

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: June 4, 2019

TEAM MANAGER: Luis Farias

| | |
|---------------------------|---------------------------------------------------------------------|
| APPLICANT | Greater Texoma Utility Authority on behalf of the City of Pottsboro |
| TYPE OF ASSISTANCE | \$8,420,000 Financing |
| LEGAL PLEDGE | Contract Revenues |

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution a request from the Greater Texoma Utility Authority on behalf of the City of Pottsboro (Grayson County) for \$8,420,000 in financial assistance from the Clean Water State Revolving Fund for planning, acquisition, design, and construction of wastewater system improvements.

PROJECT

City of Pottsboro Wastewater System Improvements Project
Project Number 73823

BACKGROUND

The Greater Texoma Utility Authority (Authority) provides its member cities with assistance in financing and construction of water and wastewater facilities. The Authority may also be requested to provide operations services for water and wastewater facilities by member cities and others.

The City of Pottsboro (City) is located on US Route 289, approximately 10 miles south of Lake Texoma and 5 miles from the Red River, which is the border of Texas and Oklahoma. The City is named after James A. Potts who donated a tract of land in the path of the Missouri-Kansas-Texas Railroad in 1876 so that they could extend its tracks westward from Denison to his settlement. The City provides services to approximately 2,265 residents with 811 water and 1,135 wastewater connections.

The City's wastewater treatment plant (WWTP) has experienced effluent flows in excess of 75 percent of its permitted capacity for three consecutive months and must initiate engineering and financial planning for expansion based on Texas Commission on Environmental Quality's discharge permit requirements. Once the flows reach 90 percent of the permitted daily average or annual average flow for three consecutive months construction must commence. In addition, aging equipment is in need of repairs and the

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE JUNE 30, 2020.

projected population growth in the region will require expansion of the WWTP capacity

The City's proposed project includes rehabilitation and new construction at the WWTP and lift station facilities, associated pipelines, and increasing the capacity of the WWTP from 0.35 to 0.9 million gallons per day to comply with the Texas Commission on Environmental Quality discharge permitting requirements.

FINANCIAL

Key Issues

None

Pledge and Repayment

The Authority is pledging contract revenues from the City for the repayment of the proposed financing. The City's combined average monthly water and wastewater rate is currently \$97.43. However, the Authority has indicated that the City has approved and will increase the base rates by \$16 starting in July 2019. The City, with the help of the Authority, reviews the utility system rates annually and adjusts as needed. With the stated rate increase the City will generate approximately \$155,712 in additional revenues which will allow the City to have sufficient revenues for repayment of the existing and proposed debt service.

Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$2,274,068 over the life of the financing.

Internal Risk Score

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

The results of the City's financial sustainability indicators are strong. These more heavily weighted risk score indicators show the City's short-term and long-term ability to repay the debt. Due to the increase in base rates, the projected revenues available for debt service provide a coverage ratio, representing 1.84 times the current and proposed debt service in the first year of principal repayment. In addition, the City's level of reinvestment in the assets of the utility's infrastructure is above average with an asset condition ratio of 31 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are on par with the state overall. The City's population has increased at an average annual rate of 0.68 percent since 2010, compared to an increase at an annual rate of 1.24 percent for the population of the state overall. The City's median household income is \$58,542, which is 5 percent greater than that of the median for the state overall. The average, unadjusted, unemployment rate for the County was 3 percent in March 2019, compared to 3.5 percent in the state overall.

The household cost factor compares the annual cost of water and wastewater services, including any anticipated rate increases required to pay the proposed debt, to the median

household income for the service area. With the \$16 rate increase, the City's household cost factor is 2.33 percent. The industry benchmark for the household cost factor is 2 percent for two service.

The majority of the City's debt is supported by the utility system. The utility system self-supporting debt compared to operating revenues, including the proposed loan, is moderate at 5.69. A debt to operating revenues ratio of 4 to 6 is considered typical for utility systems. The system does maintain moderate reserves with unrestricted cash and short-term investments of approximately 120 days of the operating expenses of the utility system. Any amount between 30 and 150 days is considered to be a moderate level of liquidity.

The financial management of the utility system is strong. The City with the help of the Authority reviews the utility system rates annually and will be increasing rates starting in July. The City also maintains an active list of Capital Improvements to be completed in the next 20 years. These adaptive rate adjustments, proactive management, and continued long-term financial planning further support the assigned risk score of 2A.

