

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: February 25, 2019

TEAM MANAGER: Caaren Skrobarczyk

<b>APPLICANT</b>	City of Kosse
<b>TYPE OF ASSISTANCE</b>	\$450,000 Financing
<b>LEGAL PLEDGE</b>	Ad Valorem Tax and Surplus Revenues of the Water and Sewer System

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution a request from the City of Kosse (Limestone County) for \$450,000 in financing from the Texas Water Development Fund for construction of a water system improvements project.

### PROJECT

New Wells & Water System Improvements  
Project Number 10437

### BACKGROUND

The City of Kosse (City) is a residential area on State Highways 14 and 7 on the southwest border of Limestone County. The City serves a population of approximately 490 residents. The City received commitments in 2013 and 2015 from the Economically Distressed Areas Program (EDAP) for the planning, acquisition, design, and construction of two public water supply wells, a new water treatment plant (WTP), new ground storage tank, and transmission line connecting the new wells and treatment plant to the City's distribution system. Bids came in higher than expected, so the City is seeking additional funds to complete the water transmission line from the new WTP to the City. As there are currently no funds remaining in EDAP, the City has pursued funding through the Texas Water Development Fund.

### FINANCIAL

#### Key Issues

None.

#### Pledge and Repayment

The City is pledging ad valorem taxes and surplus revenues from the water and sewer system for repayment of the proposed loan. The City currently levies an interest and sinking tax rate of \$0.1484 per \$100 of assessed valuation. The City's current average

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE FEBRUARY 29, 2020.**

monthly water and wastewater rate is \$93.86. Based on staff's analysis of 2017 audited financials, this provides the City with a coverage ratio of 0.40 times the current and proposed debt service in the first year of principal repayment. Based on current conditions, it is estimated that the City will need to increase its average monthly water and sewer bill by approximately \$23.10 increasing to a maximum of \$27.91. Alternately, it could increase its tax levy by \$0.59. The proposed project, once completed, will eliminate expenses relating to the purchase of Tri-County wholesale water. Elimination of Tri-County expenses would result in the current \$93.86 average monthly bill producing net revenues sufficient to meet debt service requirements. The 2017 audited Tri-County wholesale purchase expenses were \$143,942. Therefore, the debt service reflects the elimination of Tri-County related expenses to meet coverage.

#### Cost Savings

Based on a 20-year maturity and current interest rates, the City could save approximately \$21,645 over the life of the financing.

#### 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 results of the City's financial sustainability indicators are mostly adequate. The heavily weighted risk score indicators show the City's revenues available for debt service provide a low coverage ratio, representing 0.40 times the current and proposed debt service in the first year of principal repayment without the required increase. However, the City's cash balance ratio has increased 22 percent over the last five years. The City's level of reinvestment in the assets of the utility's infrastructure is adequate with an asset condition ratio of 24 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are slightly lower than the state overall. The City's population has increased at an average annual rate of 0.78 percent from 2010 to 2017, compared to an increase at an annual rate of 1.24 percent for the population of the state overall. The City's median household income is \$40,375, which is 71 percent of the median for the state overall. The average, unadjusted, unemployment rate for Limestone County was 4.2 percent in October 2018, compared to 3.5 percent in the state overall.

The household cost factor compares the annual cost of water and wastewater services, including any anticipated rate increases required to pay the proposed debt, to the median household income for the service area. The City's projected household cost factor is 3.61 percent. The industry benchmark for the household cost factor is 2 percent for water and wastewater service.

All the City's current outstanding debt and the proposed debt is supported by a combination of taxes and utility system revenues. The utility system self-supporting debt compared to operating revenues, including the proposed loan, is adequate at 4.39. A debt to operating revenues ratio of 4 to 6 is considered typical for utility systems. The system maintains sufficient reserves with unrestricted cash of approximately 19 days of the

operating expenses of the utility system. Any amount between 15 and 29 days is a sufficient level of liquidity.

