

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: June 14, 2016

TEAM MANAGER: Mireya Loewe

|                           |  |
|---------------------------|--|
| <b>APPLICANT</b>          | Laguna Madre Water District                                  |
| <b>TYPE OF ASSISTANCE</b> | \$5,815,000 Loan   |
| <b>LEGAL PLEDGE</b>       | First Lien on the Net Revenues of the Water and Sewer System |

**STAFF RECOMMENDATION**

Approve                       No Action

**ACTION REQUESTED**

Approve by resolution, a request from the Laguna Madre Water District (Cameron County) for a \$5,815,000 loan from the Clean Water State Revolving Fund to finance the construction of wastewater system improvements.

**PROJECT**

Port Isabel WWTP Phase I Improvements  
Project Number 73730

**BACKGROUND**

The Laguna Madre Water District (District) has a service area of 35,146 acres and provides potable water, wastewater, and limited reclaimed water service to approximately 6,300 customers in Port Isabel, South Padre Island, Laguna Heights, Long Island Village, and Laguna Vista.

The District's sole water source is 7,378 acre-feet per year (af/y) of water rights from the Rio Grande. Under normal weather conditions, water demands are projected to exceed water supplies sometime between 2025 and 2040. However, during drought conditions, the Rio Grande water rights can be curtailed to as low as 5,628 af/y. During the recent drought, the district experienced curtailment from 2012 through March 2015, with full curtailment occurring between April of 2013 and November of 2014. Furthermore, in 2011 and 2012, prior to the implementation of stage 2 restrictions on water usage, water demand exceeded full curtailment allocation levels. To diversify its water sources and to augment its water supplies, the District is pursuing water reuse for potable use.

The District plans to achieve potable water reuse with a multi-phase project. The current funding request is only for the construction of the first phase, which will include improvements to the secondary treatment process at the Port Isabel Wastewater Treatment Plant (PIWWTP). Phase 1 improvements are necessary to meet intake water quality requirements for a future advanced treatment facility that will produce high-quality reclaimed water. Once the phase 1 improvements are implemented, the District plans to collect samples of the effluent for about a

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| <b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE JUNE 30, 2017</b> |
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year in order to complete the design of the proposed advanced reuse treatment facility. The District anticipates completing the design in 2019. Once constructed, the high-quality reuse effluent from the advanced treatment facility will be delivered to the District's raw water reservoir, where it will combine with the surface water supplies prior to being delivered to the water treatment plants for final treatment and distribution as potable water. Based on PIWWTP's current permitted treatment capacity, the future reuse facility could provide about 986 af/y of water for potable reuse.

The District is also planning to complete in subsequent phases additional upgrades to the PIWWTP secondary treatment process to further improve operations and efficiency and to increase the PIWWTP's capacity to 2.0 million gallons per day (mgd). However, these improvements are not necessary for the implementation of the advanced treatment facility and will be implemented as funding becomes available or when additional treatment capacity is required.

## **FINANCIAL**

### Key Issues.

None.

### Pledge and Repayment

The District is pledging a first lien on the net system revenues for the repayment of the proposed loan. Current rates and charges are sufficient to meet proposed debt service requirements. The average water and wastewater bill is \$36.71 per month.

### Cost Savings

Based on a 20-year maturity and current interest rates, the District could save an estimated \$752,067 in interest costs over the life of the loan.

### Internal Risk Score

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

The District's service area reports a median household income of \$33,390, which is below the state's median of \$52,576. The 6.9% unemployment rate is above the state's unemployment rate of 4.5%. Operating reserves for 2015 are approximately 9 months. The District's current combined average monthly water and wastewater rate is 1.32% of the median household income, which is below the TWDB's benchmark of 2% for two services. The District is heavily dependent on the top 10 water and wastewater customers at 20% of total revenues. The water and wastewater connections are stable and the per capita debt is moderate at \$1,445, including the proposed debt.

Staff's risk score is based on the District's median household income that is below the state average, its heavy dependence of the top 10 water and wastewater customers, and high unemployment rate. The District reports a moderate debt per capita and high liquidity with its operating reserves, which mitigate its low median household income, its dependence on the top 10 water and wastewater customers, and the high unemployment rate.

**LEGAL**

Key Issues

None.

Conditions

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

- Conversion, and
- Conveyance.

