

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: September 22, 2016

TEAM MANAGER: Lee Huntoon

APPLICANT	Town of Anthony
TYPE OF ASSISTANCE	\$980,000 Loan
LEGAL PLEDGE	Combination Tax and Surplus Revenues

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Consider approving by resolution, a request from the Town of Anthony (El Paso County) for a \$980,000 loan from the Drinking Water State Revolving Fund to finance the design and construction of water system improvements as part of Project No. 62611, as originally authorized by TWDB Resolution No. 14-25.

PROJECT

Arsenic Removal & System Improvements
Project Number 62611

BACKGROUND

On April 17, 2014, the Texas Water Development Board (TWDB) approved \$1,041,936 in financial assistance for the Town of Anthony (Town), consisting of a \$735,000 loan and \$306,936 in loan forgiveness through the Drinking Water State Revolving Fund (DWSRF) to finance planning, acquisition, and design costs relating to an arsenic removal system and water system improvements.

Due to ongoing drought resulting in lower aquifer water levels, the Town has experienced a decrease in water production. The Town operates three municipal wells. One of the three wells has been taken out of service because of severe deterioration of the casing and screen, making it inoperable. It is not feasible to rehabilitate this existing well and the Town has elected to install a replacement well. The proposed replacement of the municipal water well is now required to reliably supply additional water to meet existing demands.

This action would constitute an increase in scope of the previously approved project (Project No. 62611), as originally authorized by TWDB Resolution No. 14-25.

FINANCIAL

Key Issues

None.

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON SEPTEMBER 30, 2017

Pledge and Repayment

The Town is pledging ad valorem tax and surplus revenue of the water and sewer system to repay the proposed loan of \$980,000. The Town has \$498,487 in revenue available for debt service which provides 1.41 times coverage of the annual existing and proposed debt service during the first year of principal repayment on the proposed debt. The Town has sufficient revenues available to pay debt service.

Cost Savings

Based on a 30-year maturity and at current market interest rates, the Town could save approximately \$208,412 over the life of the loan by utilizing the Drinking Water State Revolving Fund program.

Internal Risk Score

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

The Town scored moderately well on financial sustainability indicators overall; however, the cash balance ratio is low due to a much higher 5-year prior cash balance than in 2015. The total assessed valuation per capita is adequate at \$33,646 and the fixed assets are estimated to have 17 years of useful life.

The Town's median household income is 58% of the State as a whole. The projected household cost factor is 1.75%, slightly below the benchmark of 2%. This indicates a low cost for water and wastewater services. The Town implemented rate increases for both water and wastewater services in 2014 and does not intend to increase rates in the short term.

Socioeconomic indicators are stable. Population has grown approximately 4% since the last census in 2010. El Paso County has an unemployment rate of 5.2% compared to 4.2% for the State overall. The top 10 customers for water and wastewater make up 14.74% and 24.61% of the total annual revenues, respectively, where a concentration over 15% is considered higher than usual. For wastewater, the highest concentration of revenues comes from Pilot Travel Centers, Inc., which consists of 5% of the total concentration and is therefore not considered a significant risk. Sales taxes have been stable, but decreased 15% in 2013, down to \$439,224 rising to a new historical high point of \$552,696 in 2015. Sales tax averaged \$500,676 over the past 5 years.

Liquidity for the Town's utility system is adequate and supported by approximately 35 days of cash on hand.

The Town has a low level of total debt per capita at \$1,011. The Town has no debt supported solely by the revenues of the water and wastewater system and all existing debt has an ad valorem tax element to its pledge. The total net direct debt per tax assessed valuation is moderate.

With adequate financial sustainability, socioeconomic indicators, liquidity, and debt management, the Town is assigned a risk score of 2B.

LEGAL

Key Issues

None.

CONDITIONS

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

- Reasonable expectation of water rights;
- Water rights certification; and
- Useful life.

