

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: January 16, 2020

TEAM MANAGER: Dain Larsen

<b>APPLICANT</b>	City of Jourdanton
<b>TYPE OF ASSISTANCE</b>	\$6,845,000 Financing
<b>LEGAL PLEDGE</b>	Combination Tax and Subordinate Lien Revenues of the Water and Wastewater System

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution a request from the City of Jourdanton (Atascosa County) for \$6,845,000 in financing from the Drinking Water State Revolving Fund for the planning, acquisition, design, and construction of a water systems improvement project.

### PROJECT

City of Jourdanton Water System Improvements  
Project Number 62870

### BACKGROUND

The City of Jourdanton (City) is located approximately 40 miles south of San Antonio, Texas and has a population over 4,400 residents. The City's elevated storage capacity is at 97 percent and one of its three water wells, which has elevated levels of radium, has been permanently decommissioned after determining that it would be costly to rehabilitate.

In order to provide sufficient storage, the City proposes to construct two 300,000 ground storage tanks and a 500,000 elevated storage tank. In addition, to address water quality, the City will also construct a new well, 12-inch transmission main, and replace its meters.

### FINANCIAL

#### Key Issues

The City is also requesting \$2,495,000 in financing from the Clean Water State Revolving Fund. The analysis below includes both the Clean Water and Drinking Water State Revolving Fund requests.

#### Pledge and Repayment

The City is pledging ad valorem taxes and a subordinate lien on revenues of the water and wastewater system for the repayment of the proposed financing. The City's current combined average monthly water and wastewater bill is \$57.00. Net revenues available for

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE JANUARY 31, 2021.**

debt service are approximately \$465,000 annually. The City intends to generate any additional revenues needed for debt service with a system rate increase. The attached debt service schedule shows that with no growth in the number of connections, to generate sufficient revenues to meet the proposed debt service, the City may need to increase the average monthly bill by \$12.39 by 2021. The City also collects an interest and sinking fund tax of \$0.2107. Based on the City's three-year average collection rate of 95 percent, instead of a system rate increase, the City could increase the tax rate to \$0.3334 by 2021.

#### Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$1,643,827 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 moderate. 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 prior to the project rate increase provide a low coverage ratio, representing 0.78 times the current and proposed debt service in the first year of principal repayment. With the projected rate increase coverage will be 1.0 times in the first year of principal repayment. In addition, the City's level of reinvestment in the assets of the utility's infrastructure is typical with an asset condition ratio of 19 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are generally better than the state overall. The City's population has increased at an average annual rate of 2.05 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 \$61,544, 108 percent of the median for the state overall. The average, unadjusted, unemployment rate for City was 3.7 percent in August 2019, compared to 3.6 percent in the state overall, and the national rate of 3.5 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 projected household cost factor is 1.45 percent. The industry benchmark for the household cost factor is 2 percent for two services.

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 high at 9.07. A debt to operating revenues ratio of 4 to 6 is considered typical for utility systems. In addition, the City's tax-supported debt at 2.92 percent of its total assessed valuation is a moderate level of tax-supported debt. An amount greater than 5 percent is considered to be high.

The system maintains strong reserves with unrestricted cash and short-term investments of approximately 316 days of the operating expenses of the utility system. This is a high level of liquidity. Any amount greater than 250 days is a high level of liquidity.

The financial management of the utility system is strong and socioeconomic indicators are positive. The City maintains a high level of liquidity, a moderate level of tax-supported debt, and affordable system rates, but the proposed debt will result in a high level of self-supporting debt for the utility system. The City anticipates a system rate increase in early 2020 to provide sufficient revenues for the increased debt. In addition, the City is growing rapidly, while maintaining unemployment at a level similar to the state overall and a median household income that is greater than the state overall. Based on mostly strong financial and socioeconomic indicators, but a significant increase in self-supporting debt, the City is assigned a risk score of 2B.

## **LEGAL**

### Key Issues

None.

### Conditions

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

- Prior to closing, adopt a water conservation plan;
- Water rights; and
- Useful life determination.

