

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015

TEAM MANAGER: Caaren Skrobarczyk

APPLICANT	City of Kosse
TYPE OF ASSISTANCE	\$1,050,000 Loan \$1,050,000 Grant
LEGAL PLEDGE	Ad valorem tax and surplus revenues of water and sewer system

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, a request from the **City of Kosse (Limestone County)** for financial assistance totaling \$2,100,000, consisting of a \$1,050,000 loan and \$1,050,000 grant from the Economically Distressed Areas Program to finance the construction phase for new wells and water system improvements.

PROJECT

New Wells and Water System Improvements
Project Number 10437

BACKGROUND

The City of Kosse's (City) potable water demand has exceeded the amount available through its wholesale purchase agreement with Tri-County Special Utility District (District). The District does not have additional water capacity to make available to the City. Also, the City's water system infrastructure is in poor condition and in need of repairs.

FINANCIAL

Key Issues

None.

Pledge and Repayment

The City is pledging ad valorem taxes and surplus revenues from the waterworks and sewer system for the repayment of the proposed loans.

In 2014, the City's utility system did not produce annual net revenues available for debt service. However, the City produced \$45,101 in revenues from the interest and sinking fund tax and the general fund. Including the proposed loan, the City's average annual debt service requirement will be \$86,462. Assuming no growth in the number of connections or other potential revenue sources, the City will need to produce additional revenues with either an increase to the interest and sinking fund tax rate or utility system rates or a combination of both. The proposed project is expected to generate at least \$78,000 in cost savings by reducing the amount of purchased water. Including the project cost savings, the City

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE DECEMBER 31, 2016

will need to increase the interest and sinking fund tax rate to approximately \$0.413, or increase the average monthly water bill by \$11.78 in 2017 to meet the proposed debt service.

Cost Savings

Based on a 20-year maturity schedule, current interest rates, and grant funding, the City could save approximately \$1,513,531 over the life of the financing by utilizing the Economically Distressed Areas Program (EDAP), and with a 20-year maturity schedule and current interest rates, the City could save approximately \$25,873 over the life of the loan by utilizing the EDAP loan funding.

Financial, Managerial and Technical Assessment

Pursuant to 31 TAC §363.510, the Texas Water Development Board (TWDB) may make a determination on whether an entity has the necessary financial, managerial, and technical (FMT) capabilities to operate the proposed project. The City completed the FMT Assessment prior to receiving the planning and design funds. No adverse findings were made.

Nuisance Determination

The City did not request a nuisance determination, therefore the Texas Department of State and Health Services (DSHS) has not issued a letter with a determination that a nuisance exists as defined in Chapter 341 of the Texas Health and Safety code.

Grant to Loan Calculation

Pursuant to TWDB's rules, the capital component methodology is used to calculate the EDAP loan amount when the applicant has an existing system and related debt.

The City previously incurred debt to fund the planning and design phase of the project. The debt service for the planning and design phase funding is \$9.64 per connection ("*current capital component*"). Because of this previous contribution of capital to the project, the capital component methodology indicates that the City qualifies for 100% grant funding for the construction phase of the project. However, without a nuisance determination the City is only eligible for a maximum 50% grant for the construction phase costs of the project. Therefore, the City is eligible for an EDAP grant for \$1,050,000 and a loan for the same amount.

Internal Risk Score

Staff assigns a 2C to the City, and the proposed project to be funded by the TWDB. This means that the City's payment capacity is sufficient.

The City's socioeconomic indicators are below the State overall. The City's population has decreased at an average annual rate of .92% since 2000, compared to an increase at an annual rate of 1.60% for the population of the State of Texas overall. The City's average median household income is \$25,208, 48.6% of the median for the State of Texas overall. The unadjusted, unemployment rate for Limestone County was 4.8% in September 2015, compared to 4.4% in the State of Texas overall, and the national rate of 4.9%.

The results of the City's financial indicators are weak. The City's current outstanding per capita debt totals \$631, and would increase to \$3,012 with the proposed financing. This is considered to be a high level of debt. The City maintains approximately 4.4 months of cash operating expenses in the General Fund, but no unrestricted cash is maintained in the utility system fund. For determination of an appropriate internal risk score, the benchmark is 2 to 3 months of cash operating expenses in the utility system fund.