The financial management of the utility system is sufficient. According to the 2017 audited financials, the City has \$169,315 in working capital, indicating that the City maintains operational efficiency with regards to short term finances. The mix of indicators supports the assigned risk score of 2C.

**LEGAL**

Key Issues

None.

Conditions

Standard Texas Water Development Fund, tax-exempt, tax and surplus revenue conditions and further conditioned as follows:

- Attachments:
1. Project Data Summary
  2. Debt Service Schedule
  3. Engineering/Environmental Review
  4. Project Budget
  5. Resolution (19- )
  6. Water Conservation Review
  7. Location Map

**Project Data Summary**

<b>Responsible Authority</b>	City of Kosse
<b>Program</b>	Texas Water Development Fund
<b>Commitment Code</b>	L1000920
<b>Project Number</b>	10437
<b>Intended Use Plan Year</b>	2019
<b>Type of Pledge</b>	3- Combo Tax and Rev
<b>Revenue Pledge Level</b>	Third
<b>Legal Description</b>	\$450,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2019
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	No
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	N/A
<b>Population</b>	490
<b>Rural</b>	Yes
<b>Water Connections</b>	270
<b>Wastewater Connections</b>	270
<b>Qualifies as Disadvantaged</b>	No
<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>	N/A
<b>Funding Phase Code</b>	Construction
<b>Pre-Design</b>	No
<b>Project Consistent with Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Exempt (Less than \$500,000)
<b>Water Rights Certification Required</b>	No
<b>Internal Risk Score</b>	2C
<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	Caaren Skrobarczyk
Financial Analyst	Lina Linehan
Engineering Reviewer	Stephen Bell
Environmental Reviewer	Chris Caran
Attorney	Joe Reynolds

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Kosse

**\$450,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2019**

**Dated Date:** 4/15/2019  
**Delivery Date:** 4/15/2019  
**First Interest:** 10/15/2019  
**First Principal:** 4/15/2020  
**Last Principal:** 4/15/2039  
**Fiscal Year End:** 09/30  
**Required Coverage:** 1.1

**Source:** WDF  
**Rate:** 3.82%  
**IUP Year:** 2019  
**Case:** Tax and Revenue  
**Admin.Fee:** \$0  
**Admin. Fee Payment Date:** N/A  
**Total Assessed Valuation:** \$16,916,733

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$450,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE	
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT			
2020	0.1484	\$22,594	\$164,641	\$187,235	\$76,575	\$15,000	2.43%	\$15,829	\$30,829	\$107,404	1.74	
2021	0.1484	22,594	164,641	187,235	77,748	15,000	2.52%	15,465	30,465	108,212	1.73	
2022	0.1484	22,594	164,641	187,235	77,792	15,000	2.60%	15,087	30,087	107,879	1.74	
2023	0.1484	22,594	164,641	187,235	78,743	20,000	2.68%	14,697	34,697	113,440	1.65	
2024	0.1484	22,594	164,641	187,235	83,571	20,000	2.77%	14,161	34,161	117,732	1.59	
2025	0.1484	22,594	164,641	187,235	84,539	20,000	2.86%	13,607	33,607	118,146	1.58	
2026	0.1484	22,594	164,641	187,235	85,381	20,000	2.96%	13,035	33,035	118,416	1.58	
2027	0.1484	22,594	164,641	187,235	85,104	20,000	3.07%	12,443	32,443	117,546	1.59	
2028	0.1484	22,594	164,641	187,235	85,598	20,000	3.14%	11,829	31,829	117,427	1.59	
2029	0.1484	22,594	164,641	187,235	85,869	20,000	3.21%	11,201	31,201	117,070	1.60	
2030	0.1484	22,594	164,641	187,235	86,020	25,000	3.42%	10,559	35,559	121,578	1.54	
2031	0.1484	22,594	164,641	187,235	85,922	25,000	3.60%	9,704	34,704	120,626	1.55	
2032	0.1484	22,594	164,641	187,235	85,636	25,000	3.73%	8,804	33,804	119,440	1.57	
2033	0.1484	22,594	164,641	187,235	86,183	25,000	3.86%	7,871	32,871	119,054	1.57	
2034	0.1484	22,594	164,641	187,235	85,736	25,000	3.97%	6,906	31,906	117,642	1.59	
2035	0.1484	22,594	164,641	187,235	85,232	25,000	4.06%	5,914	30,914	116,146	1.61	
2036	0.1484	22,594	164,641	187,235	85,664	25,000	4.15%	4,899	29,899	115,563	1.62	
2037	0.1484	22,594	164,641	187,235	-	30,000	4.22%	3,861	33,861	33,861	5.53	
2038	0.1484	22,594	164,641	187,235	-	30,000	4.28%	2,595	32,595	32,595	5.74	
2039	0.1484	22,594	164,641	187,235	-	30,000	4.37%	1,311	31,311	31,311	5.98	
					\$4,816,420	\$1,421,315	\$450,000		\$199,771	\$649,771	\$2,071,086	