Attachments: 1. Project Data Summary  
2. Debt Service Schedule  
3. Engineering/Environmental Review  
4. Project Budget  
5. Resolution (20- )  
6. Water Conservation Review  
7. Location Map

**Project Data Summary**

<b>Responsible Authority</b>	City of Jourdanton
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	L1001082
<b>Project Number</b>	62870
<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>	\$6,845,000 City of Jourdanton, Texas Combination Tax and Subordinate 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>	4,461
<b>Rural</b>	Yes
<b>Water Connections</b>	1,835
<b>Wastewater Connections</b>	1,715
<b>Qualifies as Disadvantaged</b>	No
<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>	Approvable
<b>Water Rights Certification Required</b>	Yes
<b>Internal Risk Score</b>	2B
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	AA-
<b>Moody's</b>	Non-Rated
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**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 Jourdanton

**\$6,845,000 City of Jourdanton, Texas Combination Tax & Subordinate Revenue Certificates of Obligation, Proposed Series 2020A**

Dated Date:	3/1/2020	Source:	DWSRF-EQUIVALENCY
Delivery Date:	3/1/2020	Rate:	0.46%
First Interest:	9/1/2021	IUP Year:	2020
First Principal:	3/1/2021	Case:	Combo
Last Principal:	3/1/2049	Admin.Fee:	\$134,216
Fiscal Year End:	09/30	Admin. Fee Payment Date:	3/1/2020
Required Coverage:	1.0	Total Assessed Valuation:	\$216,259,903

**\$2,495,000 City of Jourdanton, Texas Combination Tax & Subordinate Revenue Certificates of Obligation, Proposed Series 2020B**

Dated Date:	3/1/2020	Source:	CWSRF-EQUIVALENCY
Delivery Date:	3/1/2020	Rate:	0.36%
First Interest:	9/1/2021	IUP Year:	2020
First Principal:	3/1/2021	Case:	Combo
Last Principal:	3/1/2049	Admin.Fee:	\$42,912
Fiscal Year End:	9/30	Admin. Fee Payment Date:	3/1/2020
Required Coverage:	1.0	Total Assessed Valuation:	\$216,259,903