The City's utility system operates at break-even, and typically receives annual transfers of approximately \$25,000 from the General Fund. The utility system has improved compared to the prior 3

years, from a net loss of \$44,420 in the system in 2011 to a break-even level of revenues in 2014. The City's 2014 expenses included payments of approximately \$155,986 for water purchases. A conservative estimate is that the proposed project would reduce water purchases and annual operating expenses by approximately \$78,000. Net revenues available for debt service of \$78,000 were used to estimate the City's repayment capacity.

The City's utility system rates are high with a current household cost factor of 4.70% for water and wastewater services. With relatively high utility system rates, any required additional revenues are assumed to be produced by increases to the interest and sinking fund tax rate, rather than system rate increases. Without increases to the current system rates, the projected household factor, which includes the per connection cost of the proposed debt, will remain at 4.7%. A projected household cost factor of less than 2% is considered affordable.

The City's socioeconomic indicators are weak, and historically the City's financial performance has been weak with low liquidity and revenues available for debt service. The City's existing level of debt is low, but with the proposed funding it will be high. However, the project will allow the City to realize substantial cost savings, allowing it to meet the proposed debt service and increase its liquidity. The City is assigned a risk score of 2C.

LEGAL

Key Issues

None.

Model Subdivision Rules

Based on the information provided, the TWDB's legal staff has determined that the County has adopted and is adequately enforcing the provisions of 31 TAC Chapter 364, the Model Subdivision Rules.

Conditions

Standard EDAP grant and tax-exempt, and tax and surplus revenues conditions and further conditioned as follows:

- Executed grant agreement;
- Return surplus grant funds;
- Water Rights Certification; and
- U.S. Iron and Steel.

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

Project Data Summary

Authority	City of Kosse
Program	Economically Distressed Area Program
Commitment Code	G1000473, L1000477
Project Number	10437
Intended Use Plan Year	N/A
Fund Number	375
Type of Pledge	3- Combo Tax and Rev
Revenue Pledge Level	Third
Legal Description	\$1,050,000 Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016; \$1,050,000 Grant
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	464
Rural	Yes
Water Connections	245
Wastewater Connections	245
Qualifies as Disadvantaged	Yes
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
Financial Managerial & Technical Complete	Yes
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
Funding Phase Code	Construction
Pre-Design	No
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	Yes
Internal Risk Score	2C
External Ratings (for SRF rates)	
Standard and Poor's	Non-Rated
Moody's	Non-Rated
Fitch	Non-Rated
Special Issues	None

Project Team

Team Manager	Caaren Skrobarczyk
Financial Analyst	Dain Larsen
Engineering Reviewer	JoAnne Duncan
Environmental Reviewer	Chris Caran
Attorney	Joe Reynolds

Dated Date: 2/1/2016
 Delivery Date: 2/1/2016
 First Interest: 8/1/2016
 First Principal: 8/1/2017
 Last Principal: 8/1/2035
 Fiscal Year End: 09/30
 Required Coverage: 1.1

Source: EDAP
 Rate: 3.38%
 Insurance: No
 Case: Tax and Revenue
 Admin.Fee: \$ -
 Admin. Fee Payment Date: N/A
 Total Assessed Valuation: \$ 14,529,985

