

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: March 21, 2018

TEAM MANAGER: Luis Farias

<b>APPLICANT</b>	City of Kemp
<b>TYPE OF ASSISTANCE</b>	\$3,205,000 Financing
<b>LEGAL PLEDGE</b>	Ad Valorem Tax and Surplus Revenues of the Waterworks and Sewer System

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution, a request from the City of Kemp (Kaufman County) for \$3,205,000 in financing from the Drinking Water State Revolving Fund for planning, acquisition, design, and construction of water system improvements.

### PROJECT

Water Treatment System Improvements  
Project Number 62758

### BACKGROUND

The City of Kemp (City) is located in Kaufman County on the northern part of Cedar Creek Lake and serves approximately 709 water and wastewater connections.

The City's water system has mechanical, electrical, and distribution system deficiencies that need to be addressed to provide full compliance with Texas Commission on Environmental Quality (TCEQ) requirements and to reduce operating and maintenance costs. Its water treatment plant is aged and in need of repair and no longer meets current design standards from the TCEQ. The raw water pump stations are in need of rehabilitation due to equipment failures and poor raw water quality, and the water distribution system has a long history of breakages and is in need of rehabilitation for improved system reliability. The proposed project will make improvements throughout the City's system, including treatment and distribution system improvements.

### FINANCIAL

#### Key Issues

None.

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE MARCH 31, 2019.**

### Pledge and Repayment

The City is pledging ad valorem taxes and surplus revenues of the water and sewer system for the repayment of the proposed financing. The City's current combined average monthly water and wastewater rate is \$99.03, and the City collects an interest and sinking fund tax (I&S) at a rate of \$0.6318 per \$100 of assessed valuation.

The City intends to repay the debt with water and wastewater system revenues. The City already passed a \$25 water surcharge that went into effect in April 2017, which results in a new average monthly bill of \$124.03 for water and sewer services. Based on the current number of water connections, this surcharge will provide an additional \$212,700 in annual revenues, and allow the City to meet the existing and proposed debt service requirements.

### Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$716,860 over the life of the financing.

### Internal Risk Score

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

The results of the City's financial sustainability indicators are adequate. These more heavily weighted risk score indicators show the City's short-term and long-term ability to repay the debt. Based on staff's analysis of the 2016 audited financials, revenues available for debt service are below the 1.1 times requirement in the first year of principal repayment; however, the City did increase rates in April 2017. This increase will provide sufficient revenues to meet all debt service requirements. In addition, the City's level of reinvestment in the assets of the utility's infrastructure is moderate with an asset condition ratio of 18 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are mixed when compared to the state overall. The City's population has increased at an average annual rate of 3.87 percent since 2010, compared to an increase at an annual rate of 1.72 percent for the population of the state overall. The City's median household income is \$33,088, which is 60 percent of the median for the state overall. The average, unadjusted, unemployment rate for Kaufman County was 3.1 percent in December 2017, compared to 3.7 percent in the state overall.

Including the recent rate increase, the utility system rates are high with a household cost factor of 4.5 percent for water and wastewater services. The industry benchmark for the household cost factor is 2 percent for the two services.

The majority of the City's debt is supported by the utility system. The utility system self-supporting debt compared to operating revenues, including the proposed financing, is moderate at 5.08. A debt to operating revenues ratio of 4 to 6 is considered typical for utility systems. The debt that is paid with ad valorem tax revenues is low at 1.26 percent of the total taxable value of properties in the City. A ratio of 5 percent is high, and over 12 percent is not recommended.

The system does maintain adequate reserves with unrestricted cash and short-term investments of approximately 142 days of the operating expenses of the utility system. This is a moderate level of liquidity. While net revenues of the water and wastewater system have decreased, any amount between 30 and 150 days is considered to be a moderate level of liquidity. The net revenues of the system decreased over the last two years due to one-time expenses to the system from fiscal year 2016 to 2017. However, the assessed valuation of taxable properties in the City have steadily increased over the last five years.

