

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: November 17, 2016

TEAM MANAGER: Nancy Richards

APPLICANT	City of Anahuac
TYPE OF ASSISTANCE	\$5,175,000 Loan
LEGAL PLEDGE	Combination Tax and Surplus Revenues of the System

STAFF RECOMMENDATION

Approve No Action

Approve, by resolution, a request from the City of Anahuac (Chambers County) for a \$5,175,000 loan from the Drinking Water State Revolving Fund to finance planning, design and construction cost of a ground storage tank, elevated storage tank rehabilitation and water line replacement.

PROJECT

Ground Storage Tank and Elevated Storage Tank Improvements
Project Number 62710

BACKGROUND

The request by the City of Anahuac (City) funding commitment is to address issues identified in a water system inspection conducted by the City earlier this year. The inspection indicated the storage tank facility needs to be rehabilitated in the next 12 months or replaced within the next 5 years. The study also recommends the City repair or replace one 150,000-gallon elevated storage tank over the next 12-24 months.

The City's distribution system was originally constructed with a significant quantity of cast iron water lines. Over time, there has been corrosion and tuberculation on the inside. This caused significant problems with low water pressure and dirty water. The water quality has caused customer complaints, lost revenues and water loss due to the need to constantly flush murky water lines.

FINANCIAL

Key Issues

Also, on the agenda is a request from the City for an \$11,440,000 Clean Water State Revolving Fund loan. Both proposed loans are included on the attached debt service schedule.

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

Pledge and Repayment

The City is pledging ad valorem tax and surplus revenues of the water and sewer systems. The City has also proposed a \$16.00 monthly increase in both water and sewer rates in fiscal year 2017. The current average bill is \$52.90. The proposed increase will generate an additional \$171,247 in annual system revenues. The City has indicated they will apply an additional \$237,231 from water cost savings in FY 2018. Until these water cost savings materialize, the City has indicated a willingness to increase property taxes and raise water and sewer rates, sufficient to pay the proposed debt. The City has no outstanding system debt but does have tax supported debt.

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$990,743 over the life of the loan.

Internal Risk Score

The City is assigned a risk score of 2B. A risk score of 2B means the applicant's repayment capacity is adequate. The applicant's earnings trends and coverage ratios, while stable, may be more susceptible to moderate changes in circumstances and economic conditions than the higher rated obligations. Certain risk elements may exist that suggest susceptibility to future impairment, if not managed.

The financial sustainability indicators for the City are adequate. The City shows it has the ability to repay its debt. The City produces net revenues of 1.10 times the annual debt service requirements for the first year of principal repayment. This coverage level indicates the City must monitor revenues to handle unexpected expenses or declines in demand to meet their annual debt service requirements.

The City scored well on other indicators showing the overall health of the City. The City has been able to retain its revenues as evidenced by an increase in the fund balance over the last five years, relative to revenues. In addition, taxable property in the City has been stable over the last five years.

The City's socioeconomic indicators are below the State's median overall. The median household income of \$48,125 is 92% of the State's median. The City's unemployment rate of 5.8% is above the State's average of 4.6%.

The City maintains a liquidity position with cash and short-term investments equal to 65 days of operating expenses. An amount between 30-149 days is considered to be an adequate level of liquidity which provides stability to the City by providing resources needed to cover short-term, unplanned needs.

On average, the residential user pays 1.72% of their annual income for water and sewer services, which is just below the TWDB's benchmark of 2% for the two services.

The City's socioeconomic indicators are moderate, the City produces sufficient net revenues in the utility system, tax debt is moderately low, and the projected household cost factor is below the industry benchmark. The City is assigned a risk score of 2B.

LEGAL

Key Issues

None.

