

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: July 7, 2016

TEAM MANAGER: Lee Huntoon

<b>APPLICANT</b>	City of Eldorado
<b>TYPE OF ASSISTANCE</b>	\$575,000 Loan
<b>LEGAL PLEDGE</b>	Combination Tax and Surplus Revenues

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve, by resolution, a request from the City of Eldorado (Schleicher County) for a \$575,000 loan from the Clean Water State Revolving Fund to finance the construction of wastewater collection system improvements.

### PROJECT

Collection System Rehabilitation  
Project Number 73625

### BACKGROUND

The City of Eldorado's (City) original wastewater collection system was installed in the early 1900's and is in need of rehabilitation due to root intrusion, misaligned pipe joints, inflow and infiltration. The City's sanitary sewer collection system is experiencing pipe failures causing operational issues and excessive inflow and infiltration into the collection system. Additionally, the City identified three lift stations as being susceptible to storm water inflow and infiltration during significant rain events and intends to replace all three with new construction.

On February 2, 2012, the Texas Water Development Board (TWDB) approved a \$1,200,000 loan through the Clean Water State Revolving Fund (CWSRF) to finance planning, design and construction costs related to wastewater collection system improvements. The planning and design phases are completed. The City opened bids on December 15, 2015. However, when bids were received, the construction costs were above the available funds. This request is for an increase in construction funding to complete the project.

### FINANCIAL

#### Key Issues

None.

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON JULY 31, 2017**

Pledge and Repayment

The City is pledging ad valorem tax and surplus revenue of the water and sewer system to repay the proposed loan of \$575,000. The City has \$212,722 in revenue available for debt service resulting in a debt service coverage ratio of 1.69. The City has sufficient revenues available to pay debt service.

Cost Savings

Based on a 20-year maturity schedule, current market interest rates, and a loan amount of \$575,000, the City would save \$100,616 over the life of the loan by utilizing the Clean Water State Revolving Fund program.

Internal Risk Score

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

The City scored high on financial sustainability indicators overall, however, the City's reinvestment in assets of the utility system is low with infrastructure at approximately 8 years of useful life. The City's fund balance ratio is 19% indicating a strong and increasing fund balance over the last 5 years.

The City's median household income is 83% of the State as a whole. The projected household cost factor is 1.83% slightly below the TWDB benchmark of 2%. This indicates low cost for water and wastewater services. The City has implemented rate increases with both water and wastewater increases as of September 1, 2015 and projects an additional \$3.00 increase for wastewater in 2016.

Population shows only slight but consistent growth. The top 10 customers for water and wastewater make up 12.95% and 7.05% of the customer base respectively. This means that the risk of significant loss of revenues due to customer loss is fairly diversified. Schleicher County has an unemployment rate of 4.7% compared to 4.2% for the State overall.

Strong liquidity of the City's utility system is supported by approximately 224 days of cash on hand. This indicates that operating expenses could be financed with existing cash, receivables, and short term investments should any short-term, unplanned needs arise.

The City has a low level of total debt and does not rely heavily on ad valorem tax revenues for repayment. With the proposed loan, debt per capita remains low at \$1,198. The City's debt paid with ad valorem taxes is 1.38% of the total taxable assessed value of property. Less than 2% of the total value is considered low, and indicates the City has additional capacity to issue debt supported by ad valorem taxes, if needed.

With average or above financial sustainability, socioeconomic indicators, liquidity, and debt management; the City is assigned a risk score of 2B.

**LEGAL**

Key Issues

None.

**CONDITIONS**

Standard CWSRF, tax-exempt, tax and surplus revenue conditions and further conditioned as follows:

- Emergency discovery conditions.

- Attachments:
1. Project Data Summary
  2. Debt Service Schedule
  3. Engineering/Environmental Review
  4. Project Budget
  5. Resolution (16- )
  6. Water Conservation Review
  7. Location Map

**Project Data Summary**

<b>Authority</b>	City of Eldorado
<b>Program</b>	Clean Water State Revolving Fund
<b>Commitment Code</b>	L1000538
<b>Project Number</b>	73625
<b>Intended Use Plan Year</b>	2016
<b>Fund Number</b>	651
<b>Type of Pledge</b>	3-Combo Tax and Rev
<b>Revenue Pledge Level</b>	Third
<b>Legal Description</b>	\$575,000 City of Eldorado, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2016
<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>	1,925
<b>Rural</b>	Yes
<b>Water Connections</b>	945
<b>Wastewater Connections</b>	945
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	Equivalency
<b>SWIFT Financing Type</b>	N/A
<b>SWIFT Project Type</b>	N/A
<b>Financial Managerial &amp; Technical Complete</b>	N/A
<b>Funding Phase Code</b>	Construction
<b>Pre-Design</b>	No
<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>	2B
<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>	N/A