While the City's median household income is low and the household cost factor is high, the City maintains adequate liquidity and the financial indicators are moderate. Additionally, the taxable properties in the City have steadily increased each year and the combination tax and revenue pledge gives the City flexibility on how it repays the debt. The City is assigned risk score of 2B.

**LEGAL**

Key Issues

None.

Conditions

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

- Adopted Water Conservation Plan; and
- Useful life certification.

- Attachments:
1. Project Data Summary
  2. Debt Service Schedule
  3. Engineering/Environmental Review
  4. Project Budget
  5. Resolution (18- )
  6. Water Conservation Review
  7. Location Map

**Project Data Summary**

<b>Responsible Authority</b>	City of Kemp
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	L1000673
<b>Project Number</b>	62758
<b>Intended Use Plan Year</b>	2018
<b>Fund Number</b>	951
<b>Type of Pledge</b>	3- Combo Tax and Rev
<b>Revenue Pledge Level</b>	Third
<b>Legal Description</b>	\$3,205,000 City of Kemp, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2018
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow
<b>Population</b>	1,415
<b>Rural</b>	Yes
<b>Water Connections</b>	709
<b>Wastewater Connections</b>	709
<b>Qualifies as Disadvantaged</b>	Yes
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>SWIFT Financing Type</b>	N/A
<b>SWIFT Characteristic</b>	N/A
<b>Financial Managerial &amp; Technical Complete</b>	Yes
<b>Funding Phase Code</b>	Planning, Acquisition, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<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>	Non-Rated
<b>Moody's</b>	Non-Rated
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None

**Project Team**

Team Manager	Luis Farias
Financial Analyst	Ben Munguia
Engineering Reviewer	Michael Brooks
Environmental Reviewer	Kathy Calnan
Attorney	Annette Mass

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Kemp

**\$3,205,000 City of Kemp, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2018**

Dated Date: 6/1/2018  
Delivery Date: 6/1/2018  
First Interest: 8/15/2018  
First Principal: 2/15/2019  
Last Principal: 2/15/2048  
Fiscal Year End: 09/30  
Required Coverage: 1.1

Source: DWSRF  
Rate: 2.02%  
Insurance: No  
Case: Revenue  
Admin.Fee: \$67,457  
Admin. Fee Payment Date: 6/1/2018  
Total Assessed Valuation: \$44,873,696