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**

|  |  |
|--|--|
| <b>Responsible Authority</b>                         | Laguna Madre Water District  |
| <b>Program</b>                                       | Clean Water State Revolving Fund   |
| <b>Commitment Code</b>                               | L1000539   |
| <b>Project Number</b>                                | 73730  |
| <b>Intended Use Plan Year</b>                        | N/A  |
| <b>Fund Number</b>                                   | 651  |
| <b>Type of Pledge</b>                                | 2-Revenue  |
| <b>-Revenue Pledge Level</b>                         | First  |
| <b>Legal Description</b>                             | \$5,815,000 Laguna Madre Water District Combination Water and Sewer System Revenue Bonds, Proposed Series 2016 |
| <b>Tax-exempt or Taxable</b>                         | Tax-exempt   |
| <b>Refinance</b>                                     | No   |
| <b>Outlay Requirement</b>                            | Yes  |
| <b>Disbursement Method</b>                           | Escrow   |
| <b>Outlay Type</b>                                   | Outlay<>Escrow Release   |
| <b>Population</b>                                    | 8,063  |
| <b>Rural</b>   | Yes  |
| <b>Water Connections</b>                             | 6,319  |
| <b>Wastewater Connections</b>                        | 5,413  |
| <b>Qualifies as Disadvantaged</b>                    | No   |
| <b>Disadvantaged Level</b>                           | 9  |
| <b>Clean Water State Revolving Fund Type</b>         | Non-Equivalency  |
| <b>SWIFT Financing Type</b>                          | N/A  |
| <b>SWIFT Characteristic</b>                          | N/A  |
| <b>Phase Committing</b>                              | Construction   |
| <b>Financial Managerial &amp; Technical Complete</b> | N/A  |
| <b>Pre-Design</b>                                    | No   |
| <b>Project Consistent with Water Plan</b>            | Yes  |
| <b>Water Conservation Plan</b>                       | Approved   |
| <b>Water Rights Certification Required</b>           | No   |
| <b>Internal Risk Score</b>                           | 2B   |
| <b>External Ratings (for SRF rates)</b>              |  |
| <b>Standard and Poor's</b>                           | A+   |
| <b>Moody's</b>                                       | Aa2  |
| <b>Fitch</b>   | Non-Rated  |
| <b>Special Issues</b>                                | None   |

**Project Team**

|                        |              |
|------------------------|--------------|
| Team Manager           | Mireya Loewe |
| Financial Analyst      | Javier Pena  |
| Engineering Reviewer   | Nicki Hise   |
| Environmental Reviewer | Lauren Dill  |
| Attorney               | Joe Reynolds |

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Laguna Madre Water District

**Combination Water and Sewer System Revenue Bonds, Proposed Series 2016**

|                                    |  |
|------------------------------------|--|
| <b>Dated Date:</b> 11/16/2016      | <b>Source:</b> CWSRF-NON-EQUIVALENCY       |
| <b>Delivery Date:</b> 11/16/2016   | <b>Rate:</b> 0.92%                         |
| <b>First Interest:</b> 5/16/2017   | <b>Insurance:</b> No                       |
| <b>First Principal:</b> 11/16/2017 | <b>Case:</b> Revenue                       |
| <b>Last Principal:</b> 11/16/2036  | <b>Admin.Fee:</b> \$ 105,623               |
| <b>Fiscal Year End:</b> 09/30      | <b>Admin. Fee Payment Date:</b> 11/16/2016 |
| <b>Required Coverage:</b> 1.25     |  |