CONDITIONS

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

- Water conservation plan;
- Useful life certification; and,
- Standard 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

Responsible Authority	City of Anahuac
Program	Drinking Water State Revolving Fund
Commitment Code	L1000566
Project Number	62710
Intended Use Plan Year	2016
Fund Number	951
Type of Pledge	3 – Combo Tax & Rev
Revenue Pledge Level	Third
Legal Description	\$5,175,000 Combination Tax and Surplus System Revenue Certificates of Obligation Bonds Proposed, Series 2017A
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay= Escrow Release
Population	2,344
Rural	Yes
Water Connections	892
Wastewater Connections	892
Qualifies as Disadvantaged	No
Disadvantaged Level	N/A
Clean Water State Revolving Fund Type	N/A
Financial, Managerial, and Technical Review Complete?	Yes
Phase Committing	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Approvable
Water Rights Certification Required	No
Internal Risk Score	2B
External Ratings (for SRF rates)	
Standard and Poor's	Non-Rated
Moody's	Non-Rated
Fitch	Non-Rated
Special Issues	None

Project Team

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

\$5,175,000 Combination Tax and Surplus System Revenues Certification of Obligation, Proposed Series 2017A

Dated Date: 2/1/2017
 Delivery Date: 2/1/2017
 First Interest: 8/1/2017
 First Principal: 2/1/2018
 Last Principal: 2/1/2046

Fiscal Year End: 09/30
 Required Coverage: 1.1

Source: DWSRF
 Rate: 1.52%
 Insurance: No
 Case: -
 Admin.Fee: \$ 113,875

Admin. Fee Payment Date: 2/1/2017
 Total Assessed Valuation: \$ 66,298,574

\$11,440,000 Combination Tax and Surplus System Revenues Certification of Obligation, Proposed Series 2017B

Dated Date: 2/1/2017
 Delivery Date: 2/1/2017
 First Interest: 8/1/2017
 First Principal: 2/1/2018
 Last Principal: 2/1/2046

Fiscal Year End: 9/30
 Required Coverage: 1.1

Source: CWSRF-EQUIVALENCY
 Rate: 1.22%
 Insurance: -
 Case: -
 Admin.Fee: \$ 207,796