LEGAL

Key Issues

None.

Conditions

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

- Adopted water conservation plan;
- Conversion and conveyance; and
- No amendment to contract without approval by Executive Administrator;

Attachments: 1. Project Data Summary
2. Debt Service Schedule
3. Engineering/Environmental Review
4. Project Budget
5. Resolution (19-)
6. Water Conservation Review
7. Location Map

Project Data Summary

| | |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Responsible Authority | Greater Texoma Utility Authority on behalf of the City of Pottsboro |
| Program | Clean Water State Revolving Fund |
| Commitment Code | L1001020 |
| Project Number | 73823 |
| Intended Use Plan Year | 2019 |
| Type of Pledge | 4- Contract Revenue |
| Revenue Pledge Level | First |
| Legal Description | \$8,420,000 Greater Texoma Utility Authority Contract Revenue Bonds, (City of Pottsboro Project), Proposed Series 2019 |
| Tax-exempt or Taxable | Tax-exempt |
| Refinance | No |
| Outlay Requirement | Yes |
| Disbursement Method | Escrow |
| Outlay Type | Outlay = Escrow |
| Population | 2,265 |
| Rural | Yes |
| Water Connections | 811 |
| Wastewater Connections | 1,135 |
| Qualifies as Disadvantaged | No |
| Disadvantaged Level | 9 |
| Clean Water State Revolving Fund Type | Equivalency |
| SWIFT Financing Type | N/A |
| SWIFT Characteristic | N/A |
| Financial Managerial & Technical Complete | N/A |
| Funding Phase Code | Planning, Acquisition, Design, and Construction |
| Pre-Design | Yes |
| Project Consistent with Water Plan | Yes |
| Water Conservation Plan | Approvable |
| Water Rights Certification Required | No |
| Internal Risk Score | 2A |
| External Ratings (for SRF rates) | |
| Standard and Poor's | A+ |
| Moody's | Non-Rated |
| Fitch | Non-Rated |
| Special Issues | |

Project Team

| | |
|------------------------|----------------|
| Team Manager | Luis Farias |
| Financial Analyst | Arnoldo Rubio |
| Engineering Reviewer | Joe Koen |
| Environmental Reviewer | Kristin Miller |
| Attorney | Ashley Nwonuma |

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Greater Texoma Utility Authority - City of Pottsboro

\$8,420,000 Greater Texoma Utility Authority Contract Revenues Bonds, (City of Pottsboro Project), Proposed Series 2019

| | | | |
|--------------------|-----------|--------------------------|-------------------|
| Dated Date: | 7/1/2019 | Source: | CWSRF-EQUIVALENCY |
| Delivery Date: | 7/1/2019 | Rate: | 1.93% |
| First Interest: | 12/1/2019 | IUP Year: | 2019 |
| First Principal: | 6/1/2020 | Case: | Contract Revenues |
| Last Principal: | 6/1/2049 | Admin.Fee: | \$144,816 |
| Fiscal Year End: | 09/30 | Admin. Fee Payment Date: | 7/1/2019 |
| Required Coverage: | 1.0 | | |

