

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: July 23, 2015

TEAM MANAGER: Lee Huntoon

APPLICANT	El Paso Water Utilities Public Service Board
TYPE OF ASSISTANCE	\$50,000,000 Loan
LEGAL PLEDGE	Net Revenues of the Waterworks and Sewer System

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve, by resolution, a request from the El Paso Water Utilities Public Service Board (El Paso County) for \$50,000,000 loan from the State Water Implementation Revenue Fund for Texas to finance land and water rights acquisition.

PROJECT

Bone Spring-Victorio Peak Aquifer Land and Water Rights Acquisition
Project Number 51012

BACKGROUND

Passed by the 83rd Legislature and approved by Texas voters through a constitutional amendment, the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT) were created to provide affordable, alternative financing options to develop projects that are recommended water management strategies in the State Water Plan. The program, referred to as SWIFT, provides financing through low-interest loans, deferral of loan repayments, and incremental repurchase terms for projects with state ownership aspects. All SWIFT projects presented for consideration have been prioritized based on criteria outlined in Texas Administrative Code Title 31 §363.1304 and are included on the prioritized list of projects approved by the Board on May 6, 2015.

In order to secure water resources that will provide sustainable water solutions, the El Paso Utilities Public Service Board (EPWU), on behalf of the City of El Paso (City) will purchase approximately 26,000 acres of nearby farm and ranch land. Ownership of the properties will give the EPWU the ability to manage the land and water use, provide resource protection, and eventually develop the water supply when needed by the EPWU.

COMMITMENT PERIOD: TO EXPIRE DECEMBER 31, 2015.
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FINANCIAL

Key Issues

None.

Pledge and Repayment

The EPWU is pledging system revenues from their water and sewer operations for the repayment of the proposed loan. Yearly revenues from the water and sewer system are adequate to meet existing debt service as well as debt service associated with this funding request.

Cost Savings

Based on a 20-year maturity schedule, current interest rates, and a 35.5% subsidy, the City could save approximately \$6,033,664 over the life of the loan.

Internal Risk Score

Staff assigns a risk score of 2A. A risk score of 2A means that the applicant's repayment capacity is strong. The applicant's earnings trends and coverage ratios, while sound, may be more susceptible to adverse effects of changes in circumstances and economic conditions than the higher rated obligations.

The median household income (MHI) for the service area is \$41,406, which is lower than the State's MHI of \$51,900. The unemployment rate for the area is 4.4%, which is slightly higher than the current state unemployment rate of 4.1%. Currently, EPWU customers pay an average of \$44 per month for water and wastewater service. This represents 1.3% of the median household income. This is below the 2% the benchmark for combined water and sewer service. The EPWU has a current bond rating of AA for G.O. debt and AA+ for Revenue debt by Standard & Poor's and Fitch Ratings Services. The stability of the EPWU financial and operational management supports the recommendation of a 2A risk rating.

LEGAL

Key Issues

None.

Conditions

Standard SWIFT, tax-exempt, and net revenue conditions and further conditioned as follows:

- Reasonable expectation of water rights; and
- Phase I Environmental Assessment.

Attachments: 1. Project Data Summary
2. Debt Service Schedule
3. Engineering/Environmental Review
4. Project Budget
5. Resolution (15-)
6. Water Conservation Review
7. Location Map

Project Data Summary

Authority	El Paso Water Utilities Public Service Board
Program	State Water Implementation Fund for Texas
Commitment Code	L15014
Project Number	51012
Intended Use Plan Year	2015
Fund Number	0361
Type of Pledge	3
Revenue Pledge Level	First
Legal Description	\$50,000,000 City of El Paso, Texas Water and Sewer Revenue Bonds, Series 2015 B
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	No
Disbursement Method	Escrow
Outlay Type	N/A
Population	660,795
Rural	No
Water Connections	178,211
Wastewater Connections	173,534
Qualifies as Disadvantaged	No
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
SWIFT Financing Type	Low-Interest Loan
SWIFT Characteristic	N/A
Financial Managerial & Technical Complete	N/A
Funding Phase Code	Acquisition
Pre-Design	No
Project Consistent with Water Plan	No
Water Conservation Plan	Adopted
Water Rights Certification Required	No
Internal Risk Score	2A
External Ratings (for SRF rates)	
Standard and Poor's	AA
Moody's	N/A
Fitch	AA+
Special Issues	N/A

