

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: April 11, 2016

TEAM MANAGER: Clay Schultz

APPLICANT	City of Wimberley
TYPE OF ASSISTANCE	\$5,255,000 Loan \$243,005 Loan Forgiveness
LEGAL PLEDGE	First lien on the net revenues of the sewer system

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve, by resolution, a request from the City of Wimberley (Hays County) for \$5,498,005 in financial assistance, consisting of a \$5,255,000 loan and \$243,005 in loan forgiveness from the Clean Water State Revolving Fund to finance the construction phase of a collection system and wastewater treatment plant expansion project.

PROJECT

Downtown Wastewater System
Project Number 73653

BACKGROUND

The City of Wimberley (City) is located in Hays County at the confluence of Cypress Creek and the Blanco River. Most residences and businesses in the central Wimberley area currently rely on aging septic systems, many of which are inadequate. The City has indicated that multiple businesses must pump their systems monthly or even more frequently. Elevated *E. coli* and fecal coliform bacteria levels have been detected in the local waterways, particularly Cypress Creek, which winds through the City's central business district. Failing septic systems located in the central Wimberley area are contributing to the degradation of water quality. In 2012, the City Sanitarian stated that the City is facing an existing nuisance to public health in this area due to inadequate and failing septic systems. Due to the lack of open, undeveloped space in the downtown area, decentralized systems are no longer viable options for wastewater treatment.

The City owns and operates a 15,000 gallon per day (GPD) wastewater treatment plant located on the site of the City-owned Blue Hole Regional Park. This plant provides wastewater service for two customers, a nursing home and rehabilitation center and the regional park. In 2013, the City received planning and design phase funding from the Clean Water State Revolving Fund program for a proposed project to expand the treatment plant and extend a collection system to

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE APRIL 30, 2017

provide wastewater service to the central Wimberley area. The City intends to reuse the effluent to irrigate the park and potentially other sites within the service area.

FINANCIAL

Key Issues

Historically, the City has not levied an interest and sinking fund tax rate for any of its debt. The proposed project will have fewer than 130 initial connections, with close to 170 connections anticipated at build-out. Revenues based on proposed wastewater service rates alone are insufficient to meet the debt service. While the City is obligated, if necessary, to increase its utility system rates to a level sufficient to repay the proposed debt service, the City intends to use a service agreement between the City's parks department and the wastewater utility to cover the deficit. The reuse service agreement will be for purchase of treated effluent to irrigate Blue Hole Regional Park. This is included as Special Condition 41 in the Board resolution.

Pledge and Repayment

The City is pledging a first lien on the net revenues of the sewer system for the repayment of the proposed loan.

The City's wastewater system currently has two customers. This system produced approximately \$43,823 in net revenues available for debt service in 2015. Including the proposed loan, the City's average annual debt service requirement is estimated to be \$261,135.

The proposed project would initially add approximately 121 new sewer customers. Less than half of these connections are expected to be residential. The remaining connections will include retail businesses, churches, hotels, restaurants, and RV parks. The City has a mandatory hook-up ordinance that requires property owners to connect to the system when available.

A typical residential connection is one living unit equivalent (LUE). The number of LUEs for the varying types of non-residential connections (retailers, restaurants, hotels, etc) ranges from 1.3 to 5.3 LUEs, excluding the nursing home, which is an existing customer and is equivalent to 30 LUEs. The City proposes to charge an impact fee of \$2,500 per LUE which is payable over 8 years. The City proposes a monthly flat fee of \$34.08 per connection and a usage rate equivalent to \$54.77 for 5,700 gallons of wastewater service, the estimated average usage for one LUE. This would result in a projected total monthly wastewater bill of \$88.85 for a residential connection, not including the impact fee. Non-residential connections are expected to pay more per month based on their estimated higher usage. For example, projected monthly bills for a non-residential customer could range from approximately \$105 (1.3 LUEs) to \$324 (5.3 LUEs). Current projections indicate that the revenues from the new connections will total approximately \$176,220 annually, or about 67% of the average annual debt service on the proposed debt. Please note, the rates presented here are projections and have not been adopted by the City.

