

**Texas Water**   
**Development Board**  
**PROJECT FUNDING REQUEST**

BOARD DATE: December 1, 2015

TEAM MANAGER: Nancy Richards

<b>APPLICANT</b>	City of Pearland
<b>TYPE OF ASSISTANCE</b>	\$61,200,000 Loan
<b>LEGAL PLEDGE</b>	Water and Sewer System Revenue Bonds

**STAFF RECOMMENDATION**

Approve       No Action

Approve, by resolution, a request from the **City of Pearland (Brazoria County)** for a \$61,200,000 loan from the Clean Water State Revolving Fund to finance the design and construction of an expansion of the Reflection Bay Water Reclamation Facility.

**PROJECT**

Reflection Bay Water Reclamation Facility  
Project Number 73716

**BACKGROUND**

The City has proposed construction of the Reflection Bay Water Reclamation Facility to increase treatment capacity from 2 million gallons per day (MGD) to 6 MGD, with provisions to account for an ultimate capacity of 7 MGD. The City of Pearland's Reflection Bay Water Reclamation Facility is experiencing average daily flows that have exceeded 75% of the current design treatment capacity, and is expected to be overloaded by the end of the year based on population projections.

In addition, the project includes the design and construction for an installation of emergency package plant equipment to provide capacity relief during the design and construction of the permanent expansion project. The emergency package plant project consists of a 1.0 million gallon per day package wastewater treatment plant expansion designed to meet current discharge permit limit standards, integrate with the existing plant facilities, and be compatible with the future permanent expansion.

<b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON DECEMBER 31, 2016</b>
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## **FINANCIAL**

### Key Issues

The City will pursue an \$11,000,000 commitment with a 10 year loan term for the package plant equipment and \$50,200,000 commitment with a 30 year term for the construction of the treatment plant expansion.

### Pledge and Repayment

The City is pledging the combined waterworks and sewer system revenues as proposed sources for loan repayment. In analyzing the applicant's loan request, a no-growth system revenues scenario was used. Based on this scenario, the City's current system revenues will be sufficient to service its current and proposed debt service.

Staff's analysis is based on the project and financial documents received from the City and its consultants. The debt service analysis is based on estimation of the interest rate for a tax-exempt Clean Water State Revolving Fund loan at the time of Board approval.

### Cost Savings

Based on a 10 and 30-year maturity schedule and current interest rates, the City could save approximately \$1,688,172 on the 10-year loan and \$16,466,866 on the 30-year loan.

### Internal Risk Score

Staff assigns a 2A 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 strong. The applicant's earning trends and coverage ratios are sound and may be less susceptible to moderate changes in circumstances and economic conditions.

While the City's socioeconomic indicators are not significantly different than the State overall, the City's financial performance is strong. The City's population has increased 13.3% since 2010, to its current population of 106,500 compared to the State average annual population increase of 5.4% during the same time. The City's median household income of \$89,149 in 2013 is 37% higher than the State's median income of \$51,900. The current unemployment rate of the City's service area is 5.1% and is higher than the State's current 4.4% unemployment rate.

On average, the residential user pays 0.4% of their annual income for water and sewer service. This is below the TWDB's benchmark of 2% for two services. Staff has assigned a 2A risk rating to the proposed project. The risk score is established on an analysis of the City's economic indicators.

**LEGAL**

Key Issues

None.

**CONDITIONS**

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

- Fiscal Sustainability plan.

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

**PROJECT DATA SUMMARY**

<b>Responsible Authority</b>	City of Pearland
<b>Program</b>	CleanWater State Revolving Fund
<b>Commitment Code</b>	L1000467
<b>Project Number</b>	73716
<b>Intended Use Plan Year</b>	2015
<b>Fund Number</b>	651
<b>Type of Pledge</b>	2
<b>Revenue Pledge Level</b>	First
<b>Legal Description</b>	\$11,000,000 Water and Sewer System Revenue Bonds Proposed Series 2016A, and \$50,200,000 Water and Sewer System Revenue Bonds Proposed Series 2016B
<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>	106,500
<b>Rural</b>	No
<b>Water Connections</b>	31,161
<b>Wastewater Connections</b>	33,970
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	N/A
<b>Clean Water State Revolving Fund Type</b>	Non-Equivalency
<b>Financial, Managerial, and Technical Review Complete?</b>	N/A
<b>Phase Committing</b>	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>	2A
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	AA-
<b>Moody's</b>	Aa3
<b>Fitch</b>	AA-
<b>Special Issues</b>	None