| FISCAL YEAR | PROJECTED NET SYSTEM REVENUES | CURRENT DEBT SERVICE | \$8,420,000 ISSUE | | | | TOTAL DEBT | |
|-------------|-------------------------------|----------------------|-------------------|---------------|------------------|---------------|--------------|----------|
| | | | PRINCIPAL PAYMENT | INTEREST RATE | INTEREST PAYMENT | TOTAL PAYMENT | SERVICE | COVERAGE |
| 2020 | \$642,603 | \$189,707 | \$10,000 | 1.93% | \$148,964 | \$158,964 | \$348,671 | 1.84 |
| 2021 | 642,603 | 191,104 | 10,000 | 1.93% | 162,313 | 172,313 | 363,417 | 1.77 |
| 2022 | 642,603 | 197,440 | 150,000 | 1.93% | 162,120 | 312,120 | 509,560 | 1.26 |
| 2023 | 642,603 | 197,476 | 155,000 | 1.93% | 159,225 | 314,225 | 511,701 | 1.26 |
| 2024 | 642,603 | 197,251 | 155,000 | 1.93% | 156,234 | 311,234 | 508,485 | 1.26 |
| 2025 | 642,603 | 196,967 | 155,000 | 1.93% | 153,242 | 308,242 | 505,209 | 1.27 |
| 2026 | 642,603 | 196,482 | 155,000 | 1.93% | 150,251 | 305,251 | 501,733 | 1.28 |
| 2027 | 642,603 | 195,798 | 185,000 | 1.93% | 147,259 | 332,259 | 528,057 | 1.22 |
| 2028 | 642,603 | 204,853 | 275,000 | 1.93% | 143,689 | 418,689 | 623,542 | 1.03 |
| 2029 | 642,603 | 208,388 | 275,000 | 1.93% | 138,381 | 413,381 | 621,769 | 1.03 |
| 2030 | 642,603 | 152,325 | 280,000 | 1.93% | 133,074 | 413,074 | 565,399 | 1.14 |
| 2031 | 642,603 | 156,375 | 285,000 | 1.93% | 127,670 | 412,670 | 569,045 | 1.13 |
| 2032 | 642,603 | - | 290,000 | 1.93% | 122,169 | 412,169 | 412,169 | 1.56 |
| 2033 | 642,603 | - | 295,000 | 1.93% | 116,572 | 411,572 | 411,572 | 1.56 |
| 2034 | 642,603 | - | 305,000 | 1.93% | 110,879 | 415,879 | 415,879 | 1.55 |
| 2035 | 642,603 | - | 310,000 | 1.93% | 104,992 | 414,992 | 414,992 | 1.55 |
| 2036 | 642,603 | - | 315,000 | 1.93% | 99,009 | 414,009 | 414,009 | 1.55 |
| 2037 | 642,603 | - | 320,000 | 1.93% | 92,930 | 412,930 | 412,930 | 1.56 |
| 2038 | 642,603 | - | 330,000 | 1.93% | 86,754 | 416,754 | 416,754 | 1.54 |
| 2039 | 642,603 | - | 335,000 | 1.93% | 80,385 | 415,385 | 415,385 | 1.55 |
| 2040 | 642,603 | - | 345,000 | 1.93% | 73,919 | 418,919 | 418,919 | 1.53 |
| 2041 | 642,603 | - | 350,000 | 1.93% | 67,261 | 417,261 | 417,261 | 1.54 |
| 2042 | 642,603 | - | 360,000 | 1.93% | 60,506 | 420,506 | 420,506 | 1.53 |
| 2043 | 642,603 | - | 370,000 | 1.93% | 53,558 | 423,558 | 423,558 | 1.52 |
| 2044 | 642,603 | - | 380,000 | 1.93% | 46,417 | 426,417 | 426,417 | 1.51 |
| 2045 | 642,603 | - | 385,000 | 1.93% | 39,083 | 424,083 | 424,083 | 1.52 |
| 2046 | 642,603 | - | 395,000 | 1.93% | 31,652 | 426,652 | 426,652 | 1.51 |
| 2047 | 642,603 | - | 405,000 | 1.93% | 24,029 | 429,029 | 429,029 | 1.50 |
| 2048 | 642,603 | - | 415,000 | 1.93% | 16,212 | 431,212 | 431,212 | 1.49 |
| 2049 | 642,603 | - | 425,000 | 1.93% | 8,203 | 433,203 | 433,203 | 1.48 |
| | | \$2,284,165 | \$8,420,000 | | \$3,016,944 | \$11,436,944 | \$13,721,108 | |

| | |
|----------------------------|-------------|
| AVERAGE (MATURITY) LIFE | 18.57 YEARS |
| NET INTEREST RATE | 1.930% |
| COST SAVINGS | \$2,274,068 |
| AVERAGE ANNUAL REQUIREMENT | \$457,370 |

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. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.

**Greater Texoma UA
73823 City of Pottsboro Wastewater System
Improvements
Engineering and Environmental Review**

Engineering:

Key Issues:

None.

Project Need/Description

Project Need: The City of Pottsboro's (City) wastewater treatment plant (WWTP) has experienced effluent flows in excess of 75 percent of its permitted capacity for three consecutive months and must initiate engineering and financial planning for expansion based on Texas Commission on Environmental Quality's discharge permit requirements. Once the flows reach 90% of the permitted daily average or annual average flow for three consecutive months construction must commence. In addition, aging equipment is in need of repairs and the projected population growth in the region will require expansion of the WWTP capacity.