FISCAL YEAR	REQUIRED TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$1,050,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE			
								INTEREST PAYMENT	TOTAL PAYMENT					
2016	0.000	-	78,000	78,000	43,527	-	0.00%	15,407	15,407	58,934	1.32			
2017	0.413	54,054	78,000	132,054	44,236	45,000	0.89%	30,813	75,813	120,049	1.10			
2018	0.341	44,645	78,000	122,645	36,083	45,000	1.28%	30,413	75,413	111,496	1.10			
2019	0.278	36,348	78,000	114,348	29,116	45,000	1.53%	29,837	74,837	103,953	1.10			
2020	0.284	37,163	78,000	115,163	30,546	45,000	1.75%	29,148	74,148	104,694	1.10			
2021	0.281	36,772	78,000	114,772	30,978	45,000	2.02%	28,361	73,361	104,339	1.10			
2022	0.310	40,539	78,000	118,539	30,335	50,000	2.18%	27,452	77,452	107,787	1.10			
2023	0.304	39,721	78,000	117,721	30,658	50,000	2.33%	26,362	76,362	107,020	1.10			
2024	0.036	4,716	78,000	82,716	-	50,000	2.50%	25,197	75,197	75,197	1.10			
2025	0.026	3,341	78,000	81,341	-	50,000	2.61%	23,947	73,947	73,947	1.10			
2026	0.057	7,406	78,000	85,406	-	55,000	2.92%	22,642	77,642	77,642	1.10			
2027	0.043	5,639	78,000	83,639	-	55,000	3.16%	21,036	76,036	76,036	1.10			
2028	0.029	3,727	78,000	81,727	-	55,000	3.35%	19,298	74,298	74,298	1.10			
2029	0.055	7,200	78,000	85,201	-	60,000	3.49%	17,455	77,455	77,455	1.10			
2030	0.037	4,897	78,000	82,897	-	60,000	3.62%	15,361	75,361	75,361	1.10			
2031	0.061	8,008	78,000	86,008	-	65,000	3.72%	13,189	78,189	78,189	1.10			
2032	0.041	5,348	78,000	83,348	-	65,000	3.81%	10,771	75,771	75,771	1.10			
2033	0.020	2,624	78,000	80,624	-	65,000	3.88%	8,295	73,295	73,295	1.10			
2034	0.041	5,350	78,000	83,350	-	70,000	3.95%	5,773	75,773	75,773	1.10			
2035	0.060	7,808	78,000	85,808	-	75,000	4.01%	3,008	78,008	78,008	1.10			
			\$	1,915,307	\$	275,479	\$	1,050,000	\$	403,758	\$	1,453,758	\$	1,729,237

AVERAGE (MATURITY) LIFE	11.37 YEARS
NET INTEREST RATE	3.382%
COST SAVINGS	\$ 1,539,404
AVERAGE ANNUAL REQUIREMENT	\$86,462

CAPITAL COMPONENT METHODOLOGY

City of Kosse ESTIMATED WATER LOAN AMOUNT CAPITAL COMPONENT WITH ADDITIONAL DEBT

Capital Component of Current System

A) Current Water System Average Annual Debt Service	\$ 25,569
B) Current Number of Connections (LUEs)	\$ 245
C) MONTHLY CURRENT WATER SYSTEM CAPITAL COMPONENT	<u>\$8.70</u>

Other Debt to be incurred as a result of this project

D) Additional loan amount (8yrs, @ 2.54% (TWDB rate)	\$183,000
E) Estimated Annual Debt Service	\$25,569
F) Total number of connections (LUEs) in project at End of Construction	245
G) CAPITAL COMPONENT OF ADDITIONAL LOAN per month	<u>\$8.70</u>
H) OVERALL CAPITAL COMPONENT	<u>(\$0.00)</u>

I) Number of EDAP-eligible Connections (LUEs) at End of Construction	245
J) Estimated Annual Debt Service for the Economically Distressed Area	(\$0)
K) Estimated EDAP LOAN (20yrs, @ 4.44% (TWDB rate)	(\$5)
(ROUNDED TO THE NEAREST THOUSAND)	<u>\$0</u>

EDAP Loan	\$0
EDAP Grant	\$2,100,000
Total Project	<u>\$2,100,000</u>



Kosse
10437 New Wells & Elevated Storage
Engineering and Environmental Review

Engineering:

Key Issues:

Cost Per Connection (CPC):

In January 2009, the Board revised the CPC, a benchmark to evaluate the cost effectiveness of an Economically Distressed Areas Program (EDAP) funded project. CPC is calculated by dividing the EDAP eligible costs, less hook up costs, by the number of EDAP eligible connections at the end of construction. The City previously received planning, acquisition, and design phase funding in the amount of \$449,000. The current construction phase funding request is for \$2,100,000, bringing the total EDAP project cost to \$2,549,000. Based upon an estimated 245 EDAP eligible connections at the end of construction, the CPC for the water system is estimated at \$10,404.

Project Need/Description:

Need: The City of Kosse's (City) potable water demand has exceeded the amount available as per the wholesale purchase agreement with Tri-County Special Utility District (District). The District does not have additional water capacity to make available to the City. Also, the City's water system infrastructure is in poor condition and in need of repairs.

Project Description: The City is requesting funding in the amount of \$2,100,000 from the EDAP to finance their proposed project to provide additional water supply to the City's residents and improve its water infrastructure. The City is proposing to construct two public water supply wells, a new water treatment plant, new ground storage tank, a new elevated storage tank, and transmission line connecting the new wells and treatment plant to the City's distribution system. The City previously received planning, acquisition, and design phase funding through the EDAP program. The proposed project is identified as a primary water supply strategy in the State Water Plan.

