

Appendix A

Partial list of applicable regulations related to Certificates of Convenience and Necessity (CCN)

Texas Water Code, Chapter 13

- Section 241
- Section 246
- Section 248
- Section 251
- Section 254
- Section 255
- Section 301

Texas Administrative Code, Title 30 Part 1, Chapter 291, Subchapter G, Utility Regulations, Certificate of Convenience and Necessity

Texas Local Government Code, Title 13, Subtitle A, Chapter 552, Water and Utilities, Municipal Water and Utilities

TCEQ Publications

- RG-245 Jurisdiction Over Rates and Services
- RG-357 Feasibility of Regionalizing Water and Wastewater Services
- TCEQ-10362 Application To Obtain or Amend a Water or Sewer CCN

Appendix B

Partial list of applicable regulations and studies related to Groundwater Supply

Water Supply Study for Parker & Wise Counties
Prepared for: Region C Water Planning Group
Prepared by: Freese & Nichols, Inc
April 2009

Upper Trinity Groundwater Conservation District
Temporary Rules for Water Wells in Hood, Montague, Parker, and Wise
Counties, Texas
February 2009

TCEQ – Priority Groundwater Management Areas and Groundwater
Conservation Districts
Report to the 81st Texas Legislature
January 2009

TCEQ – Updated Evaluation for the North-Central Texas Trinity and Woodbine
Aquifers
Priority Groundwater Management Study Area

TCEQ – Checklist for Proposed Public Water Supply Well/Spring

Appendix C

Financing for Water and Wastewater Systems

Texas Water Development Board

The Texas Water Development Board provides several funding opportunities that could assist the City of Aurora in utilizing low-cost financing to construct a water and sewer system. Financing programs are available to existing community public water systems including political subdivisions, nonprofit water supply corporations, and privately owned community water systems; as well as nonprofit, non-community, public water systems and state agencies. An option exists for application for Pre-Design funding, which allows the Applicant to apply for a funding commitment prior to completing the engineering feasibility studies and environmental assessments. Table 15A shows the rates available for TWDB financing in May of 2009. They are listed here for illustrative purposes only. Rates are secured at closing, which occurs about 60 to 90 days after Board approval of the financing. The gray fields represent the most likely TWDB financing options for City of Aurora utility systems.

Table 15A: TWDB Interest Rates, May 15, 2009

GENERAL OBLIGATION BONDS (1)	LOAN YRS	MARKET(2)	TWDB
Development Fund (Tax Exempt)	22	6.00%	5.05%
Development Fund (Taxable)	22	8.40%	7.07%
EDAP/Tax Exempt:	22	6.00%	5.11%
State Participation*	35	6.65%	5.54%
Agricultural Loans (Taxable)	7	5.18%	0.53%
Rural Water Assistance Fund (AMT)	40	N/A	5.15%
Water Infrastructure Fund	20	6.00%	2.15%
	AVERAGE	AVERAGE RATE	
STATE REVOLVING FUNDS	LOAN YRS	MARKET	TWDB(3)
Clean Water SRF (Insured)**	20	4.30%	3.35%
Clean Water SRF (Non-Rated)**	20	5.50%	4.55%
Drinking Water SRF (Insured)***	20	4.30%	2.80%
Drinking Water SRF (Non-Rated)***	20	5.50%	4.00%
1) Municipal Bond Insurance is not applicable on GO bonds. 2) The GO Market ALR are base on a Baa (88 scale) rating assuming most entities are non-rated. 3) Borrower's rates for Clean Water and Drinking Water SRF loans will depend upon the security, which is pledged, and the entity's corresponding rating. * Includes an administrative recovery fee of .77% ** Includes loan origination charge of 1.85%. *** Includes loan origination charge of 2.25%.			

The City should meet with Texas Water Development Board representatives to determine the steps it should take to receive such financial assistance. The most likely sources of funding for creating a new water and wastewater systems for the City would be the Development Fund (Tax Exempt). The program is non-competitive and on-going, so no application deadlines apply. Applicants must meet certain financial requirements to ensure the Board that will be able to pay back the loan.

Development Fund (DFund)

This program furthers the Texas Water Development Board's mission of providing leadership, technical services and financial assistance to support planning, conservation and responsible development of water for Texas. It relies on state funding and is readily available. The initial information form includes a description of the construction project, the proposed water supply, including well field location; and the name of the project consulting engineer.