**Project Team**

Team Manager	Lee Huntoon
Financial Analyst	James Horan
Engineering Reviewer	Alyssa Azari
Environmental Reviewer	Chris Caran
Attorney	Alexis Lorick

**Dated Date:** 9/30/2016  
**Delivery Date:** 9/30/2016  
**First Interest:** 3/31/2016  
**First Principal:** 9/30/2017  
**Last Principal:** 9/30/2036  
**Fiscal Year End:** 08/31  
**Required Coverage:** 1.1

**Source:** CWSRF-EQUIVALENCY  
**Rate:** 1.47%  
**Insurance:** No  
**Case:** Revenue  
**Admin.Fee:** \$10,444  
**Admin. Fee Payment Date:** 9/30/2016

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$575,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE
					INTEREST PAYMENT	TOTAL PAYMENT		
2017	212,722	100,221	25,000	1.47%	8,453	33,453	133,674	1.59
2018	212,722	104,660	25,000	1.47%	8,085	33,085	137,745	1.54
2019	212,722	103,920	25,000	1.47%	7,718	32,718	136,638	1.56
2020	212,722	103,048	25,000	1.47%	7,350	32,350	135,398	1.57
2021	212,722	107,006	25,000	1.47%	6,983	31,983	138,989	1.53
2022	212,722	105,729	25,000	1.47%	6,615	31,615	137,344	1.55
2023	212,722	104,296	25,000	1.47%	6,248	31,248	135,544	1.57
2024	212,722	107,744	30,000	1.47%	5,880	35,880	143,624	1.48
2025	212,722	106,017	30,000	1.47%	5,439	35,439	141,456	1.50
2026	212,722	104,219	30,000	1.47%	4,998	34,998	139,217	1.53
2027	212,722	102,352	30,000	1.47%	4,557	34,557	136,909	1.55
2028	212,722	100,436	30,000	1.47%	4,116	34,116	134,552	1.58
2029	212,722	103,464	30,000	1.47%	3,675	33,675	137,139	1.55
2030	212,722	106,327	30,000	1.47%	3,234	33,234	139,561	1.52
2031	212,722	104,008	30,000	1.47%	2,793	32,793	136,801	1.55
2032	212,722	106,638	30,000	1.47%	2,352	32,352	138,990	1.53
2033	212,722	104,083	30,000	1.47%	1,911	31,911	135,994	1.56
2034	212,722	101,484	30,000	1.47%	1,470	31,470	132,954	1.60
2035	212,722	103,846	35,000	1.47%	1,029	36,029	139,875	1.52
2036	212,722	36,043	35,000	1.47%	515	35,515	71,558	2.97
		\$ 2,015,541	\$ 575,000		\$ 93,419	\$ 668,419	\$ 2,683,960	

<b>AVERAGE (MATURITY) LIFE</b>	<b>11.05 YEARS</b>
<b>NET INTEREST RATE</b>	<b>1.470%</b>
<b>COST SAVINGS</b>	<b>\$100,616</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$134,198</b>

**Eldorado  
73625 Collection System Rehabilitation  
Engineering and Environmental Review**

**Engineering:**

Key Issues:

The City of Eldorado (City) is seeking additional funds to complete Project 73625 as bids came in higher than the funding available. The City completed planning and design under the previous commitment and intends to use additional funds solely for construction. Bidding has already occurred and the selected contractor is ready to proceed.

In a recent revision to the bid, the contractor has proposed constructing new lift stations rather than rehabilitate the existing ones. The project area map remains unchanged, and the new construction does not impact the original environmental determination. While this revision did lower construction costs significantly, moving the resulting excess funds to contingency resulted in a high contingency budget line item, now a significant portion of this commitment. However, contingency funds for the overall project are approximately 30 percent of construction costs.

The City, while cognizant of the high contingency budget line item for this commitment, has concerns about encountering rock during trenching activities based on experience with previous public projects and the geology of the area. This would potentially double the cost per linear foot of installing pipe and the additional contingency funds would then be necessary to complete the project.

The previous commitment closed in 2013, and includes funding for construction; therefore, the project is exempt from American Iron & Steel (AIS) requirements.

Project Need/Description

The City of Eldorado's (City) original wastewater collection system was installed in the early 1900's and is in need of rehabilitation due to root intrusion, misaligned pipe joints, inflow and infiltration. The City's sanitary sewer collection system is experiencing pipe failures causing operational issues and excessive inflow and infiltration into the collection system. Additionally, the City identified three lift stations as being susceptible to storm water inflow and infiltration during significant rain events and intends to replace all three with new construction.

The City is seeking additional funds to complete construction, as bids came in higher than the funding available. Construction includes rehabilitation of approximately 4,700 feet of the existing sanitary sewer collection system, and replacement of three existing lift stations to increase the functionality and reliability of the system.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Start of Construction	8/1/2016
Closing	9/30/2016
Construction Completion	12/31/2016

**Environmental Section:**

Key Issues:

None known at this time.