FISCAL YEAR	REQUIRED TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 95%		PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$6,845,000 ISSUE			\$2,495,000 ISSUE			DEBT SERVICE	ACTUAL COVERAGE	
		PRINCIPAL PAYMENT	INTEREST RATE				INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT			
2020	SO.2107	\$434,714	\$464,362	\$899,076	\$848,913	-	0.46%	\$15,744	\$15,744	-	0.36%	\$4,491	\$4,491	\$869,148	1.03
2021	SO.2107	434,714	719,348	1,154,062	872,323	\$175,000	0.46%	31,085	206,085	\$65,000	0.36%	8,865	73,865	1,152,272	1.00
2022	SO.2107	434,714	719,348	1,154,062	821,794	180,000	0.46%	30,268	210,268	65,000	0.36%	8,631	73,631	1,105,693	1.04
2023	SO.2107	434,714	719,348	1,154,062	817,332	185,000	0.46%	29,429	214,429	65,000	0.36%	8,397	73,397	1,105,158	1.04
2024	SO.2107	434,714	719,348	1,154,062	815,351	185,000	0.46%	28,578	213,578	70,000	0.36%	8,154	78,154	1,107,082	1.04
2025	SO.2107	434,714	719,348	1,154,062	815,694	190,000	0.46%	27,715	217,715	70,000	0.36%	7,902	77,902	1,111,311	1.04
2026	SO.2107	434,714	719,348	1,154,062	818,971	195,000	0.46%	26,830	221,830	70,000	0.36%	7,650	77,650	1,118,451	1.03
2027	SO.2107	434,714	719,348	1,154,062	816,643	200,000	0.46%	25,921	225,921	70,000	0.36%	7,398	77,398	1,119,962	1.03
2028	SO.2107	434,714	719,348	1,154,062	820,210	205,000	0.46%	24,990	229,990	75,000	0.36%	7,137	82,137	1,132,336	1.02
2029	SO.2107	434,714	719,348	1,154,062	818,149	205,000	0.46%	24,047	229,047	75,000	0.36%	6,867	81,867	1,129,063	1.02
2030	SO.2107	434,714	719,348	1,154,062	818,752	210,000	0.46%	23,092	233,092	75,000	0.36%	6,597	81,597	1,133,441	1.02
2031	SO.2107	434,714	719,348	1,154,062	818,460	215,000	0.46%	22,115	237,115	80,000	0.36%	6,318	86,318	1,141,893	1.01
2032	SO.2107	434,714	719,348	1,154,062	823,070	220,000	0.46%	21,114	241,114	80,000	0.36%	6,030	86,030	1,150,214	1.00
2033	SO.2107	434,714	719,348	1,154,062	823,171	225,000	0.46%	20,091	245,091	80,000	0.36%	5,742	85,742	1,154,003	1.00
2034	SO.2107	434,714	719,348	1,154,062	824,443	230,000	0.46%	19,044	249,044	85,000	0.36%	5,445	90,445	1,154,003	1.00
2035	SO.2107	434,714	719,348	1,154,062	825,507	235,000	0.46%	17,975	252,975	85,000	0.36%	5,139	90,139	1,154,003	1.00
2036	SO.2107	434,714	719,348	1,154,062	824,620	240,000	0.46%	16,882	256,882	85,000	0.36%	4,833	89,833	1,154,003	1.00
2037	SO.2107	434,714	719,348	1,154,062	824,498	240,000	0.46%	15,778	255,778	90,000	0.36%	4,518	94,518	1,154,003	1.00
2038	SO.2107	434,714	719,348	1,154,062	825,215	245,000	0.46%	14,663	259,663	90,000	0.36%	4,194	94,194	1,154,003	1.00
2039	SO.2107	434,714	719,348	1,154,062	823,525	250,000	0.46%	13,524	263,524	90,000	0.36%	3,870	93,870	1,154,003	1.00
2040	SO.2107	434,714	719,348	1,154,062	823,864	255,000	0.46%	12,363	267,363	95,000	0.36%	3,537	93,537	1,154,003	1.00
2041	SO.2107	434,714	719,348	1,154,062	823,352	260,000	0.46%	11,178	271,178	95,000	0.36%	3,195	93,195	1,154,003	1.00
2042	SO.2107	434,714	719,348	1,154,062	823,855	270,000	0.46%	9,959	279,959	100,000	0.36%	2,844	92,844	1,154,003	1.00
2043	SO.2107	434,714	719,348	1,154,062	823,405	275,000	0.46%	8,706	283,706	100,000	0.36%	2,484	92,484	1,154,003	1.00
2044	SO.2107	434,714	719,348	1,154,062	823,128	280,000	0.46%	7,429	287,429	100,000	0.36%	2,124	92,124	1,154,003	1.00
2045	SO.2107	434,714	719,348	1,154,062	823,494	285,000	0.46%	6,130	291,130	105,000	0.36%	1,755	91,755	1,154,003	1.00
2046	SO.2107	434,714	719,348	1,154,062	823,746	290,000	0.46%	4,807	294,807	105,000	0.36%	1,377	91,377	1,154,003	1.00
2047	SO.2107	434,714	719,348	1,154,062	823,653	295,000	0.46%	3,462	298,462	110,000	0.36%	990	91,990	1,154,003	1.00
2048	SO.2107	434,714	719,348	1,154,062	823,299	300,000	0.46%	2,093	302,093	110,000	0.36%	594	91,594	1,154,003	1.00
2049	SO.2107	434,714	719,348	1,154,062	823,871	305,000	0.46%	702	305,702	110,000	0.36%	198	91,198	1,154,003	1.00
		\$34,366,888	\$18,958,948	\$6,845,000	\$515,706	\$7,360,706	\$2,495,000	\$147,276	\$2,642,276	\$28,961,930					

\$6,845,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	16.38 YEARS
NET INTEREST RATE	0.460%
COST SAVINGS	\$ 1,643,827
AVERAGE ANNUAL REQUIREMENT	\$245,357

\$2,495,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	16.4 YEARS
NET INTEREST RATE	0.360%
COST SAVINGS	\$ 648,599
AVERAGE ANNUAL REQUIREMENT	\$88,076

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$965,398

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.

