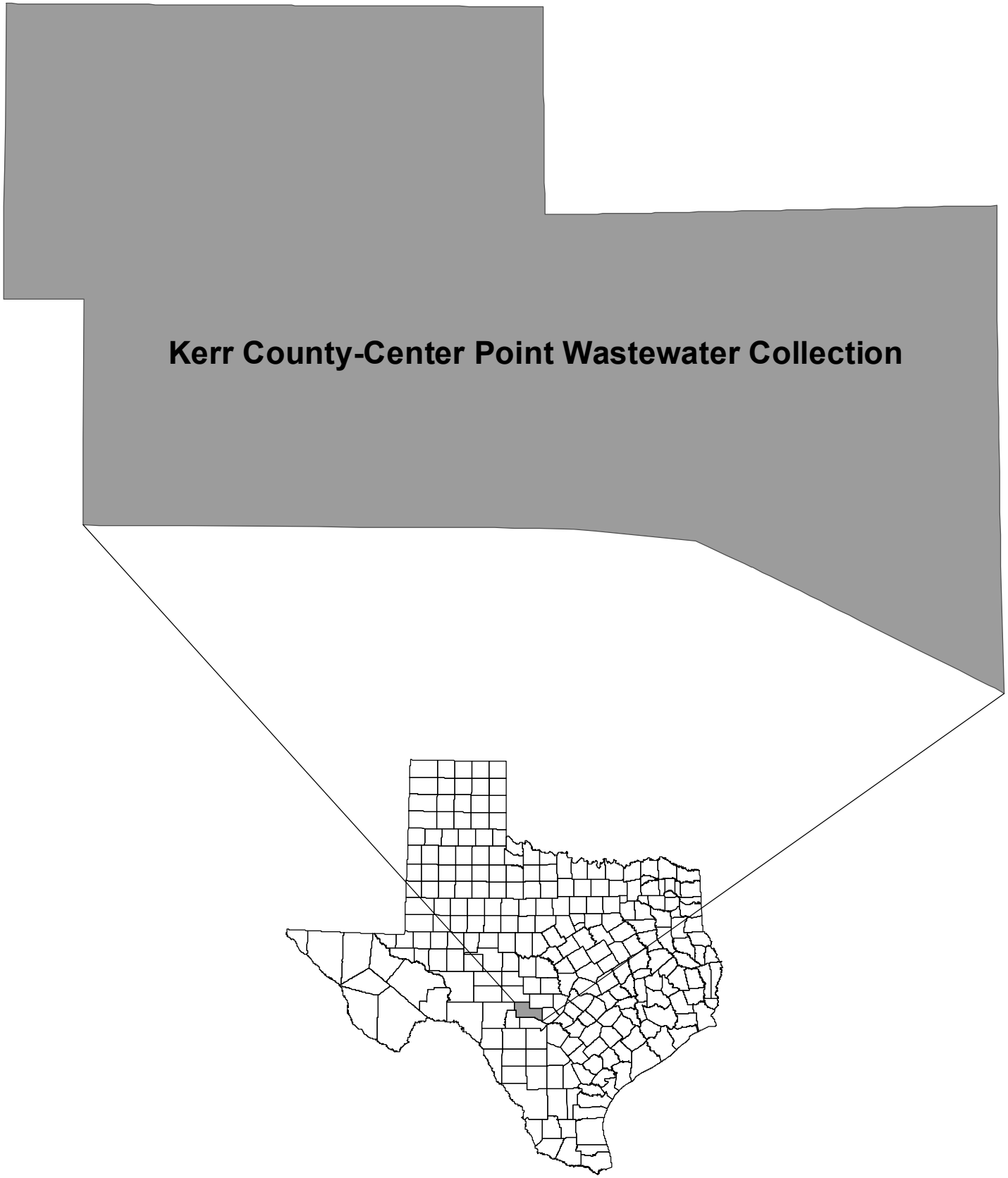
Produced water is the total amount of water purchased or produced by the utility.

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

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

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

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

ATTACHMENT 7

Kerr County-Center Point Wastewater Collection, Kerr County