Admin. Fee Payment Date: 2/1/2017
 Total Assessed Valuation: \$ 66,298,574

FISCAL YEAR	REQUIRED TAX	REQUIRED TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	\$5,175,000 ISSUE			\$11,440,000 ISSUE			DEBT SERVICE	ACTUAL COVERAGE	
							INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			TOTAL PAYMENT
2017	0.325	193,977	538,695	732,672	556,951	-	-	39,330	39,330	-	-	69,784	69,784	666,065	1.10
2018	0.765	456,598	538,695	995,293	557,474	65,000	1.52%	78,166	143,166	65,000	1.22%	139,172	204,172	904,812	1.10
2019	0.758	452,419	538,695	991,114	555,456	65,000	1.52%	77,178	142,178	65,000	1.22%	138,379	203,379	901,013	1.10
2020	0.751	448,345	538,695	987,040	543,602	70,000	1.52%	76,152	146,152	70,000	1.22%	137,555	207,555	897,309	1.10
2021	0.579	345,317	538,695	884,012	327,621	70,000	1.52%	75,088	145,088	195,000	1.22%	135,939	330,939	803,648	1.10
2022	0.742	442,963	538,695	981,658	325,555	165,000	1.52%	73,302	238,302	195,000	1.22%	133,560	328,560	892,417	1.10
2023	0.738	440,586	538,695	979,281	328,281	165,000	1.52%	70,794	235,794	195,000	1.22%	131,181	326,181	890,256	1.10
2024	0.735	438,751	538,695	977,446	326,538	170,000	1.52%	68,248	238,248	195,000	1.22%	128,802	323,802	888,588	1.10
2025	0.732	436,576	538,695	975,271	324,554	170,000	1.52%	65,664	235,664	200,000	1.22%	126,392	326,392	886,610	1.10
2026	0.727	433,766	538,695	972,461	277,328	170,000	1.52%	63,080	233,080	250,000	1.22%	123,647	373,647	884,055	1.10
2027	0.725	432,746	538,695	971,441	277,066	170,000	1.52%	60,496	230,496	255,000	1.22%	120,567	375,567	883,129	1.10
2028	0.732	436,852	538,695	975,547	276,562	175,000	1.52%	57,874	232,874	260,000	1.22%	117,425	377,425	886,861	1.10
2029	0.731	436,157	538,695	974,852	276,800	180,000	1.52%	55,176	235,176	260,000	1.22%	114,253	374,253	886,229	1.10
2030	0.729	435,082	538,695	973,777	276,761	180,000	1.52%	52,440	232,440	265,000	1.22%	111,051	376,051	885,252	1.10
2031	0.736	439,095	538,695	977,790	276,447	185,000	1.52%	49,666	234,666	270,000	1.22%	107,787	377,787	888,900	1.10
2032	0.735	438,276	538,695	976,971	276,839	185,000	1.52%	46,854	231,854	275,000	1.22%	104,463	379,463	888,156	1.10
2033	0.742	442,507	538,695	981,202	276,921	190,000	1.52%	44,004	234,004	280,000	1.22%	101,077	381,077	892,002	1.10
2034	0.739	440,787	538,695	979,482	276,692	190,000	1.52%	41,116	231,116	285,000	1.22%	97,631	382,631	890,439	1.10
2035	0.730	435,546	538,695	974,241	-	190,000	1.52%	38,228	228,228	565,000	1.22%	92,446	657,446	885,674	1.10
2036	0.749	446,644	538,695	985,339	-	195,000	1.52%	35,302	230,302	580,000	1.22%	85,461	665,461	895,763	1.10
2037	0.758	451,991	538,695	990,686	-	200,000	1.52%	32,300	232,300	590,000	1.22%	78,324	668,324	900,624	1.10
2038	0.775	462,587	538,695	1,001,282	-	205,000	1.52%	29,222	234,222	605,000	1.22%	71,035	676,035	910,257	1.10
2039	0.783	467,432	538,695	1,006,127	-	210,000	1.52%	26,068	236,068	615,000	1.22%	63,593	678,593	914,661	1.10
2040	0.800	477,525	538,695	1,016,220	-	215,000	1.52%	22,838	237,838	630,000	1.22%	55,998	685,998	923,836	1.10
2041	0.808	481,875	538,695	1,020,570	-	215,000	1.52%	19,570	234,570	645,000	1.22%	48,221	693,221	927,791	1.10
2042	0.842	502,398	538,695	1,041,093	-	230,000	1.52%	16,188	246,188	660,000	1.22%	40,260	700,260	946,448	1.10
2043	0.857	511,553	538,695	1,050,248	-	235,000	1.52%	12,654	247,654	675,000	1.22%	32,117	707,117	954,771	1.10
2044	0.863	514,964	538,695	1,053,659	-	235,000	1.52%	9,082	244,082	690,000	1.22%	23,790	713,790	957,872	1.10
2045	0.878	523,641	538,695	1,062,336	-	235,000	1.52%	5,510	240,510	710,000	1.22%	15,250	725,250	965,760	1.10
2046	1.212	723,359	538,695	1,262,054	-	245,000	1.52%	1,862	246,862	895,000	1.22%	5,460	900,460	1,147,322	1.10
				\$ 29,751,163	\$ 6,337,448	\$ 5,175,000		\$ 1,343,452	\$ 6,518,452	\$ 11,440,000		\$ 2,750,612	\$ 14,190,612	\$ 27,046,512	

\$5,175,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	17.08 YEARS
NET INTEREST RATE	1.520%
COST SAVINGS	\$ 990,743
AVERAGE ANNUAL REQUIREMENT	\$217,282

\$11,440,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	19.71 YEARS
NET INTEREST RATE	1.220%
COST SAVINGS	\$ 2,838,533
AVERAGE ANNUAL REQUIREMENT	\$473,020

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$901,550

Disclaimer: 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.

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**Anahuac
62710 Water Line Replacement, Ground
Storage Tank Replacement, Elevated Tank
Rehabilitation, and SCADA
Engineering and Environmental Review**

Engineering:

Key Issues:

None known at this time.

Project Need/Description

NEED: The City of Anahuac's (City) existing distribution system is old and corroded resulting in leaks, pipeline breaks, low pressure and water discoloration.

DESCRIPTION: TWDB funds will be used for planning, design and construction of improvements within the water system to address replacement of old tuberculated cast iron piping; installation of a new ground storage tank; rehabilitation of the existing elevated storage tank, emergency generator installation at the water treatment plant, and installation of SCADA system communications to improve efficiency and operations.

Project Schedule:

Project Task	Schedule Date
Closing	2/1/2017
Engineering Feasibility Report Completion (End of Planning Phase)	10/31/2017
Design Phase Complete	3/30/2018
Start of Construction	6/4/2018
Construction Completion	8/30/2019

Environmental Section:

Key Issues:

None known at this time.