**Project Team**

Manager	Nancy Richards
Financial Analyst	Charles R. Nichols
Engineering Reviewer	James Bronikowski
Environmental Reviewer	Jean Devlin
Attorney	Annette Mass

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Pearland

\$61,200,000 Water and Sewer System Revenue Bonds Proposed Series 2016 A and B

Dated Date: 2/29/2016  
Delivery Date: 2/29/2016  
First Interest: 8/1/2016  
First Principal: 2/1/2017  
Last Principal: 12/1/2025  
Fiscal Year End: 09/30  
Required Coverage: 1.0

Source: CWSRF-NON-EQUIVALENCY  
Rate: 0.91%  
Insurance: No  
Case:  
Admin.Fee: \$ 199,804  
Admin. Fee  
Payment Date: 2/29/2016

Dated Date: 2/29/2016  
Delivery Date: 2/29/2016  
First Interest: 8/1/2016  
First Principal: 2/1/2017  
Last Principal: 12/1/2045  
Fiscal Year End: 9/30  
Required Coverage: 1.0

Source: CWSRF-NON-EQUIVALENCY  
Rate: 1.94%  
Insurance: No  
Case:  
Admin.Fee: \$ 911,831  
Admin. Fee Payment  
Date: 2/29/2016

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	\$11,000,000 ISSUE			\$50,200,000 ISSUE			TOTAL DEBT SERVICE	ACTUAL COVERAGE	
				INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			TOTAL PAYMENT
2016	12,549,495	8,546,828	-		41,986	41,986	-		408,407	408,407	8,997,222	1.39
2017	12,549,495	8,560,633	1,180,000	0.91%	94,731	1,274,731	1,305,000	1.94%	961,028	2,266,028	12,101,392	1.04
2018	12,549,495	8,563,430	1,190,000	0.91%	83,948	1,273,948	1,330,000	1.94%	935,468	2,265,468	12,102,846	1.04
2019	12,549,495	8,572,309	1,200,000	0.91%	73,073	1,273,073	1,355,000	1.94%	909,424	2,264,424	12,109,806	1.04
2020	12,549,495	8,583,586	1,210,000	0.91%	62,108	1,272,108	1,385,000	1.94%	882,846	2,267,846	12,123,539	1.04
2021	12,549,495	8,654,576	1,220,000	0.91%	51,051	1,271,051	1,410,000	1.94%	855,734	2,265,734	12,191,361	1.03
2022	12,549,495	8,656,639	1,235,000	0.91%	39,881	1,274,881	1,435,000	1.94%	828,138	2,263,138	12,194,657	1.03
2023	12,549,495	8,665,039	1,245,000	0.91%	28,597	1,273,597	1,465,000	1.94%	800,008	2,265,008	12,203,643	1.03
2024	12,549,495	7,617,788	1,255,000	0.91%	17,222	1,272,222	1,495,000	1.94%	771,296	2,266,296	11,156,305	1.12
2025	12,549,495	7,676,093	1,265,000	0.91%	5,756	1,270,756	1,525,000	1.94%	742,002	2,267,002	11,213,850	1.12
2026	12,549,495	9,187,386	-		-	-	1,550,000	1.94%	712,174	2,262,174	11,449,560	1.10
2027	12,549,495	9,187,905	-		-	-	1,580,000	1.94%	681,813	2,261,813	11,449,718	1.10
2028	12,549,495	9,198,194	-		-	-	1,615,000	1.94%	650,822	2,265,822	11,464,016	1.09
2029	12,549,495	9,207,731	-		-	-	1,645,000	1.94%	619,200	2,264,200	11,471,931	1.09
2030	12,549,495	9,215,194	-		-	-	1,675,000	1.94%	586,996	2,261,996	11,477,190	1.09
2031	12,549,495	9,217,813	-		-	-	1,710,000	1.94%	554,161	2,264,161	11,481,974	1.09
2032	12,549,495	4,931,163	-		-	-	1,740,000	1.94%	520,696	2,260,696	7,191,859	1.74
2033	12,549,495	4,945,469	-		-	-	1,775,000	1.94%	486,601	2,261,601	7,207,070	1.74
2034	12,549,495	4,954,331	-		-	-	1,810,000	1.94%	451,826	2,261,826	7,216,157	1.74
2035	12,549,495	1,878,431	-		-	-	1,845,000	1.94%	416,373	2,261,373	4,139,804	3.03
2036	12,549,495	1,005,063	-		-	-	1,880,000	1.94%	380,240	2,260,240	3,265,303	3.84
2037	12,549,495	1,013,306	-		-	-	1,920,000	1.94%	343,380	2,263,380	3,276,686	3.83
2038	12,549,495	650,131	-		-	-	1,955,000	1.94%	305,793	2,260,793	2,910,924	4.31
2039	12,549,495	663,200	-		-	-	1,995,000	1.94%	267,478	2,262,478	2,925,678	4.29
2040	12,549,495	-	-		-	-	2,030,000	1.94%	228,435	2,258,435	2,258,435	5.56
2041	12,549,495	-	-		-	-	2,070,000	1.94%	188,665	2,258,665	2,258,665	5.56
2042	12,549,495	-	-		-	-	2,110,000	1.94%	148,119	2,258,119	2,258,119	5.56
2043	12,549,495	-	-		-	-	2,150,000	1.94%	106,797	2,256,797	2,256,797	5.56
2044	12,549,495	-	-		-	-	2,195,000	1.94%	64,651	2,259,651	2,259,651	5.55
2045	12,549,495	-	-		-	-	2,235,000	1.94%	21,680	2,256,680	2,256,680	5.56
2046	12,549,495	-	-		-	-	-		-	-	-	
		\$ 159,352,238	\$ 11,000,000		\$ 498,351	\$ 11,498,351	\$ 50,190,000		\$ 15,830,243	\$ 66,020,243	\$ 236,870,833	