Project Team

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

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY

City of El Paso PSB
City of El Paso, Texas Water and Sewer Revenue Bonds, Series 2015B

Dated Date: 12/1/2015
Delivery Date: 12/1/2015
First Interest: 6/1/2016
First Principal: 12/1/2016
Last Principal: 12/1/2035
Fiscal Year End: 09/30
Required Coverage: 1.0

Source: SWIFT-LOW
Insurance: N/A
Case: N/A
Admin.Fee: \$ -
Admin. Fee Payment Date: N/A

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$50,000,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE
					INTEREST PAYMENT	TOTAL PAYMENT	TOTAL PAYMENT		
2016	86,567,521	48,276,896	-		440,820	440,820	48,717,716	1.78	
2017	86,567,521	48,508,348	2,175,000	0.305%	878,323	3,053,323	51,561,671	1.68	
2018	86,567,521	48,317,966	2,205,000	0.602%	868,369	3,073,369	51,391,335	1.68	
2019	86,567,521	47,163,049	2,235,000	0.770%	853,128	3,088,128	50,251,177	1.72	
2020	86,567,521	45,580,595	2,270,000	0.905%	834,251	3,104,251	48,684,846	1.78	
2021	86,567,521	41,949,889	2,300,000	1.076%	811,605	3,111,605	45,061,494	1.92	
2022	86,567,521	38,544,180	2,335,000	1.247%	784,673	3,119,673	41,663,853	2.08	
2023	86,567,521	38,509,269	2,370,000	1.428%	753,192	3,123,192	41,632,461	2.08	
2024	86,567,521	34,205,751	2,405,000	1.524%	717,944	3,122,944	37,328,695	2.32	
2025	86,567,521	33,678,515	2,440,000	1.602%	680,074	3,120,074	36,798,589	2.35	
2026	86,567,521	31,098,810	2,475,000	1.686%	639,665	3,114,665	34,213,475	2.53	
2027	86,567,521	24,324,714	2,510,000	1.878%	595,232	3,105,232	27,429,946	3.16	
2028	86,567,521	19,576,200	2,545,000	2.029%	545,844	3,090,844	22,667,044	3.82	
2029	86,567,521	13,310,950	2,580,000	2.054%	493,528	3,073,528	16,384,478	5.28	
2030	86,567,521	9,657,819	2,620,000	2.243%	437,648	3,057,648	12,715,467	6.81	
2031	86,567,521	5,594,188	2,660,000	2.327%	377,316	3,037,316	8,631,504	10.03	
2032	86,567,521	5,598,237	2,695,000	2.396%	314,081	3,009,081	8,607,318	10.06	
2033	86,567,521	2,112,694	2,735,000	2.453%	248,250	2,983,250	5,095,944	16.99	
2034	86,567,521	-	2,775,000	2.500%	180,018	2,955,018	2,955,018	29.30	
2035	86,567,521	-	2,815,000	2.543%	109,537	2,924,537	2,924,537	29.60	
2036	86,567,521	-	2,855,000	2.583%	36,872	2,891,872	2,891,872	29.93	
		\$ 536,008,070	\$ 50,000,000		\$ 11,600,370	\$ 61,600,370	\$ 597,608,440		

AVERAGE (MATURITY) LIFE	10.98 YEARS
NET INTEREST RATE	2.114%
COST SAVINGS	\$6,033,664
AVERAGE ANNUAL REQUIREMENT	\$28,457,545

El Paso Water Utilities PSB

Engineering and Environmental Review

Engineering:

Key Issues

The El Paso Water Utility Public Service Board (EPWU) intends to purchase land and water rights which allows the EPWU to protect the availability as well as the quality of this future water source. Ownership of these properties will give the EPWU the ability to manage the land and water use, provide resource protection, and at its option, eventually augment their water supply.

As a land acquisition project, the project budget does not include engineering and environmental planning for the development of the resource. These activities will take place if the EPWU chooses to develop the supply at a later date. The State Water Plan includes a water management strategy to develop supplies from the Bone Spring Aquifer for the EPWU. The aquifer yield in the area proposed appears reliable. The rules of Hudspeth County Underground Water Conservation District No. 1 regulate groundwater production in the areas proposed. These rules support the careful use of the aquifer.

The EPWU will utilize its own funding to complete a Phase I Environmental Site Assessment to review site conditions and the history of land use before purchase. This financing package secures the land for future use and does not develop the water supply. At this time, no water rights certification is required for this financing but will be required if further funding is sought for planning, design, and construction.