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$3,205,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2018	0.632	\$255,161	\$158,817	\$413,978	\$234,424	-	0.00%	\$13,308	\$13,308	\$247,731	1.67
2019	0.632	255,161	158,817	413,978	232,411	\$80,000	2.02%	63,933	143,933	376,344	1.10
2020	0.632	255,161	158,817	413,978	99,284	80,000	2.02%	62,317	142,317	241,601	1.71
2021	0.632	255,161	158,817	413,978	99,925	80,000	2.02%	60,701	140,701	240,626	1.72
2022	0.632	255,161	158,817	413,978	98,551	85,000	2.02%	59,035	144,035	242,586	1.71
2023	0.632	255,161	158,817	413,978	99,124	85,000	2.02%	57,318	142,318	241,441	1.71
2024	0.632	255,161	158,817	413,978	99,609	85,000	2.02%	55,601	140,601	240,209	1.72
2025	0.632	255,161	158,817	413,978	98,943	90,000	2.02%	53,833	143,833	242,776	1.71
2026	0.632	255,161	158,817	413,978	98,228	90,000	2.02%	52,015	142,015	240,243	1.72
2027	0.632	255,161	158,817	413,978	81,818	90,000	2.02%	50,197	140,197	222,015	1.86
2028	0.632	255,161	158,817	413,978	81,723	95,000	2.02%	48,329	143,329	225,052	1.84
2029	0.632	255,161	158,817	413,978	82,481	95,000	2.02%	46,410	141,410	223,891	1.85
2030	0.632	255,161	158,817	413,978	82,199	100,000	2.02%	44,440	144,440	226,639	1.83
2031	0.632	255,161	158,817	413,978	80,849	100,000	2.02%	42,420	142,420	223,269	1.85
2032	0.632	255,161	158,817	413,978	81,456	100,000	2.02%	40,400	140,400	221,856	1.87
2033	0.632	255,161	158,817	413,978	81,954	105,000	2.02%	38,330	143,330	225,284	1.84
2034	0.632	255,161	158,817	413,978	23,304	105,000	2.02%	36,209	141,209	164,513	2.52
2035	0.632	255,161	158,817	413,978	22,548	110,000	2.02%	34,037	144,037	166,585	2.49
2036	0.632	255,161	158,817	413,978	22,792	110,000	2.02%	31,815	141,815	164,607	2.51
2037	0.632	255,161	158,817	413,978	-	115,000	2.02%	29,543	144,543	144,543	2.86
2038	0.632	255,161	158,817	413,978	-	115,000	2.02%	27,220	142,220	142,220	2.91
2039	0.632	255,161	158,817	413,978	-	115,000	2.02%	24,897	139,897	139,897	2.96
2040	0.632	255,161	158,817	413,978	-	120,000	2.02%	22,523	142,523	142,523	2.90
2041	0.632	255,161	158,817	413,978	-	120,000	2.02%	20,099	140,099	140,099	2.95
2042	0.632	255,161	158,817	413,978	-	125,000	2.02%	17,625	142,625	142,625	2.90
2043	0.632	255,161	158,817	413,978	-	125,000	2.02%	15,100	140,100	140,100	2.95
2044	0.632	255,161	158,817	413,978	-	130,000	2.02%	12,524	142,524	142,524	2.90
2045	0.632	255,161	158,817	413,978	-	130,000	2.02%	9,898	139,898	139,898	2.96
2046	0.632	255,161	158,817	413,978	-	135,000	2.02%	7,222	142,222	142,222	2.91
2047	0.632	255,161	158,817	413,978	-	140,000	2.02%	4,444	144,444	144,444	2.87
2048	0.632	255,161	158,817	413,978	-	150,000	2.02%	1,515	151,515	151,515	2.73
				\$12,833,312	\$1,801,624	\$3,205,000		\$1,083,251	\$4,288,251	\$6,089,875	

AVERAGE (MATURITY) LIFE	16.73 YEARS
NET INTEREST RATE	2.020%
COST SAVINGS	\$ 716,860
AVERAGE ANNUAL REQUIREMENT	\$196,448

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable.



**Kemp**  
**62758 City of Kemp Water Treatment System**  
**Improvements**  
**Engineering and Environmental Review**

**Engineering:**

Project Need/Description

Project Need: The City of Kemp (City) water system has mechanical, electrical, and distribution system deficiencies that need to be addressed to provide full compliance with Texas Commission on Environmental Quality (TCEQ) requirements and to reduce operating and maintenance costs. Its water treatment plant is aged and in need of repair and no longer meets current design standards from the TCEQ. The raw water pump stations are in need of rehabilitation due to equipment failures and poor raw water quality, and the water distribution system has a long history of breakages and is in need of rehabilitation for better system reliability.

Project Description: The City proposes to make improvements to its water system by replacing its package treatment units with a new 500 gallons per minute water treatment package system. Line replacement will focus primarily on 6-inch asbestos cement pipe and cast-iron segments through the central part of town in an effort to mitigate the significant water loss the City has experienced over the past several years. Additionally, a small 8-inch segment in the distribution system is proposed to provide a loop and improve the ability to provide water to other parts of the City. The City will also make improvements to its treatment building, which will house the package treatment, and the intake pump station. The proposed financing will allow the City to make improvements to the most deficient parts of its water system.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing	6/1/2018
Engineering Feasibility Report Completion (End of Planning Phase)	4/1/2018
Design Phase Complete	8/1/2018
Start of Construction	11/1/2018
Construction Completion	12/1/2020

**Environmental Section:**

Key Issues:

None.