The City's proposal to enter into a service agreement between its parks and utility system for the purchase of reuse to irrigate the Park is intended to provide fees sufficient to fund the debt service shortfall. The City proposes that the service agreement will produce \$200,000 annually which would be sufficient to cover the difference except in 2018 and 2019 when, based on the currently proposed debt service schedule, the fee will need to be approximately \$225,000 to meet the final annual payments on the planning and design phase loan for the project. A special

condition in the resolution requires that the service agreement be in place prior to closing the commitment. Additionally, the City has indicated that the definition of “the System” in the bond ordinance will include reuse revenues. This has been added as Special Condition 42 in the attached resolution. The attached debt service schedule includes a column showing the minimum annual amount of revenue required via the proposed reuse service agreement based on proposed wastewater service rates.

In 2015, the City produced \$260,485 in its governmental activities funds available for funding the proposed service agreement. This is approximately \$300,000 less net revenues available compared to the prior 3-year average. The reduction in net revenues is attributable to consistent annual increases in all major expenses, while total revenues, excluding capital grants, have been nearly flat during the same period. However, the amount of governmental activities funds available in 2015 is sufficient to meet the maximum projected need from the service agreement of \$225,000 in 2018 and 2019.

As an alternative to the sale of reuse and the proposed service agreement, the City could increase the monthly wastewater bills to meet operations and debt service requirements. If the needs were met entirely with monthly wastewater bills and allocated by volumetric charges, the estimated monthly wastewater bill would be approximately \$126 in 2017 with a maximum rate of \$177 in 2018 and 2019 for a residential connection. The typical commercial user is estimated to use about 30% more wastewater service than a residential connection and would have a proportionally higher bill. For example, as stated previously, a hotel is estimated to use 5.3 times as much service (i.e. 5.3 LUEs) and would have a monthly bill of about \$324 without the rate increase and \$520 in 2017 with a maximum rate of \$790 in 2018 and 2019 if operations are met entirely with increases to the monthly wastewater bills. The projected higher rates in these two years are based on the currently proposed debt service schedule and are due to the final annual payments on the planning and design phase loan. As noted, the rates presented here are projections. No matter the source of the funds, the City is obligated to charge rates sufficient to meet operations and debt service.

The City is requesting to use loan proceeds to fully fund the required reserve fund and two years of capitalized interest to provide additional security and to provide additional time to generate revenues. These are included as line items in the attached budget.

Principal Forgiveness

The City’s project qualifies for \$243,005 in Green Subsidy in the Clean Water State Revolving Fund.

Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$1,426,494 in interest costs over the life of the loan. The City is also saving \$243,005 in loan forgiveness.

Internal Risk Score

Staff assigns a 2C 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 sufficient.

The City's population has declined at an average annual rate of 0.25% since 2010, compared to an increase at an annual rate of 0.93% for the population of the State. The City's average median household income is \$55,795 which is 106% of the median for the State. The unemployment rate for Hays County was 3.1% in December 2015, compared to 4.2% in the State. However, in the City, 22.1% of individuals live in households below the poverty level, compared to 17.7% in the State.

The City's current outstanding per capita debt totals \$181 which would increase to \$2,202 with the proposed financing. This is considered to be a moderately high debt level. However, the customer base that is responsible for the repayment of the proposed loan is significantly smaller than the City population. As a result, the debt per projected customer is approximately \$44,000.

The City's utility system had \$170,721 in cash and equivalents as of September 30, 2015, which is equivalent to approximately 420 days of existing operating expenses for the two existing customers of the utility system.

While the City's liquidity and some of the socioeconomic indicators are good, the utility system has a small customer base relative to the amount of debt requested which, based on proposed wastewater rates, will require significant service agreement payments from the general fund to the utility system to pay operations and repay the proposed debt service, and the source of the annual transfers shows a downward trend. However, the City has historically produced sufficient revenues in its governmental activities funds to meet the projected need for payment of the proposed debt service. Due to the reliance on either service agreement payments or high system rates to produce sufficient revenues for the repayment of the proposed debt, the City is assigned a risk score of 2C.

The Executive Administrator (EA) recommends the funding be provided due to the existing risks to the public and the need to increase the health of the streams and rivers in the area. The EA will monitor the project through construction and implementation and the repayment ability for the life of the loan. Any issues and concerns will be brought to the Board or addressed as appropriate.

LEGAL

Key Issues

None.

Conditions

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

- Executed loan forgiveness agreement.
- Return surplus loan forgiveness funds;

- Include reuse in the definition of “System” in the Bond ordinance;
- Submittal of a service agreement between the City’s Park’s Department and the Utility prior to closing; and,
- Standard emergency discovery.

