



## PROJECT FUNDING REQUEST

BOARD DATE: July 21, 2016

TEAM MANAGER: Caaren Skrobarczyk

<b>APPLICANT</b>	City of Waco
<b>TYPE OF ASSISTANCE</b>	\$12,000,000 Loan
<b>LEGAL PLEDGE</b>	Ad valorem tax and surplus revenues of the water and sewer systems

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution, a request from the City of Waco (McLennan County) for a \$12,000,000 low interest loan from the State Water Implementation Revenue Fund for Texas to finance the construction of a meter replacement project.

### PROJECT

Water Conservation  
Project Number 51035

### BACKGROUND

Passed by the 83<sup>rd</sup> Legislature and approved by Texas voters through a constitutional amendment, the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT) were created to provide affordable, alternative financing options to develop projects that are recommended water management strategies in the State Water Plan. The program, referred to as SWIFT, provides financing through low interest loans, deferral of loan repayments, and incremental repurchase terms for projects with state ownership aspects. SWIFT projects presented for consideration have been scored and ranked utilizing a prioritization criteria outlined in Texas Administrative Code Title 31 § 363.1304 and are included on the prioritized list of projects approved by the Board on April 11, 2016.

The City of Waco (City) proposes to implement an Advanced Metering Infrastructure (AMI) by installing approximately 45,000 new meters with a remote reading capability. The new infrastructure is expected to reduce the City's apparent water loss by reducing data handling errors and minimize the under-reporting of actual water consumption by older meters.

**COMMITMENT PERIOD: TO EXPIRE DECEMBER 31, 2016.**

## **FINANCIAL**

### Key Issues

None.

### Pledge and Repayment

The City is pledging ad valorem taxes and surplus revenues of the water and sewer systems for the repayment of the proposed loan. The utility system generates approximately \$27.1 million in net revenues available for debt service, and the City collects approximately \$8.5 million in tax revenues from the debt service tax rate. These revenues provide 1.17 times coverage of all existing and proposed debt service in the first year of principal repayment for the proposed loan. A coverage ratio of 1.10 times for a surplus revenue pledge indicates that system rate increases are not required for the proposed debt service.

### Cost Savings

Based on a 20-year maturity and current interest rates, the City could save approximately \$1,151,729 in interest costs over the life of the loan.

### Internal Risk Score

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

The City scored moderately well on indicators of the City's financial sustainability. As discussed previously, the City's utility system revenues and tax revenues provide good coverage of all debt service. In addition, the City has a good level of reinvestment in the utility infrastructure. Total capital assets in the utility system have an estimated 23.5 years of useful life remaining. Assets with a useful life of 12 to 24 years is considered typical.

The City scored modestly well on an indicator of the overall health of the City excluding the performance of the utility system. Overall, the City has been able to retain some of its revenues, as evidenced by a 1.96% increase in the adjusted fund balance over the last five years relative to revenues. An increase from 0 to 10% is an indication of strong growth.

The City's average monthly residential water and wastewater bill of \$67.43 is high, but is primarily attributable to the City's low median household income, which is 63% of the State median. The average annual cost of water and wastewater service for a residential customer is 2.46% of the median household income. The standard used by the utilities industry and municipal credit rating agencies is 2% of the median household income for two services. In general, higher system rates reduce the City's flexibility to increase system rates for future needs.

The City has several large, food industry customers, including Coca Cola, Pilgrim's Pride, Cargill, and Mars. This group of customers represents 7.44% of the City's water system revenues. Unemployment is relatively low at 3.8%, compared to 4.2% for the State overall. The change in population is less than 1% annually, compared to a rate of 1.6% in the State overall since 2000.

The City maintains substantial liquidity, with cash and short-term investments equivalent to 605 days of operating expenses. Any amount over 250 days is considered to be a very high level of liquidity. Adequate liquidity provides greater stability to a utility system by providing the resources needed to cover short-term, unplanned needs.