**Jourdanton  
62870 City of Jourdanton Water System  
Improvements  
Engineering and Environmental Review**

**Engineering:**

Key Issues:

None.

Project Need/Description

**Project Need:** The City of Jourdanton's (City) elevated storage capacity is at 97 percent and one of its three water wells, which has elevated levels of radium, has been permanently decommissioned after determining that it would be costly to rehabilitate.

**Project Description:** The City proposes to construct two 300,000 ground storage tanks and a 500,000 elevated storage tank. The City will also construct a new well, 12-inch transmission main, and replace all its automatic meter reading meters. The proposed components are significant enough additions that the City will model their effects on the existing distribution system.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing	3/1/2020
Engineering Feasibility Report Completion (End of Planning Phase)	6/1/2020
Design Phase Complete	11/2/2020
Start of Construction	3/1/2021
Construction Completion	9/5/2021

**Environmental Section:**

Key Issues:

None.

Environmental Summary:

Consistent with the requirements of 31 Texas Administrative Code § 371.41, funding for design 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**  
 Jourdanton  
 62870 - City of Jourdanton Water System  
 Improvements

Budget Items	TWDB Funds	Total
<b>Construction</b>		
Construction	\$4,971,240	\$4,971,240
<b>Subtotal for Construction</b>	<b>\$4,971,240</b>	<b>\$4,971,240</b>
<b>Basic Engineering Services</b>		
Construction Engineering	\$150,472	\$150,472
Design	\$150,472	\$150,472
Planning	\$75,235	\$75,235
<b>Subtotal for Basic Engineering Services</b>	<b>\$376,179</b>	<b>\$376,179</b>
<b>Special Services</b>		
Application	\$15,000	\$15,000
Environmental	\$40,000	\$40,000
Geotechnical	\$25,000	\$25,000
Inspection	\$56,378	\$56,378
Permits	\$10,000	\$10,000
Project Management (by engineer)	\$38,000	\$38,000
Surveying	\$94,045	\$94,045
Testing	\$30,000	\$30,000
Water Conservation Plan	\$10,000	\$10,000
Water Distribution Modeling	\$10,000	\$10,000
<b>Subtotal for Special Services</b>	<b>\$328,423</b>	<b>\$328,423</b>
<b>Fiscal Services</b>		
Bond Counsel	\$65,000	\$65,000
Financial Advisor	\$100,000	\$100,000
Fiscal/Legal	\$9,500	\$9,500
Issuance Costs	\$15,000	\$15,000
Loan Origination Fee	\$134,216	\$134,216
<b>Subtotal for Fiscal Services</b>	<b>\$323,716</b>	<b>\$323,716</b>
<b>Other</b>		
Land/Easements Acquisition	\$10,000	\$10,000
Administration	\$273,725	\$273,725
<b>Subtotal for Other</b>	<b>\$283,725</b>	<b>\$283,725</b>
<b>Contingency</b>		
Contingency	\$561,717	\$561,717
<b>Subtotal for Contingency</b>	<b>\$561,717</b>	<b>\$561,717</b>
<b>Total</b>	<b>\$6,845,000</b>	<b>\$6,845,000</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$6,845,000 TO THE CITY OF JOURDANTON  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$6,845,000 CITY OF JOURDANTON, TEXAS  
COMBINATION TAX AND SUBORDINATE LIEN REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2020A (DRINKING WATER STATE REVOLVING FUND)

(20 - )

WHEREAS, the City of Jourdanton (City), located in Atascosa County, has filed an application for financial assistance in the amount of \$6,845,000 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. 62870; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$6,845,000 City of Jourdanton, Texas Combination Tax and Subordinate 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 subordinate 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 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); and

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 Jourdanton for financial assistance in the amount of \$6,845,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$6,845,000 City of Jourdanton, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund). This commitment will expire on January 31, 2021.

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 conditions:

Special Conditions:

37. prior to closing, the City shall adopt and implement the water conservation program approved by the TWDB;
38. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the City has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;
39. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the City has the right to use the water that the project financed by the TWDB will provide; and
40. 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 16th day of January, 2020.

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.