Applicants attend a pre-application meeting in Austin accompanied by the consulting financial advisors and engineers who will complete the project. The City would be required to complete agreements related to overlapping CCNs prior to closing the loan, which would occur within 90 days of the Board accepting an application. The project is funded for a two-year commitment. Funds are released for Phase I planning/environmental assessment; followed by Phase II system construction. However, the entire draw is placed in escrow in a city account where it can interest even if it is not accessible. Debt service on interest usually begins within the first six months after closing. Principal payments can be delayed to start for up to two years.

Water Infrastructure Fund

This program provides very low interest rates for projects specifically listed in the State Water Plan and Regional Water Plans as essential for maintaining or increasing water supply in the state. Such a project should be listed as a recommended strategy of a State Water Plan (Region C, in Aurora's case) and have an estimated cost associated with it. Wastewater systems would not be eligible under this fund.

State Participation

This program is utilized as a state investment program and involves oversized facilities being built, such as reservoirs and trunk lines for projected growth. The state owns the unused part of the asset until the

applicant needs the capacity. This fund probably would not apply to an Aurora water or wastewater system.

Rural Water Assistance Fund (RWAf)

This program provides loans for the construction of wastewater collection and treatment systems, and water supply and distribution systems. The 77th Legislature created the RWAf in 2001. The RWAf Program Rules can be found in TWDB Chapter 384 Rural Water Assistance Fund Rules. It offers financing at near tax exempt rates, mainly to for-profit water supply corporations in a rural area. Non-profit Water Supply Corporations using this financing may make construction purchases with sales tax exemptions. Applications are processed on a first-come first-served basis, and receive Board approval consideration in the chronological order that the complete application is submitted. Loan terms can be up to 40 years.

Applications for pre-design funding must include a preliminary engineering feasibility report which will include at minimum: a description and purpose of the project; area maps or drawings as necessary to fully locate the project area(s); a proposed project schedule; estimated project costs and budget including sources of funds; current and future populations and projected flows; alternatives considered; and a discussion of known permitting, social or environmental issues which may affect the alternatives considered and the implementation of the proposed project.

If not utilizing the Pre-design Funding then the engineering feasibility data consists of an Engineering Feasibility Plan containing the information specified in TWDB rules 31 TAC 363.13. The Applicant must submit five copies of an engineering feasibility report signed and sealed by a professional engineer registered in the State of Texas. The report, based on guidelines provided by the executive administrator, shall provide: description and purpose of the project; entities to be served and current and future population; the cost of the project; a description of innovative technology considered and reasons for the selection of the project proposed; sufficient information to evaluate the engineering feasibility; and maps and drawings as necessary to locate and describe the project area. The executive administrator may request additional information or data as necessary to evaluate the project. See **TWDB Guidance: Guidelines for the Preparation of SRF/WQEL Engineering Feasibility Reports ED-002**, and **Guidance on Preparing Engineering Feasibility Report for Water Supply Projects WRD-004**.

EDAP/Tax Exempt

The Economically Disadvantaged Program (EDAP) provides financial assistance in the form of a grant, a loan, or a combination grant/loan to bring water and wastewater services to economically distressed areas where the present water and wastewater facilities are inadequate to meet the minimal needs of residents. The program also includes measures to prevent future substandard development. Under new 2008 rules for funding, target areas in any county statewide that meet distress criteria of incomes averaging less than 75% of the statewide median income are eligible for this funding. The Board projects it will have \$25 million to allocate each of the next 10 years through 2015 for sewer and water projects in economically distressed areas that lack sewer or water services. Aurora's 2000 Census median income is slightly higher than 75% of the 2000 reported statewide median income, and probably would not be eligible for this program.

Clean Water State Revolving Fund (Tier III and Tier II)

The State Revolving Fund programs offer lower terms, however, they are allotted in a competitive, prioritized process annually. Applicants must submit preliminary forms in January of each year and be placed on an Intended Use Plan list as a priority project of the TWDB. The construction of an Aurora wastewater collection system may be more competitive under these programs than construction of a water system because the Drinking Water State Revolving Fund, unlike the Clean Water State Revolving Fund, is targeted at improving existing systems to meet national Safe Drinking Water Act standards. Loan terms improve for this financing if the city purchases bond insurance and, so is an insured entity versus a "non-rated" one.