- Attachments:
1. Project Data Summary
 2. Debt Service Schedule
 3. Engineering/Environmental Review
 4. Project Budget
 5. Resolution (16-)
 6. Water Conservation Review
 7. Location Map

Project Data Summary

Authority	City of Wimberley
Program	Clean Water State Revolving Fund
Commitment Code	LF1000502, L1000394
Project Number	73653
Intended Use Plan Year	2015
Fund Number	651
Type of Pledge	2- Revenue
Revenue Pledge Level	First
Legal Description	\$5,255,000 Sewer System Revenue Bonds, Proposed Series 2015 \$243,005 Loan Forgiveness
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	2,600
Rural	Yes
Water Connections	0
Wastewater Connections	2 (approx. 124 proposed)
Qualifies as Disadvantaged	No
Disadvantaged Level	9
Clean Water State Revolving Fund Type	Equivalency
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
Financial Managerial & Technical Complete	N/A
Funding Phase Code	Construction
Pre-Design	No
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	N/A
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	Clay Schultz
Financial Analyst	Dain Larsen
Engineering Reviewer	Issa McDaniel
Environmental Reviewer	William Alfaro
Attorney	Alexis Lorick

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Wimberley
\$5,255,000 Sewer System Revenue Bonds, proposed Series 2016

Dated Date: 6/1/2016
Delivery Date: 6/1/2016
First Interest: 8/1/2016
First Principal: 8/1/2018
Last Principal: 8/1/2045
Fiscal Year End: 09/30
Required Coverage: 1.0

Source: CWSRF-EQUIVALENCY
Rate: 2.29%
Insurance: No
Case: Revenue Only
Admin.Fee: \$ 95,452
Admin. Fee Payment Date: 6/1/2016

FISCAL YEAR	PROJECTED SERVICE AGREEMENT REVENUES	PROJECTED NET SYSTEM REVENUES	TOTAL PROJECTED REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$5,255,000 ISSUE		TOTAL DEBT SERVICE	TOTAL DEBT COVERAGE
							INTEREST PAYMENT	TOTAL PAYMENT		
2016	-	176,220	176,220	132,872	-	0.00%	21,087	21,087	153,959	1.14
2017	85,000	176,220	261,220	131,860	-	0.00%	126,523	126,523	258,383	1.01
2018	225,000	176,220	401,220	130,316	145,000	2.29%	126,523	271,523	401,839	1.00
2019	220,000	176,220	396,220	128,492	145,000	2.29%	123,202	268,202	396,694	1.00
2020	95,000	176,220	271,220	-	150,000	2.29%	119,882	269,882	269,882	1.00
2021	95,000	176,220	271,220	-	155,000	2.29%	116,447	271,447	271,447	1.00
2022	95,000	176,220	271,220	-	155,000	2.29%	112,897	267,897	267,897	1.01
2023	95,000	176,220	271,220	-	160,000	2.29%	109,348	269,348	269,348	1.01
2024	95,000	176,220	271,220	-	165,000	2.29%	105,684	270,684	270,684	1.00
2025	95,000	176,220	271,220	-	170,000	2.29%	101,905	271,905	271,905	1.00
2026	95,000	176,220	271,220	-	170,000	2.29%	98,012	268,012	268,012	1.01
2027	95,000	176,220	271,220	-	175,000	2.29%	94,119	269,119	269,119	1.01
2028	95,000	176,220	271,220	-	180,000	2.29%	90,112	270,112	270,112	1.00
2029	95,000	176,220	271,220	-	185,000	2.29%	85,990	270,990	270,990	1.00
2030	95,000	176,220	271,220	-	190,000	2.29%	81,753	271,753	271,753	1.00
2031	95,000	176,220	271,220	-	195,000	2.29%	77,402	272,402	272,402	1.00
2032	95,000	176,220	271,220	-	195,000	2.29%	72,937	267,937	267,937	1.01
2033	95,000	176,220	271,220	-	200,000	2.29%	68,471	268,471	268,471	1.01
2034	95,000	176,220	271,220	-	205,000	2.29%	63,891	268,891	268,891	1.01
2035	95,000	176,220	271,220	-	210,000	2.29%	59,197	269,197	269,197	1.01
2036	95,000	176,220	271,220	-	215,000	2.29%	54,388	269,388	269,388	1.01
2037	95,000	176,220	271,220	-	220,000	2.29%	49,464	269,464	269,464	1.01
2038	95,000	176,220	271,220	-	225,000	2.29%	44,426	269,426	269,426	1.01
2039	95,000	176,220	271,220	-	230,000	2.29%	39,274	269,274	269,274	1.01
2040	95,000	176,220	271,220	-	235,000	2.29%	34,007	269,007	269,007	1.01
2041	95,000	176,220	271,220	-	240,000	2.29%	28,625	268,625	268,625	1.01
2042	95,000	176,220	271,220	-	245,000	2.29%	23,129	268,129	268,129	1.01
2043	90,000	176,220	266,220	-	250,000	2.29%	17,519	267,519	267,519	1.00
2044	90,000	176,220	266,220	-	255,000	2.29%	11,794	266,794	266,794	1.00
2045	90,000	176,220	266,220	-	260,000	2.29%	5,954	265,954	265,954	1.00
				\$ 523,540	\$ 5,525,000		\$ 2,163,955	\$ 7,688,955	\$ 8,212,495	