| FISCAL YEAR | PROJECTED NET SYSTEM REVENUES | CURRENT DEBT SERVICE | PRINCIPAL PAYMENT | INTEREST RATE | \$5,815,000 ISSUE |               | TOTAL DEBT SERVICE | COVERAGE |
|-------------|-------------------------------|----------------------|-------------------|---------------|-------------------|---------------|--------------------|----------|
|             |                               |                      |                   |               | INTEREST PAYMENT  | TOTAL PAYMENT |                    |          |
| 2017        | 1,362,971                     | 614,786              | -                 | 0.92%         | 19,450            | 19,450        | 634,236            | 2.15     |
| 2018        | 1,362,971                     | 612,642              | 270,000           | 0.92%         | 38,900            | 308,900       | 921,542            | 1.48     |
| 2019        | 1,362,971                     | 610,234              | 245,000           | 0.92%         | 38,900            | 283,900       | 894,134            | 1.52     |
| 2020        | 1,362,971                     | 612,496              | 250,000           | 0.92%         | 38,900            | 288,900       | 901,396            | 1.51     |
| 2021        | 1,362,971                     | 609,428              | 250,000           | 0.92%         | 38,900            | 288,900       | 898,328            | 1.52     |
| 2022        | 1,362,971                     | 611,030              | 255,000           | 0.92%         | 38,900            | 293,900       | 904,930            | 1.51     |
| 2023        | 1,362,971                     | 612,236              | 260,000           | 0.92%         | 38,835            | 298,835       | 911,071            | 1.50     |
| 2024        | 1,362,971                     | 608,112              | 265,000           | 0.92%         | 38,505            | 303,505       | 911,617            | 1.50     |
| 2025        | 1,362,971                     | 608,658              | 270,000           | 0.92%         | 37,754            | 307,754       | 916,412            | 1.49     |
| 2026        | 1,362,971                     | 608,808              | 275,000           | 0.92%         | 36,581            | 311,581       | 920,389            | 1.48     |
| 2027        | 1,362,971                     | 608,562              | 280,000           | 0.92%         | 35,025            | 315,025       | 923,587            | 1.48     |
| 2028        | 1,362,971                     | 607,920              | 285,000           | 0.92%         | 33,117            | 318,117       | 926,037            | 1.47     |
| 2029        | 1,362,971                     | -                    | 290,000           | 0.92%         | 30,888            | 320,888       | 320,888            | 4.25     |
| 2030        | 1,362,971                     | -                    | 300,000           | 0.92%         | 28,349            | 328,349       | 328,349            | 4.15     |
| 2031        | 1,362,971                     | -                    | 305,000           | 0.92%         | 25,519            | 330,519       | 330,519            | 4.12     |
| 2032        | 1,362,971                     | -                    | 315,000           | 0.92%         | 22,402            | 337,402       | 337,402            | 4.04     |
| 2033        | 1,362,971                     | -                    | 320,000           | 0.92%         | 19,004            | 339,004       | 339,004            | 4.02     |
| 2034        | 1,362,971                     | -                    | 330,000           | 0.92%         | 15,330            | 345,330       | 345,330            | 3.95     |
| 2035        | 1,362,971                     | -                    | 340,000           | 0.92%         | 11,342            | 351,342       | 351,342            | 3.88     |
| 2036        | 1,362,971                     | -                    | 350,000           | 0.92%         | 7,028             | 357,028       | 357,028            | 3.82     |
| 2037        | 1,362,971                     | -                    | 360,000           | 0.92%         | 2,394             | 362,394       | 362,394            | 3.76     |
|             |                               | \$ 7,324,912         | \$ 5,815,000      |               | \$ 596,022        | \$ 6,411,022  | \$ 13,735,934      |          |

|                                   |                    |
|-----------------------------------|--------------------|
| <b>AVERAGE (MATURITY) LIFE</b>    | <b>11.15 YEARS</b> |
| <b>NET INTEREST RATE</b>          | <b>0.919%</b>      |
| <b>COST SAVINGS</b>               | <b>\$752,067</b>   |
| <b>AVERAGE ANNUAL REQUIREMENT</b> | <b>\$654,092</b>   |



**Laguna Madre WD  
73730 Port Isabel WWTP Phase I Improvements  
Engineering and Environmental Review**

**Engineering:**

Key Issues:

None known at this time.

Project Need/Description

**Need:** The Laguna Madre Water District's (District) current single source of water is 7,300 acre-feet per year (af/y) of water rights from the Rio Grande. These water rights are subject to curtailment to as low as a minimum threshold of 5,550 af/y during periods of drought. Current water demands exceed the minimum threshold at full curtailment. In addition, the District's water supply could also be endangered if raw water quality problems arise. To prevent this, the District plans to diversify and augment its water supply with advanced water reuse.

**Description:** The proposed project is the first phase of a multi-phase project to achieve advanced water reuse. The current project phase includes improvements to the District's existing Port Isabel Wastewater Treatment Plant (WWTP) facilities and equipment. In the short term, these improvements will improve effluent quality and increase the WWTP's operational reliability and efficiency while maintaining the current treatment capacity and flows. In the long term, these improvements will be the foundation to meet intake water quality requirements of a future advanced water treatment facility that will discharge high quality reuse water to be used as reclaimed irrigation water, or to be delivered to the District's water treatment plants to be treated for potable use.

**Project Schedule:**

| <b>Project Task</b>   | <b>Schedule Date</b> |
|---|----------------------|
| Closing   | 11/16/2016           |
| Engineering Feasibility Report Completion (End of Planning Phase) | 6/1/2016             |
| Design Phase Complete   | 7/31/2016            |
| Start of Construction   | 10/3/2016            |
| Construction Completion   | 10/2/2017            |

**Environmental Section:**

Key Issues:

None known at this time.