Project Schedule:

Project Task	Schedule Date
Closing	2/01/2016
Facility Plan D Completion	9/30/2015
Design Phase Complete	5/31/2016
Construction Phase Start Complete	8/31/2016
Construction Phase Complete	2/28/2017

Environmental Section:

Key Issues:

None known at this time. Environmental

Summary:

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

Pursuant to the requirements of 31 Texas Administrative Code (TAC) §363.14 all financial assistance shall be conditioned to read that funding for design costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued by the Executive Administrator.



Project Budget Summary
Kosse
10437 - New Wells & Elevated Storage

Budget Items	Description	Previous Commitments	This Commitment	TWDB Funds	Total
Construction					
Construction		\$150,000.00	\$1,925,000.00	\$2,075,000.00	\$2,075,000.00
Subtotal for Construction		\$150,000.00	\$1,925,000.00	\$2,075,000.00	\$2,075,000.00
Basic Engineering Services					
Construction Engineering		\$0.00	\$35,000.00	\$35,000.00	\$35,000.00
Design		\$104,600.00	\$0.00	\$104,600.00	\$104,600.00
Planning		\$27,000.00	\$0.00	\$27,000.00	\$27,000.00
Subtotal for Basic Engineering Services		\$131,600.00	\$35,000.00	\$166,600.00	\$166,600.00
Special Services					
Environmental		\$16,000.00	\$0.00	\$16,000.00	\$16,000.00
Geotechnical		\$4,000.00	\$0.00	\$4,000.00	\$4,000.00
Inspection		\$0.00	\$25,000.00	\$25,000.00	\$25,000.00
Surveying		\$63,000.00	\$0.00	\$63,000.00	\$63,000.00
Testing		\$0.00	\$10,000.00	\$10,000.00	\$10,000.00
Water Distribution Modeling		\$10,000.00	\$0.00	\$10,000.00	\$10,000.00
Subtotal for Special Services		\$93,000.00	\$35,000.00	\$128,000.00	\$128,000.00
Fiscal Services					
Bond Counsel		\$25,500.00	\$30,000.00	\$55,500.00	\$55,500.00
Financial Advisor		\$20,250.00	\$42,100.00	\$62,350.00	\$62,350.00
Issuance Costs		\$4,650.00	\$7,900.00	\$12,550.00	\$12,550.00
Subtotal for Fiscal Services		\$50,400.00	\$80,000.00	\$130,400.00	\$130,400.00
Other					
Land/Easements Acquisition		\$24,000.00	\$0.00	\$24,000.00	\$24,000.00
Subtotal for Other		\$24,000.00	\$0.00	\$24,000.00	\$24,000.00
Contingency					
Contingency		\$0.00	\$25,000.00	\$25,000.00	\$25,000.00
Subtotal for Contingency		\$0.00	\$25,000.00	\$25,000.00	\$25,000.00
Total		\$449,000.00	\$2,100,000.00	\$2,549,000.00	\$2,549,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
 APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT
 OF \$2,100,000 TO THE CITY OF KOSSE
 FROM THE ECONOMICALLY DISTRESSED AREAS PROGRAM ACCOUNT OF
 THE TEXAS WATER DEVELOPMENT FUND II
 THROUGH THE PROPOSED PURCHASE OF \$1,050,000
 CITY OF KOSSE, TEXAS COMBINATION TAX AND WATER AND SEWER SYSTEM
 SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2016
 AND
 THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$1,050,000

(15-)

WHEREAS, City of Kosse (City), has filed an application seeking financial assistance in the amount of \$2,100,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, to finance certain water system improvements, identified as Project No. 10437; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (the TWDB) through the TWDB's proposed purchase of \$1,050,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation (together with all authorizing documents, the Obligations) and a grant of \$1,050,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, all as is more specifically set forth in the application and in recommendations of TWDB's staff; and

WHEREAS, the City has offered a pledge of ad valorem taxes and surplus net revenues of the water and sewer system as sufficient security for the repayment of the Obligations; and

WHEREAS, the City did not submit a request for a nuisance determination from the Texas Department of State Health Services' in accordance with Section 17.933(b) of the Texas Water Code because this project does not remediate a nuisance dangerous to the public health and safety in the project area; and