Project Description: The City's proposed project will consist of rehabilitation and expansion of the City's WWTP, from 0.35 to 0.9 million gallons per day through both the construction of new treatment processes and pipelines as well as the rehabilitation of existing infrastructure.

Project Schedule:

| Project Task | Schedule Date |
|-------------------------------------------------------------------|----------------------|
| Closing | 7/1/2019 |
| Engineering Feasibility Report Completion (End of Planning Phase) | 10/1/2019 |
| Design Phase Complete | 12/1/2019 |
| Start of Construction | 2/1/2020 |
| Construction Completion | 8/1/2021 |

Environmental Section:

Key Issues:

None

Environmental Summary:

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude completion of the project. Based on this initial environmental review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect project implementation.

Consistent with the requirements of 31 Texas Administrative Code § 375.61, financial assistance shall be conditioned that funding for design, acquisition, and construction of specific project elements will not be released until an environmental review has been completed and a favorable environmental determination has been issued.



Project Budget Summary
Greater Texoma UA
73823 - City of Pottsboro Wastewater System
Improvements

| Budget Items | This Commitment | Total |
|------------------------------------------------|-----------------------|-----------------------|
| Construction | | |
| Construction | \$6,240,000.00 | \$6,240,000.00 |
| Subtotal for Construction | \$6,240,000.00 | \$6,240,000.00 |
| Basic Engineering Services | | |
| Construction Engineering | \$340,000.00 | \$340,000.00 |
| Design | \$680,000.00 | \$680,000.00 |
| Planning | \$131,000.00 | \$131,000.00 |
| Subtotal for Basic Engineering Services | \$1,151,000.00 | \$1,151,000.00 |
| Special Services | | |
| Application | \$10,000.00 | \$10,000.00 |
| Environmental | \$5,000.00 | \$5,000.00 |
| Geotechnical | \$20,000.00 | \$20,000.00 |
| Inspection | \$120,000.00 | \$120,000.00 |
| Permits | \$10,000.00 | \$10,000.00 |
| Surveying | \$20,000.00 | \$20,000.00 |
| Testing | \$120,000.00 | \$120,000.00 |
| Water Conservation Plan | \$500.00 | \$500.00 |
| Subtotal for Special Services | \$305,500.00 | \$305,500.00 |
| Fiscal Services | | |
| Bond Counsel | \$60,850.00 | \$60,850.00 |
| Financial Advisor | \$40,720.00 | \$40,720.00 |
| Fiscal/Legal | \$8,420.00 | \$8,420.00 |
| Issuance Costs | \$2,000.00 | \$2,000.00 |
| Loan Origination Fee | \$144,816.00 | \$144,816.00 |
| Subtotal for Fiscal Services | \$256,806.00 | \$256,806.00 |
| Other | | |
| Administration | \$7,000.00 | \$7,000.00 |
| Land/Easements Acquisition | \$3,000.00 | \$3,000.00 |
| Other (Paying Agent) | \$3,650.00 | \$3,650.00 |
| Project Legal Expenses | \$1,500.00 | \$1,500.00 |
| Subtotal for Other | \$15,150.00 | \$15,150.00 |
| Contingency | | |
| Contingency | \$451,544.00 | \$451,544.00 |
| Subtotal for Contingency | \$451,544.00 | \$451,544.00 |
| Total | \$8,420,000.00 | \$8,420,000.00 |

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$8,420,000 TO THE GREATER TEXOMA UTILITY AUTHORITY
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$8,420,000 GREATER TEXOMA UTILITY AUTHORITY CONTRACT REVENUE BONDS,
(CITY OF POTTSBORO PROJECT),
PROPOSED SERIES 2019

(19 -)

WHEREAS, the Greater Texoma Utility Authority (Authority), located in Grayson County, has filed an application for financial assistance on behalf of the City of Pottsboro (City) in the amount of \$8,420,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, acquisition, design, and construction of certain wastewater system improvements identified as Project No. 73823; and

WHEREAS, the Authority seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$8,420,000 Greater Texoma Utility Authority Contract Revenue Bonds, (City of Pottsboro Project), Proposed Series 2019 (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 Authority has offered a pledge of contract 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 § 375.14; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the Authority will be sufficient to meet all the Obligations assumed by the Authority, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has 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; and

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

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

A commitment is made by the TWDB to the Greater Texoma Utility Authority for financial assistance in the amount of \$8,420,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$8,420,000 Greater Texoma Utility Authority Contract Revenue Bonds, (City of Pottsboro Project), Proposed Series 2019. This commitment will expire on June 30, 2020.