<b>AVERAGE (MATURITY) LIFE</b>	<b>11.62 YEARS</b>
<b>NET INTEREST RATE</b>	<b>3.820%</b>
<b>COST SAVINGS</b>	<b>\$21,645</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$103,554</b>

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. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.

**City of Kosse  
10437  
New Wells & Water System Improvements  
Engineering and Environmental Review**

**Engineering:**

Key Issues

None known at this time.

Project Need

Need: The City of Kosse's (City) potable water demand has exceeded the amount available per its wholesale purchase agreement with Tri-County Special Utility District (District). The District has not consistently had the water capacity to make enough water available to the City. This lack of capacity and increasing arsenic levels in the District water prompted the City to develop its own water supply and treatment facilities and perform related distribution line improvements. Also, the City's elevated water storage tank needs replacement.

Project Description: Additional funds are requested to complete the final construction contract for the water transmission lines to connect the project's new components to the City's existing distribution system. The water line improvements contract bids were higher than anticipated, and the current loan application is proposed to provide sufficient construction funds to complete the water line contract. Construction is in progress on the water wells contract and the water treatment plant contract is expected to start shortly.

The City previously received planning, design, acquisition, and construction funding and with this additional construction funding the City will be able to complete its project to provide new groundwater supply, storage, treatment, and transmission facilities to the City's residents as well as related distribution system improvements.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing Date	4/15/2019
Construction Phase Complete	10/3/2019

**Environmental Section:**

Key Issues

None known at this time.

Environmental Summary

Pursuant to the requirements of 31 Texas Administrative Code § 363.14, an environmental review of this project has been completed and a favorable environmental determination was issued on September 30, 2015. If the project description and construction area remain consistent with that finding the project will require no additional pre-construction environmental assessment. The environmental conditions stipulated in the finding would continue to apply.



