

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: December 19, 2019

TEAM MANAGER: Dain Larsen

<b>APPLICANT</b>	City of Bertram
<b>TYPE OF ASSISTANCE</b>	\$12,440,000 Financing
<b>LEGAL PLEDGE</b>	Ad Valorem Tax and Junior Lien Net Revenues of the Water and Wastewater System

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution a request from the City of Bertram (Burnet County) for \$12,440,000 in financing from the Drinking Water State Revolving Fund for the planning, acquisition, design, and construction of water system improvements.

### PROJECT

2019 Water Transmission Main and Elevated Storage Tank Project  
Project Number 62865

### BACKGROUND

The City of Bertram (City) is 10 miles west of the City of Liberty Hill, which is a part of the Austin- Round Rock Metropolitan Statistical Area, and has grown from a population of approximately 1,000 in 2014 to 2,400 in 2018. The City is currently adding approximately 380 new homes, and anticipates at least an additional 785 within its current service area by 2040. The City's 50,000 gallon elevated storage tank and 8-inch transmission main that connects its system to a wellfield 12 miles west of the City are aging and undersized for the additional demand.

The City proposes to replace the existing transmission line with a new 12 or 16-inch transmission main and the existing storage tank with a 500,000-gallon elevated storage tank. The City will also prepare an asset management plan for the water system.

### FINANCIAL

#### Key Issues

The City requests approximately 2.5 years of capitalized interest.

#### Pledge and Repayment

The City is pledging ad valorem taxes and a junior lien on revenues of the water and wastewater system for the repayment of the proposed financing. The City's current

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE DECEMBER 31, 2020.**

combined average monthly water and wastewater rate is \$93.66. Currently, the City's outstanding utility system debt is self-supporting, but any required rate increases will be met with an increase to the interest and sinking fund tax rate. Based on current net revenues available for debt service, and the City's average collection rate of 97 percent, the City will need to levy a tax rate of \$0.080 in 2023 and a maximum rate of \$0.137 in 2052. Alternately, the City could increase monthly rates by \$13.07 by 2052.

#### Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$3,290,978 over the life of the financing.

#### Internal Risk Score

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

The results of the City's financial sustainability indicators are adequate. These more heavily weighted risk score indicators show the City's short-term and long-term ability to repay the debt. The revenues available for debt service provide a moderate coverage ratio, representing 0.85 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 moderate with an asset condition ratio of 17 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are comparable to the state overall. The City's population has increased at an average annual rate of 4.46 percent since 2010, compared to an annual rate of 1.24 percent for the population of the state overall. The City's median household income is \$55,694, 98 percent of the median for the state overall. The average, unadjusted, unemployment rate for City was 2.70 percent in September 2019, compared to 3.30 percent in the state overall, and the national rate of 3.30 percent.

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. The City's household cost factor is 2.02 percent. The industry benchmark for the household cost factor is 2 percent for 2 services.

The City's existing debt is supported by the utility system. The utility system self-supporting debt compared to operating revenues is low at 1.97. A debt to operating revenues ratio of 4 to 6 is considered typical for utility systems. The City intends to fund the proposed debt with tax revenues only, which would result in a tax-supported debt level of 11.77 percent, greater than 12 percent is considered high.

The system maintains strong reserves with unrestricted cash and short-term investments of approximately 277 days of the operating expenses of the utility system. This is a high level of liquidity. Any amount between 30 and 150 days is a moderate level of liquidity.

The City's historical financial performance is strong with substantial liquidity, low self-supporting debt, and affordable system rates. With the addition of new tax-supported debt from the proposed project an increase in the interest and sinking fund tax rate is required, resulting in a significant amount of tax-supported debt. Additional qualitative points were deducted to account for the rapid increase in this debt, lowering the risk score from a 2A to a 2B.

**LEGAL**

Key Issues

None.

Conditions

Standard Drinking Water State Revolving Fund, tax-exempt, and tax and junior lien net revenue conditions and further conditioned as follows:

- Useful Life Determination.