- 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

Authority	Town of Anthony
Program	Drinking Water State Revolving Fund
Commitment Code	L1000550
Project Number	62611
Intended Use Plan Year	2016
Fund Number	951
Type of Pledge	3-Combo Tax and Surplus Rev
Revenue Pledge Level	Third
Legal Description	\$980,000 Town of Anthony, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Population	5,218
Rural	Yes
Water Connections	1,192
Wastewater Connections	1,192
Qualifies as Disadvantaged	Yes
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
SWIFT Financing Type	N/A
SWIFT Project Type	N/A
Financial Managerial & Technical Complete	Yes
Funding Phase Code	Design and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	Yes
Internal Risk Score	2B
External Ratings (for SRF rates)	
Standard and Poor's	Non-rated
Moody's	Non-rated
Fitch	Non-rated
Special Issues	N/A

Project Team

Team Manager	Lee Huntoon
Financial Analyst	James Horan
Engineering Reviewer	Juan Moran-Lopez
Environmental Reviewer	Chris Caran
Attorney	Alexis Lorick

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Town of Anthony

\$980,000 Town of Anthony, Texas Combination tax and Surplus Revenue Certificates of Obligation, Series 2016

Dated Date: 1/15/2017
 Delivery Date: 1/15/2017
 First Interest: 8/15/2017
 First Principal: 2/15/2018
 Last Principal: 2/15/2046
 Fiscal Year End: 09/30
 Required Coverage: 1.1

Source: DWSRF
 Rate: 1.25%
 Insurance: No
 Case: Tax and revenue
 Admin.Fee: \$21,565
 Admin. Fee Payment Date: 1/15/2017
 Total Assessed Valuation: \$175,566,067

FISCAL YEAR	Existing TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$980,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE
								INTEREST PAYMENT	TOTAL PAYMENT		
2017	0.110	174,292	324,195	498,487	346,240	-	0.00%	7,146	7,146	353,386	1.41
2018	0.110	174,292	324,195	498,487	385,237	26,000	1.25%	12,088	38,088	423,325	1.18
2019	0.110	174,292	324,195	498,487	386,865	26,000	1.25%	11,763	37,763	424,628	1.17
2020	0.110	174,292	324,195	498,487	386,093	27,000	1.25%	11,431	38,431	424,524	1.17
2021	0.110	174,292	324,195	498,487	385,985	27,000	1.25%	11,094	38,094	424,079	1.18
2022	0.110	174,292	324,195	498,487	387,533	28,000	1.25%	10,750	38,750	426,283	1.17
2023	0.110	174,292	324,195	498,487	410,759	28,000	1.25%	10,400	38,400	449,159	1.11
2024	0.110	174,292	324,195	498,487	410,748	29,000	1.25%	10,044	39,044	449,792	1.11
2025	0.110	174,292	324,195	498,487	331,477	29,000	1.25%	9,681	38,681	370,158	1.35
2026	0.110	174,292	324,195	498,487	145,000	30,000	1.25%	9,313	39,313	184,313	2.70
2027	0.110	174,292	324,195	498,487	145,000	31,000	1.25%	8,931	39,931	184,931	2.70
2028	0.110	174,292	324,195	498,487	145,000	31,000	1.25%	8,544	39,544	184,544	2.70
2029	0.110	174,292	324,195	498,487	145,000	32,000	1.25%	8,150	40,150	185,150	2.69
2030	0.110	174,292	324,195	498,487	195,000	32,000	1.25%	7,750	39,750	234,750	2.12
2031	0.110	174,292	324,195	498,487	190,000	33,000	1.25%	7,344	40,344	230,344	2.16
2032	0.110	174,292	324,195	498,487	190,000	33,000	1.25%	6,931	39,931	229,931	2.17
2033	0.110	174,292	324,195	498,487	190,000	34,000	1.25%	6,513	40,513	230,513	2.16
2034	0.110	174,292	324,195	498,487	190,000	35,000	1.25%	6,081	41,081	231,081	2.16
2035	0.110	174,292	324,195	498,487	190,000	35,000	1.25%	5,644	40,644	230,644	2.16
2036	0.110	174,292	324,195	498,487	190,000	36,000	1.25%	5,200	41,200	231,200	2.16
2037	0.110	174,292	324,195	498,487	190,000	37,000	1.25%	4,744	41,744	231,744	2.15
2038	0.110	174,292	324,195	498,487	190,000	37,000	1.25%	4,281	41,281	231,281	2.16
2039	0.110	174,292	324,195	498,487	190,000	38,000	1.25%	3,813	41,813	231,813	2.15
2040	0.110	174,292	324,195	498,487	-	39,000	1.25%	3,331	42,331	42,331	11.78
2041	0.110	174,292	324,195	498,487	-	39,000	1.25%	2,844	41,844	41,844	11.91
2042	0.110	174,292	324,195	498,487	-	40,000	1.25%	2,350	42,350	42,350	11.77
2043	0.110	174,292	324,195	498,487	-	41,000	1.25%	1,844	42,844	42,844	11.64
2044	0.110	174,292	324,195	498,487	-	42,000	1.25%	1,325	43,325	43,325	11.51
2045	0.110	174,292	324,195	498,487	-	42,000	1.25%	800	42,800	42,800	11.65
2046	0.110	174,292	324,195	498,487	-	43,000	1.25%	269	43,269	43,269	11.52
				\$ 14,954,620	\$ 5,915,937	\$ 980,000		\$ 200,396	\$ 1,180,396	\$ 7,096,333	