## Project Budget Summary

Kosse

10437 - New Wells & Water System Improvements

Budget Items	Previous Commitments	This Commitment	TWDB Funds	Total
<b>Construction</b>				
Construction	\$1,201,421.64	\$400,000.00	\$1,601,421.64	\$1,601,421.64
Construction Contract	\$855,788.86	\$0.00	\$855,788.86	\$855,788.86
<b>Subtotal for Construction</b>	<b>\$2,057,210.50</b>	<b>\$400,000.00</b>	<b>\$2,457,210.50</b>	<b>\$2,457,210.50</b>
<b>Basic Engineering Services</b>				
Construction Engineering	\$35,000.00	\$0.00	\$35,000.00	\$35,000.00
Design	\$89,349.50	\$0.00	\$89,349.50	\$89,349.50
Planning	\$41,700.00	\$0.00	\$41,700.00	\$41,700.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$166,049.50</b>	<b>\$0.00</b>	<b>\$166,049.50</b>	<b>\$166,049.50</b>
<b>Special Services</b>				
Environmental	\$16,000.00	\$0.00	\$16,000.00	\$16,000.00
Inspection	\$25,000.00	\$0.00	\$25,000.00	\$25,000.00
Permits	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00
Special Service Other (power utility lines extended)	\$46,560.00	\$0.00	\$46,560.00	\$46,560.00
Surveying	\$66,360.00	\$0.00	\$66,360.00	\$66,360.00
Testing	\$10,000.00	\$0.00	\$10,000.00	\$10,000.00
Water Distribution Modeling	\$7,500.00	\$0.00	\$7,500.00	\$7,500.00
<b>Subtotal for Special Services</b>	<b>\$176,420.00</b>	<b>\$0.00</b>	<b>\$176,420.00</b>	<b>\$176,420.00</b>
<b>Fiscal Services</b>				
Bond Counsel	\$54,500.00	\$25,750.00	\$80,250.00	\$80,250.00
Financial Advisor	\$62,100.00	\$20,000.00	\$82,100.00	\$82,100.00
Issuance Costs	\$10,670.00	\$4,250.00	\$14,920.00	\$14,920.00
<b>Subtotal for Fiscal Services</b>	<b>\$127,270.00</b>	<b>\$50,000.00</b>	<b>\$177,270.00</b>	<b>\$177,270.00</b>
<b>Other</b>				
Land/Easements Acquisition	\$11,050.00	\$0.00	\$11,050.00	\$11,050.00
<b>Subtotal for Other</b>	<b>\$11,050.00</b>	<b>\$0.00</b>	<b>\$11,050.00</b>	<b>\$11,050.00</b>
<b>Contingency</b>				
Contingency	\$11,000.00	\$0.00	\$11,000.00	\$11,000.00
<b>Subtotal for Contingency</b>	<b>\$11,000.00</b>	<b>\$0.00</b>	<b>\$11,000.00</b>	<b>\$11,000.00</b>
<b>Total</b>	<b>\$2,549,000.00</b>	<b>\$450,000.00</b>	<b>\$2,999,000.00</b>	<b>\$2,999,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$450,000 TO CITY OF KOSSE  
FROM THE FINANCIAL ASSISTANCE ACCOUNT OF  
THE TEXAS WATER DEVELOPMENT FUND II  
THROUGH THE PROPOSED PURCHASE OF  
\$450,000 CITY OF KOSSE, TEXAS COMBINATION TAX AND WATER AND SEWER SYSTEM  
SURPLUS REVENUE CERTIFICATES OF OBLIGATION  
PROPOSED SERIES 2019

(19 - )

WHEREAS, at its June 22, 2013 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 13-68, made a commitment to provide financial assistance in the amount of \$449,000 to the City of Kosse (City), located in Limestone County, from the Economically Distressed Areas Program Account of the Texas Water Development Fund II (EDAP), to finance improvements to its water system, to be secured by the TWDB's purchase of \$225,000 City of Kosse, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2013, and a grant of \$224,000 from EDAP for Project No. 10437; and

WHEREAS, at its December 14, 2015 meeting, the TWDB, by TWDB Resolution No. 15-148, made a commitment to provide financial assistance in the amount of \$2,100,000 to the City from EDAP, to finance the planning, acquisition, design, and construction of improvements to its water system, to be secured by the TWDB's purchase of \$1,050,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2016, and a grant of \$1,050,000 from EDAP for Project No. 10437; and

WHEREAS, the City needs additional funds due to increases in construction costs; and

WHEREAS, the City has filed an application for financial assistance in the amount of \$450,000 from the Financial Assistance Account of the Texas Water Development Fund II, established by Texas Water Code § 17.959, for additional financing for the City's water system improvements due to increases in construction costs, identified as Project No. 10437; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$450,000 through the TWDB's purchase of \$450,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2019, (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 ad valorem taxes and a lien on the surplus revenues of the water and sewer system as sufficient security for the repayment of the Obligations; and

WHEREAS, in accordance with Texas Water Code § 17.124, the TWDB has considered all matters required by law and in particular the following:

1. the needs of the area to be served by the water supply project, the benefit of the water supply project to the area, the relationship of the water supply project to the overall, statewide water needs, and the relationship of the water supply project to the approved regional and state water plans; and
2. the availability of revenue to the City, from all sources, for the ultimate repayment of the cost of the water supply project, including interest.