- 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**

<b>Responsible Authority</b>	City of Bertram
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	L1001080
<b>Project Number</b>	62865
<b>Intended Use Plan Year</b>	2020
<b>Type of Pledge</b>	3- Combo Tax and Rev
<b>Revenue Pledge Level</b>	Second
<b>Legal Description</b>	\$12,440,000 City of Bertram, Texas Combination Tax and Junior Lien Revenue Certificates of Obligation, Proposed Series 2020A
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow
<b>Population</b>	1,836
<b>Rural</b>	Yes
<b>Water Connections</b>	846
<b>Wastewater Connections</b>	626
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	0
<b>State Revolving Fund Type</b>	Equivalency
<b>SWIFT Financing Type</b>	N/A
<b>SWIFT Characteristic</b>	N/A
<b>Financial Managerial &amp; Technical Complete</b>	Yes
<b>Funding Phase Code</b>	Planning, Acquisition, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<b>Water Rights Certification Required</b>	No
<b>Internal Risk Score</b>	2B
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	Non-Rated
<b>Moody's</b>	Non-Rated
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	Capitalized interest

**Project Team**

Team Manager	Dain Larsen
Financial Analyst	Ty Morton
Engineering Reviewer	Hiwa Majeed
Environmental Reviewer	Kristin Miller
Attorney	Alexis Lorick

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Bertram

\$12,440,000 City of Bertram, Texas Combination Tax and Junior Lien Revenue Certificates of Obligation, Series 2020A

Dated Date: 3/1/2020  
Delivery Date: 3/1/2020  
First Interest: 9/1/2020  
First Principal: 3/1/2023  
Last Principal: 3/1/2052  
Fiscal Year End: 09/30  
Required Coverage: 1.0

Source: DWSRF-EQUIVALENCY  
Rate: 0.86%  
IUP Year: 2020  
Case: Tax and Revenue  
Admin.Fee: \$243,922  
Admin. Fee Payment Date: 3/1/2020  
Total Assessed Valuation: \$105,727,109