The CWSRF Tier III program provides federally-funded low-interest loans for wastewater treatment and sewer systems to assist communities in meeting Clean Water Act requirements. Another application process involves the Clean Water State Revolving Fund Tier II program which is state-funded and not subject to all federal requirements required under Tier III funding. Tier III funding is expended by TWDB first, and then remaining projects are funded through Tier III allotments. Applicants are not given a choice as to which funds they will receive. Tier III-financed projects are subject to submission of an environmental information document, (EID), and must comply with federal procurement for minority contractors. Formal applications for funding called Solicitation Packets, which require more in-depth engineering analysis, are due around November of each year for applicants placed on the IUP list and invited to apply in October.

The TWDB holds informational workshops around the state in the fall of each year for invitees into the program so that applicants can gain information about program requirements.

Applicants for Tier II financing must be a Designated Management Agency, as recommended by the North Central Texas Council of Governments as the area's designated water quality management planning agency. A DMA designation requires the applicant to provide DMA resolutions to the TCEQ upon receipt of its DMA assignment by NCTCOG. The current process is for COG to recommend DMA designation; the entity submit a designation statement and associated materials, then TCEQ formally designates the entity for either collection or treatment, or both. Typically, unless an entity requests funding, DMA status is not closely tracked. More information can be obtained by contacting the Clean Water State Revolving Fund (CWSRF) Program: 512-463-8510.

Drinking Water State Revolving Fund

The DWSRF provides low interest loans and subsidies to public drinking water systems. The purpose of the DWSRF is to assist communities in meeting national drinking water standards and to further the public health protection objectives of the federal Safe Drinking Water Act. Solicitation packets are due annually in January. Plans require a seal of a registered Professional Engineer if the requested loan amount exceeds \$100,000.

New construction of systems in the DWSRF program may not score as high as upgrading substandard systems, TWDB analysts said.

Aurora would qualify for mainstream funding options, offering an interest rate subsidy up to 1.50% below market interest rates, excluding the loan origination fee. The maximum repayment period is 20 years. The loan origination fee is 2.25%. Subsidies and 30-year loans are available to qualified low-income communities.

The DWSRF is a reimbursement program; which means the expenses must have been actually incurred and all costs must be documented by invoices or other acceptable proof of expenditure. Before any installment closing of the loan can be scheduled and funds released certain documentation is required. The term "closing" refers to the time when there is an actual exchanging of bonds for cash.

Steps in making application for the DWSRF and the CWSRF include the following. More details can be found at:

http://www.twdb.state.tx.us/publications/forms_manuals/PGM_forms_main.asp#App

1. Priority Rating Phase (January/February of application year) consists of the entity submitting an Intended Use Plan (IUP) Information Form that includes needs, proposed project, and estimated costs. Applications are scored by TCEQ and given a Combined Rating Factor based on health and compliance factors, physical deficiency factors, consolidation factors, and an affordability factor. Rated projects are then prioritized according to score and submitted to the TWDB. The TWDB develops its IUP based on the list and establishes a funding line based on funds available. Projects ranked above the line will be issued an invitation to submit an application for financing.
2. Application Phase (if qualify under Priority Rating Phase)
3. Planning Phase (If the project is funded under the Pre-Design Funding Option, this phase includes funding for the preparation of initial engineering and environmental assessments, as well as land, right-of-way and easement acquisition)
4. Design Phase
5. Bidding Phase
6. Construction Phase

The TWDB recommends the use of a project manager, management team and development of a management plan to construct projects. A complete application for financing will include the hiring of engineers to complete engineering and environmental documents requirements. Applications include 10 submitted copies of the following:

1. Information about the applicant and project, including:
 - a) general information
 - b) fiscal information; and
 - c) legal information
2. Engineering information about the project; including an Engineering Feasibility Report (5 copies) prepared according to TWDB *Guidelines for the Preparation of SRF/WQEL Engineering Feasibility Reports, ED-002*.
3. Environmental information in the form of an Environmental Information Document (EID), prepared in accordance with TWDB SRF-099, *Instructions for the Preparation of Environmental Information Document*
4. Water Conservation Plan, if loan request exceeds \$500,000.
5. Documentation of Small, Minority and Women Business Enterprise utilization;
6. Assurances and other information related to federal funding.