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) §371.41, all financial assistance shall be conditioned to read that funding for acquisition, design, and construction costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental finding has been issued.

**Project Budget Summary**  
**Kemp**  
**62758 - City of Kemp Water Treatment**  
**System Improvements**

Budget Items	This Commitment	Total
<b>Construction</b>		
Construction	\$2,079,000.00	\$2,079,000.00
<b>Subtotal for Construction</b>	<b>\$2,079,000.00</b>	<b>\$2,079,000.00</b>
<b>Basic Engineering Services</b>		
Basic Engineering Other (Start-up post construction services)	\$50,000.00	\$50,000.00
Construction Engineering	\$41,600.00	\$41,600.00
Design	\$166,400.00	\$166,400.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$258,000.00</b>	<b>\$258,000.00</b>
<b>Special Services</b>		
Environmental	\$5,000.00	\$5,000.00
Geotechnical	\$5,000.00	\$5,000.00
Inspection	\$62,000.00	\$62,000.00
Permits	\$5,000.00	\$5,000.00
Surveying	\$15,000.00	\$15,000.00
Testing	\$6,000.00	\$6,000.00
<b>Subtotal for Special Services</b>	<b>\$98,000.00</b>	<b>\$98,000.00</b>
<b>Fiscal Services</b>		
Bond Counsel	\$10,000.00	\$10,000.00
Financial Advisor	\$30,000.00	\$30,000.00
Loan Origination Fee	\$67,457.00	\$67,457.00
<b>Subtotal for Fiscal Services</b>	<b>\$107,457.00</b>	<b>\$107,457.00</b>
<b>Other</b>		
Administration	\$100,000.00	\$100,000.00
Land/Easements Acquisition	\$50,000.00	\$50,000.00
<b>Subtotal for Other</b>	<b>\$150,000.00</b>	<b>\$150,000.00</b>
<b>Contingency</b>		
Contingency	\$512,543.00	\$512,543.00
<b>Subtotal for Contingency</b>	<b>\$512,543.00</b>	<b>\$512,543.00</b>
<b>Total</b>	<b>\$3,205,000.00</b>	<b>\$3,205,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF \$3,205,000 TO  
THE CITY OF KEMP  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$3,205,000 CITY OF KEMP, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF  
OBLIGATION,  
PROPOSED SERIES 2018

(18- )

WHEREAS, the City of Kemp (City), located in Kaufman County, has filed an application for financial assistance in the amount of \$3,205,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design and construction of certain water system improvements identified as Project No. 62758; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$3,205,000 City of Kemp, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2018 (together with all authorizing documents "Obligations"), all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of tax and surplus revenue as sufficient security for the repayment of the Obligations; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 371.13; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has submitted a proposed program of water conservation for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;
4. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j); and

5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j).

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

A commitment is made by the TWDB to the City of Kemp for financial assistance in the amount of \$3,205,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$3,205,000 City of Kemp, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2018. This commitment will expire on March 31, 2019.

Such commitment is conditioned as follows:

Standard Conditions:

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the 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 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 City to use any loan proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;
8. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting 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) deposit into a reserve fund;
9. 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;
10. 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;
11. 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;
12. 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;
13. 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;

14. 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;
15. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
16. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;

Conditions Related To Tax-Exempt Status:

17. 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;
18. 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;
19. 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);
20. 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;
21. 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;
22. 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;
23. 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;

24. 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;
25. 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;
26. 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:

27. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
28. 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;
29. 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;
30. 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;
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 produced

in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions:

32. prior to or at closing, the City shall pay a 2.15% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371 and the applicable Intended Use Plan;
33. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the City has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;
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;

Pledge Conditions for the Loan:

35. 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:

- 36. prior to closing, the City shall adopt and implement the water conservation program approved by the TWDB; and
- 37. prior to the release of funds, the City shall provide a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule.

APPROVED and ordered of record this 21st day of March 2018.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Peter Lake, 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 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 Kemp Kaufman County