FISCAL YEAR	REQUIRED TAX RATE	TAX REVENUES WITH COLL. @ 97%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$12,440,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2020	0.000	-	\$460,850	\$460,850	\$210,187	-	0.86%	\$53,492	\$53,492	\$263,679	1.75
2021	0.000	-	460,850	460,850	207,746	-	0.86%	106,984	106,984	314,730	1.46
2022	0.000	-	460,850	460,850	209,295	-	0.86%	106,984	106,984	316,279	1.46
2023	0.080	\$81,789	460,850	542,639	206,644	\$230,000	0.86%	105,995	335,995	542,639	1.00
2024	0.086	88,110	460,850	548,960	209,964	235,000	0.86%	103,996	338,996	548,960	1.00
2025	0.082	84,070	460,850	544,920	207,945	235,000	0.86%	101,975	336,975	544,920	1.00
2026	0.088	89,961	460,850	550,811	210,879	240,000	0.86%	99,932	339,932	550,811	1.00
2027	0.080	82,245	460,850	543,095	155,442	290,000	0.86%	97,653	387,653	543,095	1.00
2028	0.086	88,162	460,850	549,012	158,874	295,000	0.86%	95,138	390,138	549,012	1.00
2029	0.081	82,775	460,850	543,625	156,025	295,000	0.86%	92,601	387,601	543,625	1.00
2030	0.084	86,136	460,850	546,986	156,944	300,000	0.86%	90,042	390,042	546,986	1.00
2031	0.088	90,007	460,850	550,857	158,416	305,000	0.86%	87,441	392,441	550,857	1.00
2032	0.086	88,667	460,850	549,517	159,699	305,000	0.86%	84,818	389,818	549,517	1.00
2033	0.092	93,997	460,850	554,847	162,674	310,000	0.86%	82,173	392,173	554,847	1.00
2034	0.000	-	460,850	460,850	53,420	310,000	0.86%	79,507	389,507	442,927	1.04
2035	0.058	59,877	460,850	520,727	24,359	420,000	0.86%	76,368	496,368	520,727	1.00
2036	0.088	90,689	460,850	551,539	23,934	455,000	0.86%	72,606	527,606	551,539	1.00
2037	0.089	91,270	460,850	552,120	23,449	460,000	0.86%	68,671	528,671	552,120	1.00
2038	0.090	92,821	460,850	553,671	23,977	465,000	0.86%	64,694	529,694	553,671	1.00
2039	0.096	98,289	460,850	559,139	23,487	475,000	0.86%	60,652	535,652	559,139	1.00
2040	0.097	99,699	460,850	560,549	24,004	480,000	0.86%	56,545	536,545	560,549	1.00
2041	0.097	100,000	460,850	560,850	23,455	485,000	0.86%	52,396	537,396	560,850	1.00
2042	0.103	106,244	460,850	567,094	23,912	495,000	0.86%	48,182	543,182	567,094	1.00
2043	0.105	107,388	460,850	568,238	24,335	500,000	0.86%	43,903	543,903	568,238	1.00
2044	0.105	107,489	460,850	568,339	23,758	505,000	0.86%	39,582	544,582	568,339	1.00
2045	0.110	112,947	460,850	573,797	24,128	515,000	0.86%	35,196	550,196	574,323	1.00
2046	0.115	118,371	460,850	579,221	23,498	525,000	0.86%	30,724	555,724	579,221	1.00
2047	0.116	119,187	460,850	580,037	23,850	530,000	0.86%	26,187	556,187	580,037	1.00
2048	0.122	124,914	460,850	585,764	24,178	540,000	0.86%	21,586	561,586	585,764	1.00
2049	0.121	124,538	460,850	585,388	23,468	545,000	0.86%	16,921	561,921	585,388	1.00
2050	0.127	130,091	460,850	590,941	23,751	555,000	0.86%	12,191	567,191	590,941	1.00
2051	0.132	135,523	460,850	596,373	23,998	565,000	0.86%	7,375	572,375	596,373	1.00
2052	0.137	140,836	460,850	601,686	24,213	575,000	0.86%	2,473	577,473	601,686	1.00
			\$18,552,828	\$3,053,909	\$12,440,000			\$2,124,974	\$14,564,974	\$17,618,883	

AVERAGE (MATURITY) LIFE	19.86 YEARS
NET INTEREST RATE	0.860%
COST SAVINGS	\$ 3,290,978
AVERAGE ANNUAL REQUIREMENT	\$533,906

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.

**Bertram  
62865 2019 Water Transmission Main and  
Elevated Storage Tank Project  
Engineering and Environmental Review**

**Engineering:**

Key Issues:

None.

Project Need/Description

Project Need: The City of Bertram (City) is 10 miles west of the City of Liberty Hill, which is a part of the Austin-Round Rock Metropolitan Statistical Area, and has grown from a population of approximately 1,000 in 2014 to 2,400 in 2018. The City is currently adding approximately 380 new homes, and anticipates at least an additional 785 within its current service area by 2040. The City's 50,000 gallon elevated storage tank and 8-inch transmission main that connects its system to a wellfield 12 miles west of the City are aging and undersized for the additional demand.

Project Description: The City proposes to replace the existing transmission line with a new 12 or 16-inch transmission main and the existing storage tank with a 500,000 gallon elevated storage tank. The City will also prepare an asset management plan for the water system.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing	3/1/2020
Engineering Feasibility Report Completion (End of Planning Phase)	6/19/2020
Design Phase Complete	9/19/2020
Start of Construction	11/8/2020
Construction Completion	3/1/2022

**Environmental Section:**

Key Issues:

None.

Environmental Summary:

Some portions of the proposed project qualified for a categorical exclusion from a full environmental review while other project components require further regulatory agency coordination. For this reason, the environmental review will be segmented.