Environmental Summary:

A Categorical Exclusion (CE) for this project was issued on September 15, 2016. As required by 31 Texas Administrative Code (TAC) §371.41, Subchapter E, environmental review of the proposed project has been completed. The proposed project is in compliance with the National Environmental Policy Act.



Project Budget Summary

Anahuac

62710 - Water Line Replacement, Ground Storage Tank Replacement,
Elevated Tank Rehabilitation, and SCADA

Budget Items	This Commitment	TWDB Funds	Total
Construction			
Construction	\$3,502,630.00	\$3,502,630.00	\$3,502,630.00
Subtotal for Construction	\$3,502,630.00	\$3,502,630.00	\$3,502,630.00
Basic Engineering Services			
Construction Engineering	\$163,848.00	\$163,848.00	\$163,848.00
Design	\$399,215.00	\$399,215.00	\$399,215.00
Planning	\$42,280.00	\$42,280.00	\$42,280.00
Subtotal for Basic Engineering Services	\$605,343.00	\$605,343.00	\$605,343.00
Special Services			
Environmental	\$20,000.00	\$20,000.00	\$20,000.00
Geotechnical	\$3,500.00	\$3,500.00	\$3,500.00
Inspection	\$178,480.00	\$178,480.00	\$178,480.00
Surveying	\$93,440.00	\$93,440.00	\$93,440.00
Water Conservation Plan	\$7,720.00	\$7,720.00	\$7,720.00
Subtotal for Special Services	\$303,140.00	\$303,140.00	\$303,140.00
Fiscal Services			
Bond Counsel	\$41,350.00	\$41,350.00	\$41,350.00
Financial Advisor	\$70,000.00	\$70,000.00	\$70,000.00
Issuance Costs	\$14,270.00	\$14,270.00	\$14,270.00
Loan Origination Fee	\$113,875.00	\$113,875.00	\$113,875.00
Subtotal for Fiscal Services	\$239,495.00	\$239,495.00	\$239,495.00
Other			
Administration	\$8,000.00	\$8,000.00	\$8,000.00
Subtotal for Other	\$8,000.00	\$8,000.00	\$8,000.00
Contingency			
Contingency	\$516,392.00	\$516,392.00	\$516,392.00
Subtotal for Contingency	\$516,392.00	\$516,392.00	\$516,392.00
Total	\$5,175,000.00	\$5,175,000.00	\$5,175,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$5,175,000 TO THE CITY OF ANAHUAC
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$5,175,000 CITY OF ANAHUAC COMBINATION TAX AND REVENUE CERTIFICATES
OF OBLIGATION,
PROPOSED SERIES 2017A

(16-)

WHEREAS, the City of Anahuac (City) has filed an application for financial assistance in the amount of \$5,175,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62710; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$5,175,000 City of Anahuac Combination Tax and Revenue Certificates of Obligation, Proposed Series 2017A (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 combination tax and surplus system revenue as sufficient security for the repayment of the Obligations; and

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; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has submitted a proposed program of water conservation 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);

5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j); and
6. that the Executive Administrator issued a Categorical Exclusion on September 15, 2016, 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 Anahuac for financial assistance in the amount of \$5,175,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$5,175,000 City of Anahuac Combination Tax and Revenue Certificates of Obligation, Proposed Series 2017A. This commitment will expire on November 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 City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
5. the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of

such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
7. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;
8. 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 and completion of a final accounting 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) deposit into a reserve fund;
9. 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;
10. 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;
11. 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;
12. 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;

13. 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;
14. 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;
15. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
16. 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

17. 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;
18. 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;
19. 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);
20. 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;
21. 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;

22. 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;
23. 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;
24. 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;
25. 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;
26. 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

27. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
28. 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;
29. 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;

30. 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;
31. The Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

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

Pledge Conditions for the Loan

35. the Obligations must contain a provision that provides as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if 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 conditions:

Special Conditions:

- 36. prior to closing, the City shall adopt and implement the water conservation program approved by the TWDB;
- 37. prior to the release of funds, the City 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; and
- 38. the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator, including the standard emergency discovery conditions for threatened and endangered species and cultural resources.

APPROVED and ordered of record this 17th day of November, 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.

City of Anahuac, Chambers County