The City has a moderately high level of total debt. Historically, the City has issued debt with a pledge of ad valorem taxes and limited revenues. However, because of the moderately high total value for properties in the City, debt supported by tax revenues totals just 1.27% of the total taxable value of properties in the City. When debt paid with ad valorem tax revenues is below 2% of the total taxable value of properties, this is considered to be a low level of tax-supported debt, and indicates that the City has additional capacity to issue debt supported by ad valorem tax revenues if needed.

The City generates substantial revenues both within the utility system and its other funds. This has allowed it to reinvest in the utility system and maintain a high level of liquidity. Rates are relatively high even though the City's median household income is only slightly below the median for the State overall. Though the City is growing moderately, utility system revenues are concentrated with slightly more than 20% of revenues coming from 10 of the largest customers. A concentration of revenues increases the level of risk because revenues are not as stable as when revenues are diversified. Despite these weaknesses, the City is assigned a risk score of 2B based on strong repayment capacity and liquidity.

## **LEGAL**

### Key Issues

None.

### Conditions

Standard SWIFT, tax-exempt, tax and surplus revenue 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>Responsible Authority</b>	City of Waco
<b>Program</b>	State Water Implementation Fund for Texas
<b>Commitment Code</b>	L16063
<b>Project Number</b>	51035
<b>Intended Use Plan Funding Year</b>	2016
<b>Fund Number</b>	361
<b>Type of Pledge</b>	3- Combo Tax and Rev
<b>Revenue Pledge Level</b>	Third
<b>Legal Description</b>	\$12,000,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	No
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	N/A
<b>Population</b>	127,796
<b>Rural</b>	No
<b>Water Connections</b>	41,542
<b>Wastewater Connections</b>	41,542
<b>Qualifies as Disadvantaged</b>	N/A
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>SWIFT Financing Type</b>	Low Interest Loan
<b>SWIFT Characteristic</b>	Conservation
<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>	AA+
<b>Moody's</b>	Aa2
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**Project Team**

Team Manager	Caaren Skrobarczyk
Financial Analyst	Dain Larsen
Engineering Reviewer	Lee Wimberley
Environmental Reviewer	Jean Devlin
Attorney	Joe Reynolds

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Waco

\$12,000,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A

Dated Date: 11/1/2016  
Delivery Date: 11/1/2016  
First Interest: 2/1/2017  
First Principal: 2/1/2017  
Last Principal: 2/1/2036  
Fiscal Year End: 09/30  
Required Coverage: 1.1

Source: SWIFT-LOW-20YR  
Rate: 1.88%  
Insurance: No  
Case: Tax and Revenue  
Admin.Fee: N/A  
Admin. Fee Payment Date: N/A  
Total Assessed Valuation: \$ 7,270,123,492