AVERAGE (MATURITY) LIFE	16.36 YEARS
NET INTEREST RATE	1.250%
COST SAVINGS	\$ 208,412
AVERAGE ANNUAL REQUIREMENT	\$236,544



Anthony
62611 Arsenic Removal & System Improvements
Engineering and Environmental Review

Engineering:

Key Issues:

None known at this time

Project Need/Description

Need: One of the Town of Anthony's (Town) three municipal water wells is inoperable due to severe deterioration of the well's casing and screen limiting the resilience of the Town's water supply. This well has been taken out of service.

Project Description: The current funding request is for additional design and constructions funds for a new municipal water well to replace the inoperable well.

Project Schedule:

Project Task	Schedule Date
Closing	1/15/2017
Engineering Feasibility Report Completion (End of Planning Phase)	2/1/2017
Design Phase Complete	5/15/2017
Start of Construction	7/31/2017
Construction Completion	9/29/2017

Environmental Section:

Key Issues:

None known at this time.

Environmental Summary:

Pursuant to the requirements of 31 Texas Administrative Code § 371.41, all financial assistance shall be conditioned that funding for design and construction of a new water supply well and related infrastructure will not be released until the environmental review has been completed and a favorable environmental determination has been issued.

Project Budget Summary

Anthony
62611 - Arsenic Removal & System Improvements

Budget Items	Description	Previous Commitments	This Commitment	TWDB Funds	Total
Construction					
Construction		\$0.00	\$721,128.00	\$721,128.00	\$721,128.00
Subtotal for Construction		\$0.00	\$721,128.00	\$721,128.00	\$721,128.00
Basic Engineering Services					
Basic Engineering Other	Advertise and Bid	\$0.00	\$20,000.00	\$20,000.00	\$20,000.00
Construction Engineering		\$0.00	\$15,000.00	\$15,000.00	\$15,000.00
Design		\$367,399.00	\$60,000.00	\$427,399.00	\$427,399.00
Planning		\$95,000.00	\$0.00	\$95,000.00	\$95,000.00
Subtotal for Basic Engineering Services		\$462,399.00	\$95,000.00	\$557,399.00	\$557,399.00
Special Services					
Application		\$14,500.00	\$14,500.00	\$29,000.00	\$29,000.00
Environmental		\$65,000.00	\$5,000.00	\$70,000.00	\$70,000.00
Geotechnical		\$20,500.00	\$0.00	\$20,500.00	\$20,500.00
Inspection		\$0.00	\$10,000.00	\$10,000.00	\$10,000.00
O&M Manual		\$18,000.00	\$0.00	\$18,000.00	\$18,000.00
Permits		\$8,500.00	\$0.00	\$8,500.00	\$8,500.00
Pilot Testing		\$85,000.00	\$0.00	\$85,000.00	\$85,000.00
Special Service Other	Rate Study	\$0.00	\$25,000.00	\$25,000.00	\$25,000.00
Surveying		\$64,150.00	\$5,000.00	\$69,150.00	\$69,150.00
Testing		\$42,250.00	\$9,000.00	\$51,250.00	\$51,250.00
Water Distribution Modeling		\$16,000.00	\$0.00	\$16,000.00	\$16,000.00
Subtotal for Special Services		\$333,900.00	\$68,500.00	\$402,400.00	\$402,400.00
Fiscal Services					
Bond Counsel		\$22,000.00	\$22,000.00	\$44,000.00	\$44,000.00
Financial Advisor		\$15,000.00	\$19,000.00	\$34,000.00	\$34,000.00
Fiscal/Legal		\$2,674.00	\$0.00	\$2,674.00	\$2,674.00
Loan Origination Fee		\$16,174.00	\$21,565.00	\$37,739.00	\$37,739.00
Subtotal for Fiscal Services		\$55,848.00	\$62,565.00	\$118,413.00	\$118,413.00
Other					
Land/Easements Acquisition		\$73,110.00	\$0.00	\$73,110.00	\$73,110.00
Other	Mapping	\$7,200.00	\$0.00	\$7,200.00	\$7,200.00
Subtotal for Other		\$80,310.00	\$0.00	\$80,310.00	\$80,310.00
Contingency					
Contingency		\$109,479.00	\$32,807.00	\$142,286.00	\$142,286.00
Subtotal for Contingency		\$109,479.00	\$32,807.00	\$142,286.00	\$142,286.00
Total		\$1,041,936.00	\$980,000.00	\$2,021,936.00	\$2,021,936.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$980,000 TO THE TOWN OF ANTHONY
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$980,000 TOWN OF ANTHONY, TEXAS, COMBINATION TAX AND SURPLUS
REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2016