Environmental Summary:

Pursuant to the requirements of 31 Texas Administrative Code Chapter 375, Subchapter E, the environmental review of the proposed project has been completed. The Executive Administrator issued a Categorical Exclusion on October 24, 2011. The proposed project is in compliance with the National Environmental Policy Act.

Budget Items	Previous Commitments	This Commitment	TWDB Funds	Total
<b>Construction</b>				
Construction	\$860,806.00	\$324,878.00	\$1,185,684.00	\$1,185,684.00
<b>Subtotal for Construction</b>	<b>\$860,806.00</b>	<b>\$324,878.00</b>	<b>\$1,185,684.00</b>	<b>\$1,185,684.00</b>
<b>Basic Engineering Services</b>				
Construction Engineering	\$21,337.00	\$0.00	\$21,337.00	\$21,337.00
Design	\$55,000.00	\$0.00	\$55,000.00	\$55,000.00
Planning	\$20,000.00	\$0.00	\$20,000.00	\$20,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$96,337.00</b>	<b>\$0.00</b>	<b>\$96,337.00</b>	<b>\$96,337.00</b>
<b>Special Services</b>				
Permits	\$10,000.00	\$0.00	\$10,000.00	\$10,000.00
Surveying	\$16,250.00	\$0.00	\$16,250.00	\$16,250.00
Testing	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00
<b>Subtotal for Special Services</b>	<b>\$31,250.00</b>	<b>\$0.00</b>	<b>\$31,250.00</b>	<b>\$31,250.00</b>
<b>Fiscal Services</b>				
Bond Counsel	\$13,700.00	\$9,975.00	\$23,675.00	\$23,675.00
Financial Advisor	\$25,300.00	\$19,500.00	\$44,800.00	\$44,800.00
Issuance Costs	\$650.00	\$0.00	\$650.00	\$650.00
Loan Origination Fee	\$21,797.00	\$10,444.00	\$32,241.00	\$32,241.00
<b>Subtotal for Fiscal Services</b>	<b>\$61,447.00</b>	<b>\$39,919.00</b>	<b>\$101,366.00</b>	<b>\$101,366.00</b>
<b>Contingency</b>				
Contingency	\$150,160.00	\$210,203.00	\$360,363.00	\$360,363.00
<b>Subtotal for Contingency</b>	<b>\$150,160.00</b>	<b>\$210,203.00</b>	<b>\$360,363.00</b>	<b>\$360,363.00</b>
<b>Total</b>	<b>\$1,200,000.00</b>	<b>\$575,000.00</b>	<b>\$1,775,000.00</b>	<b>\$1,775,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$575,000 TO THE CITY OF ELDORADO  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$575,000 CITY OF ELDORADO, TEXAS COMBINATION TAX AND SURPLUS REVENUE  
CERTIFICATES OF OBLIGATION  
PROPOSED SERIES 2016

(16- )

WHEREAS, the City of Eldorado (City) has filed an application for financial assistance in the amount of \$575,000 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73625 (Project); and

WHEREAS, the City previously received a commitment of \$1,200,000 in financial assistance from the Texas Water Development Board (TWDB) through TWDB Resolution No. 12-14 to finance wastewater system improvements rehabilitating its existing sanitary sewer collection system and upgrades to three existing lift stations, utilizing the pre-design option; and

WHEREAS, the City requires additional construction financial assistance from the TWDB for the Project because of construction cost increases subsequent to its completion of the planning and design phases of the Project; and

WHEREAS, the City now seeks additional financial assistance through the TWDB's proposed purchase of \$575,000 City of Eldorado, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016 (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 an ad valorem tax and surplus net revenues of the combined waterworks and sewer system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the 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 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 City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007; and
5. that the Executive Administrator issued a Categorical Exclusion on October 24, 2011, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the City of Eldorado for financial assistance in the amount of \$575,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$575,000 City of Eldorado, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016. This commitment will expire on July 31, 2017.

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 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 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 or maintain and collect sufficient rates and charges, as applicable, 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;

#### Conditions Related To Tax-Exempt Status

15. 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;
16. 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;
17. 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);
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 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;
20. 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;
21. 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;
22. 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;

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 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

25. the City 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 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;
27. 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;
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 City will adhere to the approved project schedule;
29. 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;

30. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule;

#### Clean Water State Revolving Fund Conditions

31. prior to or at closing, the City 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 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;
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 City 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. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;
36. the Obligations must contain a provision that provides as follows:
  - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or

- b. if surplus revenues are based upon budgeted amounts:
  - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;
  - ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and
  - iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than **1.10** times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

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

Special Condition:

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

APPROVED and ordered of record this 7th of July, 2016.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Bech K. Bruun, Chairman

DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jeff Walker  
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 Eldorado, Schleicher County