FISCAL YEAR	EXISTING TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	\$12,000,000 ISSUE TOTAL PAYMENT	TOTAL DEBT SERVICE	COVERAGE
2017	0.129	8,472,544	27,108,021	35,580,565	29,774,824	560,000	0.65%	139,317	699,317	30,474,141	1.17
2018	0.129	8,472,544	27,108,021	35,580,565	29,099,878	530,000	0.73%	182,608	712,608	29,812,486	1.19
2019	0.129	8,472,544	27,108,021	35,580,565	28,709,624	535,000	0.82%	178,480	713,480	29,423,104	1.21
2020	0.129	8,472,544	27,108,021	35,580,565	28,120,686	540,000	0.91%	173,830	713,830	28,834,516	1.23
2021	0.129	8,472,544	27,108,021	35,580,565	27,244,018	545,000	0.99%	168,675	713,675	27,957,692	1.27
2022	0.129	8,472,544	27,108,021	35,580,565	25,140,454	550,000	1.08%	163,007	713,007	25,853,461	1.38
2023	0.129	8,472,544	27,108,021	35,580,565	23,817,820	560,000	1.16%	156,789	716,789	24,534,609	1.45
2024	0.129	8,472,544	27,108,021	35,580,565	23,632,074	565,000	1.23%	150,066	715,066	24,347,140	1.46
2025	0.129	8,472,544	27,108,021	35,580,565	20,997,052	575,000	1.30%	142,854	717,854	21,714,906	1.64
2026	0.129	8,472,544	27,108,021	35,580,565	18,418,471	580,000	1.36%	135,173	715,173	19,133,644	1.86
2027	0.129	8,472,544	27,108,021	35,580,565	18,280,241	590,000	1.56%	126,627	716,627	18,996,868	1.87
2028	0.129	8,472,544	27,108,021	35,580,565	13,740,436	600,000	1.70%	116,925	716,925	14,457,361	2.46
2029	0.129	8,472,544	27,108,021	35,580,565	12,690,373	610,000	1.82%	106,274	716,274	13,406,646	2.65
2030	0.129	8,472,544	27,108,021	35,580,565	12,691,853	625,000	1.93%	94,691	719,691	13,411,544	2.65
2031	0.129	8,472,544	27,108,021	35,580,565	11,225,761	635,000	2.03%	82,215	717,215	11,942,975	2.98
2032	0.129	8,472,544	27,108,021	35,580,565	10,322,888	650,000	2.10%	68,945	718,945	11,041,832	3.22
2033	0.129	8,472,544	27,108,021	35,580,565	8,046,522	665,000	2.18%	54,871	719,871	8,766,393	4.06
2034	0.129	8,472,544	27,108,021	35,580,565	6,923,341	680,000	2.23%	40,041	720,041	7,643,381	4.66
2035	0.129	8,472,544	27,108,021	35,580,565	6,093,963	695,000	2.29%	24,501	719,501	6,813,463	5.22
2036	0.129	8,472,544	27,108,021	35,580,565	4,306,056	710,000	2.33%	8,272	718,272	5,024,328	7.08
				\$ 711,611,295	\$ 359,276,332	\$ 12,000,000		\$ 2,314,157	\$ 14,314,157	\$ 373,590,489	

This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable.

AVERAGE (MATURITY) LIFE	10.26 YEARS
NET INTEREST RATE	1.880%
COST SAVINGS	\$ 1,151,729
AVERAGE ANNUAL REQUIREMENT	\$18,679,524



**City of Waco  
51035 Water Conservation  
Engineering and Environmental Review**

**Engineering:**Key Issues:

None.

Project Need/Description

Need: The City of Waco needs to replace water meters throughout their service area to address water losses within their system. The 2014 water audit reported over 2 billion gallons of unaccounted for water loss representing 18% of the produced potable water. The cost impact of the "real loss" leaks and "apparent loss" is estimated, by the City, to cost approximately \$1.8 million in lost revenues.

Description: Waco Water Utilities seeks to implement an Advanced Metering Infrastructure (AMI) for forty five thousand six hundred forty one (45,641) retail customers and for five (5) wholesale connections. The fixed-base (radio) meter reading system will reduce the City's apparent water loss by reducing data handling errors and minimizing the under-reporting of actual water consumption by old meters. The new communication and data processing software will establish a web-based customer portal to water use data. The system improvements will reduce unaccounted water losses, save money, improve the meter reading methodology, and with the installation of an acoustic leak detection system will improve timely leak repairs.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing	11/1/2016
Design Phase Complete	11/1/2016
Start of Construction	5/1/2017
Construction Completion	6/1/2018

**Environmental Section:**Key Issues:

None known at this time.

Environmental Summary:

A Determination of No Effect (DNE) for this project was issued on June 16, 2016. As required by 31 Texas Administrative Code (TAC) §363.14, environmental review of the proposed project has been completed.