* The City requests two years capitalized interest for the proposed loan.

AVERAGE (MATURITY) LIFE	17.1 YEARS
NET INTEREST RATE	2.290%
COST SAVINGS	\$1,842,401
AVERAGE ANNUAL REQUIREMENT	\$273,750

Wimberley
73653 Downtown Wastewater System
Engineering and Environmental Review

Engineering:

Key Issues:

The proposed project qualifies for a Green Project Reserve amount of \$1,620,030 for water efficiency. Wastewater reuse and recycling projects are considered categorically eligible. As a result, the City of Wimberley (City) is receiving \$243,005 in loan forgiveness.

The City applied for a Texas Pollutant Discharge Elimination System (TPDES) permit from the Texas Commission on Environmental Quality (TCEQ) in May of 2014. Several entities protested the permit. The City entered mediated negotiations with the protestants and came to agreement with all protestants in September 2015. The permit was remanded back to the TCEQ to draft a permit with language reflecting the mediated agreement and anticipates issuing the permit in close proximity to release of funding for the construction by TWDB.

Project Need/Description

Need: Most residences and businesses in the City of Wimberley's (City) central business district rely on private septic systems for wastewater service. Elevated *E. coli* and fecal coliform bacteria levels have been detected in local waterways, particularly in Cypress Creek, which winds through the City's central business district. In 2012, the City Sanitarian stated that the City is facing an existing nuisance to public health in this area due to inadequate and failing septic systems. In addition to these concerns, the potential for business growth in this area is limited due to the lack of a centralized wastewater system and the presence of failing on-site systems.

Project Description: The City seeks financing from the Clean Water State Revolving Fund (CWSRF) to construct a collection system in the central business district and surrounding area to mitigate the degradation to water quality. The City is also proposing to upgrade and expand the existing wastewater treatment plant (WWTP) from 15,000 gallons per day (GPD) to 75,000 GPD to provide wastewater service to the approximately 124 initial connections in the central Wimberley area. The system is proposed to provide service to approximately 170 connections at full build-out. The WWTP will be designed to treat effluent to Type 1 reclaimed water standards. The City intends to beneficially reuse the Type I effluent to irrigate the City-owned Blue Hole Regional Park and potentially other sites in the service area.

Project Schedule:

Project Task	Schedule Date
Planning Phase Complete	10/30/2014
Closing	6/1/2016
Design Phase Complete	5/31/2016
Construction start	9/1/2016

Environmental:Key Issues:

None.

Environmental Summary:

A Finding of No Significant Impact (FONSI) for this project was issued on August 6, 2014. As required by 31 Texas Administrative Code (TAC) §375, Subchapter E, environmental review of the proposed project has been completed. The proposed project is in compliance with the National Environmental Policy Act. The project must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources.