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 Authority;
3. this commitment is contingent upon the Authority's compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the Authority agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;
5. 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;
6. the Authority, 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 Authority'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 Authority's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the Authority is an obligated person with respect to such bonds under SEC Rule 15c2-12;

7. the Obligations must contain a provision requiring the Authority to levy a tax and/or maintain and collect sufficient rates and charges, as applicable, to produce system funds 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;
8. the Obligations must include a provision requiring the Authority 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 Authority to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the Authority 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;
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 Authority 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 Authority 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 Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

13. prior to closing, the Authority shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges and/or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements;
14. prior to closing, and if not previously provided with the application, the Authority 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;
15. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the Authority 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;
16. the Executive Administrator may require that the Authority execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

Conditions Related to Tax-Exempt Status

17. the Authority'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 Authority when rendering this opinion;
18. the Authority'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 Authority when rendering this opinion;
19. the Obligations must include a provision prohibiting the Authority 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 Authority 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 Authority 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 Authority may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the Authority, provided that the Authority 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 Authority 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 Authority 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 Authority 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 Authority’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
25. the Obligations must contain a provision that the Authority will refrain from using from using the proceeds provided by this TWDB commitment or the proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Obligations in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);
26. 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;
27. the Obligations must provide that neither the Authority 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 Authority by the TWDB;

State Revolving Fund Conditions

28. the Authority shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
29. 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 Authority, all contractors, and all subcontractors 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;
30. the Obligations must include a provision stating that the Authority 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 Authority 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;
31. 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 Authority will adhere to the approved project schedule;
32. the Obligations must contain a covenant that the Authority 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 § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;
33. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
34. the Authority shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations

purchased by the TWDB does not exceed 120% of the average projected useful life of the project, as determined by the schedule;

Clean Water State Revolving Fund Conditions

35. the Authority shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375;
36. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;
37. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the Authority 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;
38. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the Authority must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq* and 33 U.S.C. § 1382(b)(14).

Pledge Conditions for the Loan

39. upon request by the Executive Administrator, the Authority shall submit annual audits of contracting parties for the Executive Administrator's review;
40. the Obligations must contain a provision requiring the Authority to maintain and enforce the contracts with its customers so that revenues paid to the Authority by its customers are sufficient to meet the revenue requirements of the Authority's obligations arising from the operation of the water and sewer system;
41. the Obligations must contain a provision that the pledged contract revenues from the Authority may not be pledged to the payment of any additional parity obligations of the Authority secured by a pledge of the same contract revenues unless the Authority demonstrates to the Executive Administrator's satisfaction

that the pledged contract revenues will be sufficient for the repayment of all Obligations and additional parity obligations; and

42. prior to closing, the Authority must submit executed contracts between the Authority and the contracting parties regarding the contract revenues pledged to the payment of the Authority's Obligations, in form and substance acceptable to the Executive Administrator. Such contracts shall include provisions consistent with the provisions of this Resolution regarding the contracting parties' annual audits, the setting of rates and charges and collection of revenues sufficient to meet the Authority's debt service obligations and additional parity obligations.

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

Special Conditions:

43. prior to closing, the Authority must adopt and implement the water conservation program approved by the TWDB;
44. the Authority must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility;
45. the Obligations must include a provision requiring that, prior to any action by the Authority to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB; and
46. the Authority shall not amend or revise the Contract for Water Supply and Sewer Service between the Authority and the City, which is the revenue source for the pledge, if the revision or amendment affects the financial condition of the Authority or its ability to repay the loan described in this Commitment without receiving the written approval of the Executive Administrator.

APPROVED and ordered of record this 4th day of June, 2019.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake
Chairman

DATE SIGNED: _____

ATTEST:

Jeff Walker
Executive Administrator

Water
 Wastewater
 Other

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 : | | | NA | | | NA |
| If population ≤ 10K, connections/mile ≥ 32 : | | NA | | | NA | |
| If population > 10K : | | NA | | | NA | |

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.



GTUA Pottsboro Grayson County