**Project Budget Summary**  
**City of Waco**  
**51035 – Water Conservation**

Budget Items	2016 TWDB Funds	Local Funds	Total
<b>Construction</b>			
Construction	\$11,500,000.00	\$0.00	\$11,500,000.00
<b>Subtotal for Construction</b>	<b>\$11,500,000.00</b>	<b>\$0.00</b>	<b>\$11,500,000.00</b>
<b>Basic Engineering Services</b>			
<b>Subtotal for Basic Engineering Services</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Special Services</b>			
<b>Subtotal for Special Services</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Fiscal Services</b>			
Bond Counsel	\$28,750.00	\$0.00	\$28,750.00
Financial Advisor	\$25,600.00	\$0.00	\$25,600.00
Fiscal/Legal	\$9,500.00	\$0.00	\$9,500.00
Issuance Costs	\$5,000.00	\$0.00	\$5,000.00
Loan Origination Fee	\$0.00	\$0.00	\$0.00
<b>Subtotal for Fiscal Services</b>	<b>\$68,850.00</b>	<b>\$0.00</b>	<b>\$68,850.00</b>
<b>Other</b>			
<b>Contingency</b>			
Contingency	\$431,150.00	\$0.00	\$431,150.00
<b>Subtotal for Contingency</b>	<b>\$431,150.00</b>	<b>\$0.00</b>	<b>\$431,150.00</b>
<b>Total</b>	<b>\$12,000,000.00</b>	<b>\$0.00</b>	<b>\$12,000,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT  
OF \$12,000,000 TO CITY OF WACO  
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS  
THROUGH THE PROPOSED PURCHASE OF  
\$12,000,000 CITY OF WACO, TEXAS COMBINATION TAX AND REVENUE  
CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2016A

(16- )

WHEREAS, the City of Waco (City) has filed an application for financial assistance in the amount of \$12,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the construction of certain water supply project(s) identified as Project No. 51035; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$12,000,000 City of Waco, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2016A (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

WHEREAS, the City has offered a pledge of ad valorem taxes and a lien on the surplus revenues of the City's water and sewer systems as sufficient security for the repayment of the Obligations; and

WHEREAS, interest rate subsidies are available to the City at the following levels: 35.0% for a loan of a term of 20 years, 25.0% for a loan of a term of 21 to 25 years, and 20.0% for a loan of a term of 26 to 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the City, pursuant to this Resolution; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M;
2. that the project is a recommended water management strategy in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);
3. that the City satisfactorily completed any request by the Executive Administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Texas Water Code § 16.053(q), in accordance with 31 TAC § 363.1309(b)(2);

4. that the current water audit, if required by Texas Water Code § 16.0121, has been completed by the City and filed with the TWDB in accordance with 31 TAC § 358.6;
5. that the project supports water conservation;
6. that the City has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises, and any applicable state law relating to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

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

A commitment is made by the TWDB to City of Waco for financial assistance in the amount of \$12,000,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of \$12,000,000 City of Waco, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2016A. This commitment will expire on December 31, 2016.

Such commitment is conditioned as follows:

**Standard Conditions:**

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's continued compliance with all applicable laws, rules, policies and guidance as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement;
4. this commitment is contingent upon the City executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;
5. the City shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrar to provide a copy, to the TWDB and to the TWDB's designated Trustee, of all receipts documenting debt service payments;

**The Following Conditions Must Be Included in the Obligations:**

6. 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;
7. the Obligations must include a provision wherein 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;
8. 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;
9. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) 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 (2) eligible costs for the project as authorized by the Executive Administrator;
10. 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;
11. 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;
12. 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, recycling 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;

13. the Obligations must include a provision stating that the City shall report to the TWDB the amounts of project funds, if any, that were used to compensate historically underutilized businesses that worked on the project, in accordance with 31 TAC § 363.1312;
14. the Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB's designated Trustee, and the Obligations shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC § 363.42(c)(1);
15. 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 as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
16. the Obligations, together with the Federal Tax Certificate, 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;

17. the Obligations, together with the Federal Tax Certificate, 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;
18. 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;
19. 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;
20. the Obligations, together with the Federal Tax Certificate, 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;

**Pledge Conditions For The Loan**

21. 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, that with respect to any obligations secured in part from a limited pledge of pledged revenues, such obligations will be included in the foregoing coverage calculation to the extent of the limited pledge;

**Conditions to Close or for Release of Funds:**

22. 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;
23. 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;
24. prior to closing, the City shall execute an escrow agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
25. prior to closing, 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;
26. prior to closing, the City's bond counsel must prepare a written opinion that also states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;
27. 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; and
28. 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.

APPROVED and ordered of record this, the 21st day 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 Waco, McLennan County