The **Trinity River Authority** can assist communities with financial analysis, bond leveraging and funding decisions. It does not have financing of its own. The entity in 2009 and 2010 was completing a TWDB-funded Regional Wastewater Facilities Planning Grant that would determine scenarios for providing regional wastewater treatment to the communities of Rhome, Newark, Aurora, Boyd, and Fairview. Such a system would include the construction of treatment facilities and interceptor lines to edge of communities for transport of flow to the treatment plant. It could own and operate the treatment facility, substantially lowering construction and ongoing operation costs of a City of Aurora wastewater system.

USDA Rural Development provides grant and loan programs to communities for housing, water, sanitary sewer, solid waste and storm drainage facilities in rural areas. Funding is not available for all programs every year. The City should meet with local USDA officials to discuss financing options. Contact Cecil Chandler at the Decatur Sub-Area Office at 1604 W Business 380, Decatur, Texas, 76234-3231, 940-627-3531, ext. 4. The agency does provide Water and Waste Disposal Grants to communities. However, an entity's income must be not more than 75 percent of the state median income, according to the latest census. In 2000, Aurora exceeded this benchmark slightly, being at 80 percent of the non-metro state median income, making the City ineligible for grant programs. The MHI for Aurora in 2000 was \$32,656 and the State Non-Metro was \$40,835 (79.97%). USDA Financing programs become available in the late fall of each year and is available on a first-come first-serve basis. A community should seek USDA loans if it does not have the ability and willingness to obtain affordable financing in the bond or private market.

Water and Waste Disposal Loan

Guaranteed loans are available to construct, extend or improve water and waste disposal systems. The entity should be prepared to commit 20 percent or more of the project costs in private, local or state funds. The program can be financed for a period of a maximum of 40 years. Because the City is not below 80 percent of the Statewide Nonmetropolitan Median Household Income, it would be subject to the USDA Market Rate. Rates are determined and set at the time of application approval. In May and June of 2009, that rate was 4.625%. Financing is available for:

- Extending service lines to and/or connect residences to the applicant's system;
- Providing funds to make improvements to an individual's residence when needed to allow use of the water and/or waste disposal system;

- Abandoning septic tanks and water wells;
- Acquiring needed land, water resources, or water rights; and
- Paying legal and engineering facility development costs if needed.

Rural Utility Services Revolving Loan Program (RFP)

This program is intended to assist rural communities with economic development efforts in providing the infrastructure needed to attract families and businesses and improve the quality of life for all residents. Loans not exceeding \$100,000 fund predevelopment costs associated with proposed or with existing water and wastewater systems. Eligibility and awards are made based on an entity's access to funds from other sources; successful experience in making and servicing commercial loans; and the extent to which a submitted work plan demonstrates a well-thought out comprehensive approach to accomplishing clearly-stated goals and objectives. Financing to an eligible entity shall not exceed \$100,000.00 and shall be repaid in a term not to exceed 10 years. The interest rate on loans made under RFP shall be determined in the approved grant work plan. Financing for Water and Wastewater Projects, the latest application call ended May 31, 2009.

Technical Assistance and Training Grants

These awards may assist an Applicant with identifying solutions to water and/or waste related problems of tax-exempt associations in rural areas; assist entities with preparation of applications for Water and Waste Disposal Loans and grants; provide training to association personnel in order to improve the management, operation and maintenance of water and/or waste disposal facilities; and pay expenses related to providing the technical assistance and/or training. Grants may be made up to 100 percent of the training activity cost. Applications are filed between October and December annually.

For all its program applications, USDA requires the following items at pre-application:

1. Project Description
2. Service Area Map
3. Form 424 "Application for Federal Assistance", with attachments 424C & 424D
4. AD 1047 "Certification Regarding Debarment"
5. Your Last Audit or Financial Report
6. Evidence of Charter and/or Authorizing Legislation

After the pre-application is received and reviewed, additional items will be requested to complete the application process. These items include, but are not limited to:

1. Letter from the Council of Governments expressing their favorable review of the proposal.
2. A statement signed by an authorized representative stating that the Applicant would be unable to obtain private financing at reasonable rates and terms.
3. Form RD 1942-19 with Attachments I, Professional Services Agreement for Engineering or architectural services.
4. Preliminary Engineering /architectural report
5. Environmental report according to USDA guidelines.