(16-)

WHEREAS, the Town of Anthony (Town) has filed an application for financial assistance in the amount of \$980,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the design and construction of additional water system improvements as identified in Project No. 62611 (Project) and its application; and

WHEREAS, in 2014, the Town closed a commitment by the Texas Water Development Board (TWDB) from the DWSRF as authorized by TWDB Resolution No. 14-25 financing the planning, acquisition, and design of certain water system improvements the subject of the Project; and

WHEREAS, the Town seeks financial assistance from the TWDB through the TWDB's proposed purchase of \$980,000 Town of Anthony, 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 Town has offered an ad valorem tax and surplus revenue pledge of the Town's waterworks and sewer system as sufficient security for the repayment of the Obligations;

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 371.13;

WHEREAS, the TWDB hereby finds:

1. that the revenue and taxes pledged by the Town will be sufficient to meet all the Obligations assumed by the Town, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the Town has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;

4. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j); and
5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the Town and filed with the TWDB in accordance with Texas Water Code § 16.053(j).

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

A commitment is made by the TWDB to the Town of Anthony for financial assistance in the amount of \$980,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$980,000 Town of Anthony, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016. This commitment will expire on September 30, 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 Town;
3. this commitment is contingent upon the Town's compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
5. the Town, 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 Town'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 Town's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the Town is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the Town 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 Town 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 Town 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 Town 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 Town, 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 Town 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 Town 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 Town 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 Town execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
15. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;

Conditions Related to Tax-Exempt Status

16. the Town'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 Town when rendering this opinion;
17. the Town'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 Town when rendering this opinion;
18. the Obligations must include a provision prohibiting the Town from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
19. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:
 - a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;
 - b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and

- c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
20. the Obligations must include a provision requiring the Town 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 Town 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 Town may, however, to the extent permitted by law, commingle Gross Proceeds of its Loan with other money of the Town, provided that the Town 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 Town shall maintain a copy of such calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the making of the Loan, and in order to induce the making of the Loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
21. the Obligations must include a provision prohibiting the Town from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
22. the Obligations must provide that the Town will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;

23. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the Town's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
24. the transcript must include evidence that the information reporting requirements of § 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;
25. the Obligations must provide that neither the Town 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 Town by the TWDB;

State Revolving Fund Conditions

26. the Town shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
27. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The Town, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
28. the Obligations must include a provision stating that the Town 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 Town shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;
29. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the Town will adhere to the approved project schedule;
30. the Obligations must contain a covenant that the Town will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

31. prior to or at closing, the Town shall pay a 2.25% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371;
32. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the Town has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;
33. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the Town must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

Pledge Conditions for the Loan

34. the Obligations must contain a provision that 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 Town 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 Town shall not transfer any funds from the Town'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 Town 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 Town 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 Town and other obligations of the Town which are secured in whole or in part by the pledged revenues, for which the Town is budgeting the repayment of such Obligations, or the Town 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:

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

APPROVED and ordered of record this 22nd day of September, 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
Baseline				
5-year Goal				
10-year Goal				

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.

Town of Anthony, El Paso County