Budget Items	Description	Previous Commitments	This Commitment	TWDB Funds	Local and Other Funds	Total
Construction						
Construction		\$0.00	\$4,379,100.00	\$4,379,100.00	\$0.00	\$4,379,100.00
Subtotal for Construction		\$0.00	\$4,379,100.00	\$4,379,100.00	\$0.00	\$4,379,100.00
Basic Engineering Services						
Design		\$225,582.00	\$0.00	\$225,582.00	\$0.00	\$225,582.00
Planning		\$141,000.00	\$0.00	\$141,000.00	\$0.00	\$141,000.00
Subtotal for Basic Engineering Services		\$366,582.00	\$0.00	\$366,582.00	\$0.00	\$366,582.00
Special Services						
Environmental		\$15,000.00	\$0.00	\$15,000.00	\$0.00	\$15,000.00
Geotechnical		\$37,500.00	\$0.00	\$37,500.00	\$0.00	\$37,500.00
Permits		\$36,260.39	\$0.00	\$36,260.39	\$0.00	\$36,260.39
Surveying		\$55,000.00	\$0.00	\$55,000.00	\$0.00	\$55,000.00
Subtotal for Special Services		\$143,760.39	\$0.00	\$143,760.39	\$0.00	\$143,760.39
Fiscal Services						
Bond Counsel		\$0.00	\$0.00	\$0.00	\$20,260.00	\$20,260.00
Bond Reserve Fund		\$0.00	\$248,184.00	\$248,184.00	\$0.00	\$248,184.00
Capitalized Interest		\$0.00	\$232,271.00	\$232,271.00	\$0.00	\$232,271.00
Financial Advisor		\$0.00	\$0.00	\$0.00	\$26,050.00	\$26,050.00
Loan Origination Fee		\$11,807.00	\$95,452.00	\$107,259.00	\$0.00	\$107,259.00
Subtotal for Fiscal Services		\$11,807.00	\$575,907.00	\$587,714.00	\$46,310.00	\$634,024.00
Other						
Administration		\$6,611.00	\$0.00	\$6,611.00	\$0.00	\$6,611.00
Land/Easements Acquisition		\$0.00	\$0.00	\$0.00	\$44,000.00	\$44,000.00
Project Legal Expenses	Fiscal/Legal;	\$40,000.00	\$30,000.00	\$70,000.00	\$0.00	\$70,000.00
Subtotal for Other		\$46,611.00	\$30,000.00	\$76,611.00	\$44,000.00	\$120,611.00
Contingency						
Contingency		\$81,239.61	\$512,998.00	\$594,237.61	\$0.00	\$594,237.61
Subtotal for Contingency		\$81,239.61	\$512,998.00	\$594,237.61	\$0.00	\$594,237.61
Total		\$650,000.00	\$5,498,005.00	\$6,148,005.00	\$90,310.00	\$6,238,315.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$5,498,005 TO THE CITY OF WIMBERLEY
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$5,255,000 CITY OF WIMBERLEY, TEXAS SEWER SYSTEM REVENUE BONDS,
PROPOSED SERIES 2016
AND
\$243,005 IN LOAN FORGIVENESS

(16-)

WHEREAS, the City of Wimberley (City) has filed an application for financial assistance in the amount of \$5,498,005 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73653; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$5,255,000 City of Wimberley, Texas, Proposed Series 2016 (together with all authorizing documents, "Obligations"), and the execution of a Loan Forgiveness Agreement in an amount of \$243,005, 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 a first lien on the net revenues of the sewer system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue 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 Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;
4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;
5. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects; and

6. that the Executive Administrator issued a Finding of No Significant Impact on August 6, 2014, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the City of Wimberley for financial assistance in the amount of \$5,498,005 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$5,255,000 City of Wimberley, Texas Sewer System Revenue Bonds, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of \$243,005. This commitment will expire on April 30, 2017.

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 375;
4. 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;
5. 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;

6. the Obligations must contain a provision requiring the City to 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;
7. 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 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;
8. 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;
9. 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;
10. 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;
11. 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;
12. 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;

13. 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;
14. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

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;

State Revolving Fund Conditions

25. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
26. 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;
27. 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;
28. 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;
29. the Obligations and Loan Forgiveness Agreement 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 the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;
30. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;

31. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule;

Clean Water State Revolving Fund Conditions

32. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;
33. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;
34. prior to 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;
35. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq.*;

Pledge Conditions For The Loan

36. 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;
37. 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 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; and
38. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if net system revenues are at least 1.25 times the average annual debt service requirements after giving effect to the additional obligations when net

revenues are a) determined from the last completed fiscal year or a 12 consecutive calendar month period ending not more than ninety (90) days preceding the adoption of the additional obligations as certified by a certified public accountant; or b) the City certifies that the City is expected to continue to meet or exceed the net system revenue test with a minimum coverage of 1.25 times the average annual debt service requirement. An authorized representative of the City must provide the calculations, identifying reasonable assumptions, in a manner and format that is acceptable to the Executive Administrator.

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

Special Conditions:

39. prior to closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
40. the Loan Forgiveness Agreement must include a provision stating that the City shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator;
41. prior to closing, the City must submit an executed service agreement between the City's Park's Department and the Utility sufficient to establish an annual transfer of funds into the Utility system's revenue stream;
42. the Obligations must include a provision stating that the City's wastewater system includes the sale of reuse water; and
43. the City must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

APPROVED and ordered of record this 11th day of April, 2016.

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 Wimberley, Hays County