\$11,000,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	4.98 YEARS
NET INTEREST RATE	0.910%
COST SAVINGS	\$1,688,172
AVERAGE ANNUAL REQUIREMENT	\$1,149,835

\$50,200,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	16.26 YEARS
NET INTEREST RATE	1.940%
COST SAVINGS	\$ 16,466,866
AVERAGE ANNUAL REQUIREMENT	\$2,200,675

TOTAL AVERAGE ANNUAL REQUIREMENTS
<b>\$7,640,995</b>

**Pearland**  
**73716 Far Northwest WWTP Expansion**  
**Engineering and Environmental Review**

**Engineering:**

Key Issues:

None known at this time.

The applicant has considered innovative and alternative methods of treatment in their application and will evaluate alternatives in greater detail through the Planning phase of the project.

Project Need/Description

**Project Need:** The City of Pearland's Reflection Bay Water Reclamation Facility is experiencing average daily flows that have exceeded 75% of the current design treatment capacity, and is expected to be overloaded by the end of the year based on population projections.

**Project Description:** The City is requesting financial assistance for the design and construction of the Reflection Bay Water Reclamation Facility treatment capacity expansion from 2 MGD to 6 MGD. Some components will be sized to account for a future average daily flow of 7 MGD. In addition, the project includes the design and construction for installation of emergency package plant equipment in order to provide capacity relief during the design and construction of the permanent expansion project. The emergency package plant project consists of a 1.0 million gallon per day (MGD) package wastewater treatment plant expansion designed to meet current discharge permit limit standards, integrate with the existing plant facilities, and be compatible with the future permanent expansion.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Engineering Feasibility Report Completion (End of Planning Phase)	12/31/2015
Design Phase Complete	1/31/2016
Closing	2/29/2016
Start of Construction	4/1/2016
Construction Completion	11/1/2017

**Environmental Section:**

Key Issues:

None known at this time.

Environmental Summary:

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 Finding of No Significant Impact (FNSI) has been issued. A subsequent Affirmation of Commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.