Project Need / Description

Need: El Paso Water Utilities Public Service Board (EPWU) is pursuing funding through the SWIFT program to secure land and groundwater resources in the Bone Spring-Victorio Peak Aquifer that will provide a supplementary water source for the growing community's future. With this funding, EPWU will acquire tracts of land and water rights necessary to meet this goal.

Project Description: The proposed land and water rights acquisition project consists of the purchase of approximately 26,000 acres of ranch and farm land above the Bone Spring-Victoria Peak Aquifer approximately 75 miles due east of El Paso, Texas.

Project Schedule

Project Task	Schedule Date
Closing	12/1/2015
Property Purchase	12/15/2015

El Paso Water Utilities PSB
Engineering and Environmental Review

Environmental:

Key Issues

Prior to purchasing the property, the EPWU will complete a Phase I Environmental Site Assessment of the proposed project area in order to identify potential sources of aquifer contamination or other environmental hazards.

Environmental Summary

The proposed loan is for acquisition of land and associated water rights. Pursuant to the requirements of 31 Texas Administrative Code (TAC) Subchapter 363.14, should the applicant seek funds from the Texas Water Development Board for design or construction in the future, those funds would not be released until an environmental review has been completed and a favorable environmental determination is issued by the Executive Administrator. In addition, if the funds are obtained from the federal Drinking Water State Revolving Fund, Equivalency Program, a subsequent affirmation of commitment would be required in order to comply with the National Environmental Policy Act.

El Paso PSB
51012 - Bone Spring - Victorio Peak Aquifer - Land and Water Rights

Budget Items	TWDB Funds	Local & Other Funds	Total Cost
Construction			
Construction	\$0	\$0	\$0
Construction Total	\$0	\$0	\$0
Basic Engineering Services			
Construction Engineering	\$0	\$0	\$0
Design	\$0	\$0	\$0
Planning	\$0	\$0	\$0
Basic Engineering Services Total	\$0	\$0	\$0
Special Services			
Environmental	\$0	\$0	\$0
Inspection	\$0	\$0	\$0
Permits	\$0	\$0	\$0
Project Management (by engineer)	\$0	\$0	\$0
Surveying	\$0	\$0	\$0
Testing	\$0	\$0	\$0
Special Services Total	\$0	\$0	\$0
Contingency			
Contingency	\$0	\$0	\$0
Contingency Total	\$0	\$0	\$0
Other			
Land/Easements Acquisition	\$50,000,000	\$0	\$50,000,000
Other Total	\$50,000,000	\$0	\$50,000,000
Fiscal Services			
financial advisor, loan origination fees	\$0	\$135,000	\$135,000
Fiscal Services Total	\$0	\$135,000	\$135,000
Grand Total	\$50,000,000	\$135,000	\$50,135,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$50,000,000 TO EL PASO WATER UTILITIES PUBLIC SERVICE BOARD
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
\$50,000,000 CITY OF EL PASO, TEXAS WATER AND SEWER REVENUE BONDS,
PROPOSED SERIES 2015B

(15-)

WHEREAS, the El Paso Water Utilities Public Service Board, located in El Paso County, Texas, (Public Service Board) has filed an application for financial assistance in the amount of \$50,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), to finance the acquisition of certain water supply project(s) identified as Project No. 51012; and

WHEREAS, the Public Service Board seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$50,000,000 City of El Paso, Texas Water and Sewer Revenue Bonds, Proposed Series 2015B, (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

WHEREAS, the City of El Paso (City) has offered a pledge of net revenues as sufficient security for the repayment of the Obligations; and

WHEREAS, interest rate subsidies are available to the City at the following levels: 35.5% for loans of a term of 20 years, 27% for loans of a term of 25 years, and 22% for loans of a term of 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the City, pursuant to this Resolution; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M;
2. that the project is a recommended water management strategy in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);
3. that a water conservation plan, if required by Texas Water Code § 11.1271, has been submitted and implemented in accordance with 31 TAC § 363.1309(b)(1);
4. that the City satisfactorily completed any request by the Executive Administrator or a regional planning group for information relevant to the project, including a water

infrastructure financing survey under Texas Water Code § 16.053(q), in accordance with 31 TAC § 363.1309(b)(2);

5. that the current water audit, if required by Texas Water Code § 16.0121, has been completed by the City and filed with the TWDB in accordance with 31 TAC § 358.6;
6. that the City has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises, and any applicable state law relating to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

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

A commitment is made by the TWDB to El Paso Water Utilities Public Service Board for financial assistance in the amount of \$50,000,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of \$50,000,000 City of El Paso, Texas Water and Sewer Revenue Bonds, Proposed Series 2015B. This commitment will expire on December 31, 2015.