WHEREAS, the TWDB hereby finds:

1. that the public interest requires state assistance in the water supply project, in accordance with Texas Water Code § 17.125(a)(1);
2. that in its opinion the tax and/or revenue pledged by the City will be sufficient to meet all the Obligations assumed by the City during the succeeding period of not more than 50 years, in accordance with Texas Water Code § 17.125(a)(2);
3. that the City is exempt from requirements to adopt a water conservation program because the TWDB's financial assistance will be \$500,000 or less;
4. that the application and financial assistance requested meet the requirements of Chapter 17, Subchapters D, E, and L, Water Code, and the TWDB's rules set forth in 31 TAC Chapter 363, Subchapter A;
5. 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);
6. that the current water audit required by Texas Water Code § 16.0121 has been completed by the City and filed with the TWDB, in accordance with Texas Water Code § 16.053(j); and

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

A commitment is made by the TWDB to the City of Kosse for financial assistance in the amount of \$450,000 from the Financial Assistance Account of the Texas Water Development Fund II, to be evidenced by the TWDB's purchase of \$450,000 City of Kosse, Texas Combination Tax and Water and Sewer System Surplus Revenue

Certificates of Obligation, Proposed Series 2019. This commitment will expire on February 29, 2020.

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 the City has complied with all of the requirements of the laws under which said Obligations were issued; 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 laws, rules, policies, and guidance (as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement), including but not limited to 31 TAC Chapter 363;
4. the Obligations must provide that the Obligations can be called for early redemption (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 Obligations must include a provision wherein the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, 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 surplus loan proceeds from the Obligations remaining after completion of a final accounting in a manner as approved by the Executive Administrator; and
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. financial assistance 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. financial assistance 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 required under the TWDB's financial assistance program and not previously provided with the application, the City shall submit an executed engineering contract as appropriate for the project scope of work, and an executed financial advisor contract and executed bond counsel contract as appropriate for the work to be performed in obtaining the TWDB's financial assistance for the project, in a form and substance that are satisfactory to the Executive Administrator. Fees to be reimbursed under any consulting contract must be reasonable in relation to the services performed, must be reflected in the contract, and must be acceptable to the Executive Administrator;
13. prior to closing, when any portion of financial assistance proceeds are to be held in escrow or in trust, the City shall execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

14. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
15. the City shall abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter F and Texas Water Code § 17.183;

#### Conditions Related To Tax-Exempt Status

16. prior to closing, the City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion;
17. prior to closing, the City's bond counsel must prepare a written opinion that states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;
18. the Obligations must include a provision prohibiting the City from using the proceeds of this financial assistance in a manner that would cause the Obligations to become "private activity bonds" within the meaning of section 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
19. 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 section 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) that 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 section 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 percent 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;

20. 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 section 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 section 148(f) of the Code, section 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;
21. 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;
22. 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 section 149(b) of the Code;

23. the Obligations must contain a covenant that the City will refrain from using the proceeds of the Obligations to pay debt service on another issue of obligations of the borrower in contravention of section 149(d) of the Code (related to “advance refundings”);
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 section 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;

Pledge Conditions for the Loan

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

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

- ii. 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.

APPROVED and ordered of record this, the 25th day of February, 2019.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Peter M. Lake, Chairman

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

ATTEST:

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

Water  
 Wastewater  
 Other

## 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 :			NA			NA
If population ≤ 10K, connections/mile ≥ 32 :		NA			NA	
If population > 10K :		NA			NA	

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

**ADDITIONAL INFORMATION:**

**STAFF NOTES AND RECOMMENDATIONS:**

## DEFINITIONS

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

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

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

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

**GPCD** means gallons per capita per day.

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

**NA** means not applicable.

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

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

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

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

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

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

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



# City of Kosse Limestone County