WHEREAS, the TWDB has carefully considered all matters required by law and in particular the following:

1. the feasibility of creating a conservation and reclamation district to provide and finance the water supply or sewer services, in accordance with Texas Water Code § 16.346;
2. the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring economically distressed areas financing, and the relative costs and benefits of all applications, in accordance with Texas Water Code § 17.929(a)(1);

3. the availability to the political subdivision of revenue from alternative sources for the payment of the cost of the proposed project, in accordance with Texas Water Code § 17.929 (a)(2);
4. financing of the proposed water supply or sewer project, in accordance with Texas Water Code § 17.929(a)(3);
5. the feasibility of achieving cost savings by providing a regional facility for water supply and wastewater service and the feasibility of financing the facilities by using funds from the economically distressed areas account or any other financial assistance, in accordance with Texas Water Code § 17.929(a)(5);
6. the rates, fees and charges that the average customer to be served by the project will be able to pay, sources of funding available to the City, and any local funds of the City, in accordance with Texas Water Code § 17.933(d)(1);
7. sources of funding available to the City from federal and private funds and from other state funds, in accordance with Texas Water Code § 17.933(d)(2);
8. any local funds of the City to be served by the project if the economically distressed area to be served is within the boundary of the City, in accordance with Texas Water Code § 17.933(d)(3);
9. the just, fair, and reasonable charges for water and wastewater service as provided in the Texas Water Code, in accordance with Texas Water Code § 17.933(d)(4); and

WHEREAS, the TWDB hereby finds:

1. 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;
2. that the area to be served by the proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, in accordance with Texas Water Code § 17.929(b);
3. that the County and City have adopted model subdivision rules as promulgated by the TWDB pursuant to Texas Water Code § 16.343 and the manner of enforcement, in accordance with Texas Water Code § 17.929(a) (4);
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 that 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, in accordance with 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 considerations and findings, the TWDB resolves as follows:

A commitment is made by the TWDB to the City of Kosse for financial assistance in the amount of \$2,100,000 from the Economically Distressed Areas Account of the Texas Water Development Funds through the TWDB's proposed purchase of \$1,050,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016 and a grant of \$1,050,000. This commitment will expire on December 31, 2016.

This 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 City's compliance with all applicable requirements contained in 31 TAC Chapter 363;
3. the Obligations and Grant Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations and Grant Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
4. loan proceeds and grant funds are public funds and, as such, the Obligations and Grant Agreement 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;
5. loan proceeds and grant funds 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 and Grant Agreement 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;

6. 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, under the contract, and acceptable to the Executive Administrator;
7. 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 agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
8. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
9. 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;
10. 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;
11. 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;
12. 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;
13. 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) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) eligible project costs as authorized by the Executive Administrator;

14. 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;

Conditions Related To Tax-Exempt Status

15. 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;
16. 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;
17. the Obligations must include a provision prohibiting the City from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code), and the Treasury Regulations promulgated thereunder (Regulations);
18. 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;

19. 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;
20. 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;
21. 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;

22. 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;
23. 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;
24. 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;

EDAP Conditions

25. The Grant Agreement and Obligations must include a provision that requires compliance with Texas Water Code § 16.356 that no revenues received from rates or fees collected from the water/wastewater system to be constructed through this commitment shall be used for any purposes other than utility purposes and that the annual financial statement prepared by the City under Texas Local Government Code § 103.001 shall include a specific report on compliance with this condition;
26. Prior to the release of funds provided for construction, the City must provide the TWDB with evidence satisfactory to the Executive Administrator that the City has received and will maintain a designation as an authorized agent of the Texas Commission on Environmental Quality, in compliance with Texas Health and Safety Code § 366.035;

Pledge Conditions for the Loan

27. the Obligations must contain a provision that provides as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the

amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;

- ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and
- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements;

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

Special Conditions:

- 28. 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;
- 29. prior to closing, the City and the Executive Administrator shall execute an Agreement that sets forth the terms and uses of the grant funds;
- 30. the Grant Agreement must include a provision stating that the City shall return any grant funds that are determined to be Surplus Funds in a manner determined by the Executive Administrator; and

31. the Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products and manufactured goods produced in the United States, as required by Texas Water Code § 17.183.

APPROVED and ordered of record this 14th day of December, 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.

**City of Kosse,
Limestone County**