Environmental Summary:

A Categorical Exclusion (CE) for this project has been proposed. Pursuant to the requirements of 31 Texas Administrative Code (TAC) §375, all financial assistance shall be conditioned to read that funding for construction costs for specific project elements will not be released until the environmental review has been completed and a favorable CE has been issued. A subsequent Affirmation of Commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.



## Current Budget Summary

Laguna Madre WD

73730 - Port Isabel WWTP Phase I Improvements

| Budget Items                        | Description | TWDB Funds            | Local Funds           | Total                  |
|-------------------------------------|-------------|-----------------------|-----------------------|------------------------|
| <b>Construction</b>                 |             |                       |                       |                        |
| Construction                        |             | \$5,709,377.00        | \$4,269,796.00        | \$9,979,173.00         |
| <b>Subtotal for Construction</b>    |             | <b>\$5,709,377.00</b> | <b>\$4,269,796.00</b> | <b>\$9,979,173.00</b>  |
| <b>Fiscal Services</b>              |             |                       |                       |                        |
| Loan Origination Fee                |             | \$105,623.00          | \$0.00                | \$105,623.00           |
| <b>Subtotal for Fiscal Services</b> |             | <b>\$105,623.00</b>   | <b>\$0.00</b>         | <b>\$105,623.00</b>    |
| <b>Total</b>                        |             | <b>\$5,815,000.00</b> | <b>\$4,269,796.00</b> | <b>\$10,084,796.00</b> |

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT  
OF \$5,815,000 TO LAGUNA MADRE WATER DISTRICT  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$5,815,000 LAGUNA MADRE WATER DISTRICT COMBINATION WATER AND  
SEWER SYSTEM REVENUE BONDS,  
PROPOSED SERIES 2016

(16- )

WHEREAS, the Laguna Madre Water District (District) has filed an application for financial assistance in the amount of \$5,815,000 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73730; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$5,815,000 Laguna Madre Water District Combination Water and Sewer System Revenue Bonds, Proposed Series 2016 (together with all authorizing documents, (Obligations)), all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of a first lien on the system revenues of the District as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the District will be sufficient to meet all the Obligations assumed by the District, 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 District 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; and
4. that the District has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007.

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

A commitment is made by the TWDB to the Laguna Madre Water District for financial assistance in the amount of \$5,815,000 from the Clean Water State

Revolving Fund through the TWDB's proposed purchase of \$5,815,000 Laguna Madre Water District Combination Water and Sewer System Revenue Bonds, Proposed Series 2016. This commitment will expire on June 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 District;
3. this commitment is contingent upon the District'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 District, 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 District'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 District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;
6. the Obligations must contain a provision requiring the District 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;
7. the Obligations must include a provision requiring the District 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 District 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 District 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 District, 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 District 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 District 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 District 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 District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

Conditions Related To Tax-Exempt Status

15. the District'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 District when rendering this opinion;
16. the District'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 District when rendering this opinion;
17. the Obligations must include a provision prohibiting the District 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 District 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 District 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 District may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the District, provided that the District 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 District 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 District 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 District 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 District'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 District 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 District by the TWDB;

State Revolving Fund Conditions

25. the District 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 District, 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 District 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 District 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 District will adhere to the approved project schedule;
29. the Obligations must contain a covenant that the District 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 District 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 District 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;

Pledge Conditions For The Loan

34. 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;
35. if the District 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;
36. 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 District certifies that the District 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 District 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:

- 37. the District must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility; and
- 38. the Obligations must include a provision requiring that, prior to any action by the District to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB.

APPROVED and ordered of record this 14<sup>th</sup> day of June, 2016.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Bech K. Bruun, Chairman

DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jeff Walker  
Executive Administrator

# WATER CONSERVATION REVIEW

Entity: \_\_\_\_\_

Review date: \_\_\_\_\_

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

|                     | Total GPCD | Residential GPCD | Water Loss GPCD | Water Loss Percent |
|---------------------|------------|------------------|-----------------|--------------------|
| <b>Baseline</b>     |            |                  |                 |                    |
| <b>5-year Goal</b>  |            |                  |                 |                    |
| <b>10-year Goal</b> |            |                  |                 |                    |

**WATER LOSS AUDIT YEAR:**

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

**WATER LOSS THRESHOLDS:**

|  | Apparent Loss<br>Gallons per connection per day | Real Loss<br>Gallons per mile per day | Real Loss<br>Gallons per connection per day | Apparent Threshold<br>Gallons per connection per day | Real Threshold<br>Gallons per mile per day | Real Threshold<br>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.

# Laguna Madre, Cameron County