**Pearland  
73716 - Far Northwest WWTP Expansion**

Budget Items	TWDB Funds	Local & Other Funds	Total Cost
<b>Construction</b>			
Construction	\$54,813,000	\$0	\$54,813,000
<b>Construction Total</b>	<b>\$54,813,000</b>	<b>\$0</b>	<b>\$54,813,000</b>
<b>Basic Engineering Services</b>			
Construction			
Engineering	\$103,000	\$0	\$103,000
Design	\$584,000	\$0	\$584,000
<b>Basic Engineering Services Total</b>	<b>\$687,000</b>	<b>\$0</b>	<b>\$687,000</b>
<b>Contingency</b>			
Contingency	\$4,588,365	\$0	\$4,588,365
<b>Contingency Total</b>	<b>\$4,588,365</b>	<b>\$0</b>	<b>\$4,588,365</b>
<b>Fiscal Services</b>			
Loan Origination Fee	\$1,111,635	\$0	\$1,111,635
<b>Fiscal Services Total</b>	<b>\$1,111,635</b>	<b>\$0</b>	<b>\$1,111,635</b>
<b>Grand Total</b>	<b>\$61,200,000</b>	<b>\$0</b>	<b>\$61,200,000</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$61,200,000 TO CITY OF PEARLAND  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF \$11,000,000 CITY OF PEARLAND WATER AND  
SEWER SYSTEM REVENUE BONDS PROPOSED SERIES 2016A AND \$50,200,000 CITY OF  
PEARLAND WATER AND SEWER SYSTEM REVENUE BONDS PROPOSED SERIES 2016B

(15- )

WHEREAS, the City of Pearland (City) has filed an application for financial assistance in the amount of \$61,200,000 from the Clean Water State Revolving Fund (CWSRF) to finance the design and construction of certain wastewater system improvements identified as Project No. 73716; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$11,000,000 City of Pearland Water and Sewer System Revenue Bonds, Proposed Series 2016A and \$50,200,000 City of Pearland Water and Sewer System Revenue Bonds, Proposed Series 2016B (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 a first lien on the net revenues of the system 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 City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules; and
4. that the City 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 City of Pearland for financial assistance in the amount of \$61,200,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$11,000,000 City of Pearland Water and Sewer System Revenue Bonds,

Proposed Series 2016A and \$50,200,000 City of Pearland Water and Sewer System Revenue Bonds, Proposed Series 2016B. This commitment will expire on December 31, 2016.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
5. the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;
6. the Obligations must contain a provision requiring the City to 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 surplus funds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) eligible project costs as authorized by the Executive Administrator;

8. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
9. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
10. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;
11. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;
12. prior to closing, and if not previously provided with the application, the City shall submit executed contracts for engineering, and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;
13. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

#### Conditions Related To Tax-Exempt Status

14. 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;
15. 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;
16. 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);

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

24. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
25. 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;
26. 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;

27. 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;
28. 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 the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;
29. 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;
30. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule;

#### Clean Water State Revolving Fund Conditions

31. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;
32. 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

33. 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;
34. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;

35. the Obligations must contain a provision providing that the City may issue one or more series of Additional Bonds on a parity with the Outstanding Bonds and any Additional Bonds then Outstanding, payable from, and secured by a first lien on the Net Revenues of the System only if for either the preceding Fiscal Year or any consecutive 12-month period out of the 15-month period immediately preceding the month in which the bond ordinance authorizing such Additional bonds is adopted, either: net revenues are certified by the Director of Finance of the City to have been equal to at least one hundred and forty percent (140%) of the Average Annual Principal and Interest Requirements on all Bonds after giving effect to the issuance of the Additional Bonds to be issued; or net revenues, adjusted to give effect to any rate increase or annexation of territory placed into effect or consummated prior to the adoption of the ordinance authorizing the Additional Bonds to the same extent as if such rate increase or annexation had been placed into effect or consummated prior to the commencement of the Base Period, would have been equal to at least one hundred and forty percent (140%) of the Average Annual Principal and Interest Requirements on all Bonds, as certified by an independent consulting engineer or independent firm of consulting engineers;

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

Special Conditions:

36. prior to final disbursement, the City shall submit to the TWDB certification that it has developed and is currently implementing a fiscal sustainability plan for critical assets part of the treatment works receiving financial assistance as outlined in 33 U.S.C. §1383.

APPROVED and ordered of record this 1st day of December, 2015.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

\_\_\_\_\_  
Kevin Patteson  
Executive Administrator

# WATER CONSERVATION REVIEW

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

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

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

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
<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 Pearland, Brazoria County