Consistent with the requirements of 31 Texas Administrative Code § 371.41 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**  
**Bertram**  
**62865 - 2019 Water Transmission Main and**  
**Elevated Storage Tank Project**

Budget Items	TWDB Funds	Total
<b>Construction</b>		
Construction	\$9,080,000	\$9,080,000
<b>Subtotal for Construction</b>	<b>\$9,080,000</b>	<b>\$9,080,000</b>
<b>Basic Engineering Services</b>		
Construction Engineering	\$126,500	\$126,500
Design	\$563,000	\$563,000
Planning	\$99,000	\$99,000
<b>Subtotal for Basic Engineering Services</b>	<b>\$788,500</b>	<b>\$788,500</b>
<b>Special Services</b>		
Application	\$12,000	\$12,000
Environmental	\$53,000	\$53,000
Geotechnical	\$19,000	\$19,000
Inspection	\$58,000	\$58,000
O&M Manual	\$3,000	\$3,000
Project Management (by engineer)	\$21,000	\$21,000
Surveying	\$158,000	\$158,000
Water Conservation Plan	\$3,500	\$3,500
<b>Subtotal for Special Services</b>	<b>\$327,500</b>	<b>\$327,500</b>
<b>Fiscal Services</b>		
Bond Counsel	\$77,500	\$77,500
Capitalized Interest	\$267,000	\$267,000
Financial Advisor	\$107,320	\$107,320
Fiscal/Legal	\$15,000	\$15,000
Loan Origination Fee	\$243,922	\$243,922
<b>Subtotal for Fiscal Services</b>	<b>\$710,742</b>	<b>\$710,742</b>
<b>Other</b>		
Land/Easements Acquisition	\$359,000	\$359,000
<b>Subtotal for Other</b>	<b>\$359,000</b>	<b>\$359,000</b>
<b>Contingency</b>		
Contingency	\$1,174,258	\$1,174,258
<b>Subtotal for Contingency</b>	<b>\$1,174,258</b>	<b>\$1,174,258</b>
<b>Total</b>	<b>\$12,440,000</b>	<b>\$12,440,000</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$12,440,000 TO THE CITY OF BERTRAM  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$12,440,000 CITY OF BERTRAM, TEXAS  
COMBINATION TAX AND JUNIOR LIEN REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2020A (DRINKING WATER STATE REVOLVING FUND)

(19 - )

WHEREAS, the City of Bertram (City), located in Burnet County, has filed an application for financial assistance in the amount of \$12,440,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design and construction of certain water system improvements identified as Project No. 62865; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$12,440,000 City of Bertram, Texas Combination Tax and Junior Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund) (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 ad valorem taxes and a junior lien on the net revenues of the City's combined utility system 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 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);
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).

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

A commitment is made by the TWDB to the City of Bertram for financial assistance in the amount of \$12,440,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$12,440,000 City of Bertram, Texas Combination Tax and Junior Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund). This commitment will expire on December 31, 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 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 City 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 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 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;

7. the Obligations must contain a provision requiring the City 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 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;
9. 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 in a manner as approved by the Executive Administrator;
10. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
11. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
12. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media

that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

13. prior to closing, the City 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 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;
15. 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;
16. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
17. 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

18. 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;
19. 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;
20. 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 section 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

21. 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 section 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 section 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;
  
22. 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 section 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 section 148(f) of the Code, section 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;
23. 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;
24. 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 section 149(b) of the Code;
25. 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;
26. the Obligations must contain a provision that the City will refrain 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);
27. the transcript must include evidence that the information reporting requirements of section 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 section 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;
28. 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

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

30. 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;
31. 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;
32. 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;
33. 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

34. the City shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371;
35. 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;
36. prior to the 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;

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

Special Condition:

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.

APPROVED and ordered of record this 19th day of December, 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
<b>Baseline</b>				
<b>5-year Goal</b>				
<b>10-year Goal</b>				

**WATER LOSS AUDIT YEAR:**

Total water loss (GPCD): \_\_\_\_\_      Total water loss (percent): \_\_\_\_\_      Wholesale Water  
 Total no. of connections: \_\_\_\_\_      Length of mains (miles): \_\_\_\_\_      Connections per mile: \_\_\_\_\_  
 If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (ILI): \_\_\_\_\_

**WATER LOSS THRESHOLDS:**

	Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
If population ≤ 10K, connections/mile < 32 :			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.



# City of Bertram Burnet County