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 continued compliance with all applicable laws, rules, policies and guidance as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement;
4. this commitment is contingent upon the City executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;
5. the City shall use a paying agent/registrar in accordance with 31 TAC Section 363.42(c)(2), and shall require the paying agent/registrar to provide a copy, to the TWDB and to the TWDB's designated Trustee, of all receipts documenting debt service payments;

The Following Conditions Must Be Included in the Obligations:

6. 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;
7. the Obligations must include a provision wherein 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;
8. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
9. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) 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 (2) eligible costs for the project as authorized 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, recycling 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. the Obligations must include a provision stating that the City shall report to the TWDB the amounts of project funds, if any, that were used to compensate historically underutilized businesses that worked on the project, in accordance with 31 TAC § 363.1312;
14. the Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB's designated Trustee, and the Obligations shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC Section 363.42(c)(1);
15. the Obligations must include a provision prohibiting the City from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
16. 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;
17. the Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 148 of the Code. The Obligations must provide that the City will:

- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;
 - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the making of the loan, and in order to induce the making of the loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
18. 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;
 19. the Obligations must provide that the City will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;
 20. 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;

Revenue Pledge

21. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations;
22. if the City has existing revenue obligations with the same pledge of security as the

proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the Obligations must contain a provision providing that the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;

23. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if net system revenues or earnings of the System for any consecutive period of 12 months of the 15 months next preceding the month of the date of the additional bonds are equal to at least 1.25 times the maximum annual principal and interest requirements of all bonds to be outstanding after the issuance of additional bonds, as such net earnings are shown by a report of a certified public accountant. In addition, the amount to be accumulated and maintained in the reserve fund shall be increased to an amount not less than the average annual requirements for the payment of principal of interest on the Bonds, and any outstanding parity obligations, such additional amount to be accumulated in equal monthly installments during a period.

Conditions to Close or for Release of Funds:

24. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;
25. 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;
26. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the City shall execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
27. prior to release of funds for acquisition for specific project elements, the environmental review must be completed and a favorable environmental finding must have been issued;
28. prior to release of funds for construction, the City must provide the TWDB with evidence that the necessary acquisitions of land, leases, easements, and rights-of-way have been completed, or that the City has the legal authority necessary to complete the acquisitions;
29. prior to closing, 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;

30. prior to closing, the City’s bond counsel must prepare a written opinion that also states that the Obligations are not “private activity bonds.” Bond counsel may rely on covenants and representations of the City when rendering this opinion;
31. 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;
32. 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;

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

Special Conditions:

33. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, 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 Public Service Board 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; and
34. prior to the release of funds for acquisition, the City shall submit a Phase I Environmental Site Assessment of the proposed project area in form and substance acceptable to the Executive Administrator.

APPROVED and ordered of record this, the 23rd day of July, 2015.

TEXAS WATER DEVELOPMENT BOARD

 Bech K. Bruun, Chairman

DATE SIGNED: _____

ATTEST:

 Kevin Patteson
 Executive Administrator

WATER CONSERVATION REVIEW

Entity: _____

Review date: _____

WATER CONSERVATION PLAN DATE: **Approvable** **Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
Baseline				
5-year Goal				
10-year Goal				

WATER LOSS AUDIT YEAR:

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

WATER LOSS THRESHOLDS:

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

Does the applicant meet Water Loss Threshold requirements? Yes No NA

ADDITIONAL INFORMATION:

STAFF NOTES AND RECOMMENDATIONS:

DEFINITIONS

Adopted refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formally approved and adopted by the applicant's governing body.

Apparent loss refers to unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

Approvable refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

Best Management Practices are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

GPCD means gallons per capita per day.

Infrastructure Leakage Index (ILI) is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 5,000 connections, average pressure greater than 35 psi, and a connection density of more than 32 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a benchmarking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

NA means not applicable.

Produced water is the total amount of water purchased or produced by the utility.

Real loss comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

Residential GPCD is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

Total baseline GPCD is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

Total water loss is the sum of the apparent and real water losses.

Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

Water Loss Thresholds are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

**El Paso Water Utility,
El Paso County**

