

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: June 14, 2016

TEAM MANAGER: Mireya Loewe

<b>APPLICANT</b>	City of McAllen
<b>TYPE OF ASSISTANCE</b>	\$7,110,000 Loan \$1,239,567 Loan Forgiveness
<b>LEGAL PLEDGE</b>	First Lien on the Net Revenues of the Waterworks and Sewer System

**STAFF RECOMMENDATION**

Approve                       No Action

**ACTION REQUESTED**

Approve by resolution, a request from the City of McAllen (Hidalgo County) for \$8,349,567 in financial assistance consisting of a \$7,110,000 loan and \$1,239,567 in loan forgiveness from the Clean Water State Revolving Fund to finance the construction of wastewater system improvements.

**PROJECT**

North McAllen WWTP Reuse Project  
Project Number 73731

**BACKGROUND**

The City of McAllen’s (City) North Wastewater Treatment Plant (NWWTP) treats the City of Alton’s wastewater and serves an area encompassing primarily the northwest region of McAllen, which includes the forthcoming 2,500-acre Tres Lagos master-planned community. On December 17, 2009, the City received a \$39,485,000 loan with 0% interest from the Clean Water State Revolving Fund (CWSRF), as part of the American Recovery and Reinvestment Act (ARRA), to expand the NWWTP from 8 million gallon per day (mgd) to its current permitted capacity of 11.25 mgd. According to the City, the NWWTP’s current average daily flows are 7 mgd. The City estimates flows to the NWWTP will reach its permitted capacity by 2025.

The NWWTP is currently permitted to provide Type II reclaimed water – for use at remote, restricted, controlled, or limited-access areas where human contact is unlikely. This matches the needs of the current uses: discharged into the receiving stream; used in the operations of the NWWTP as non-potable water; sold to an electric power facility (Calpine); or stored on-site in an open 19.4-million-gallon pond. Currently, the NWWTP does not have the infrastructure to reliably produce, store, and convey Type I reclaimed water – for use where public contact is likely. The proposed project will modify the NWWTP to meet Type 1 reuse water standards, convert an abandoned aeration basin to function as a Type 1 reuse storage vessel, and construct a 3-mile reclaimed water main. The project will help the City diversify its water supply portfolio. The City anticipates producing approximately 7.5-mgd of reclaimed water, which will off-set

<b>COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE DECEMBER 31, 2016</b>
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potable water usage. Based on projections, the City anticipates that in the future less than 15% of the NWWTP effluent will actually be discharged.

## **FINANCIAL**

### Key Issues

None.

### Pledge and Repayment

The City is pledging first lien on the net revenues of the water and wastewater system for the repayment of the proposed loan. The City's current combined average monthly water and wastewater rate is \$40.75. The current system rates are sufficient to generate revenues to repay the existing and proposed debt.

### Principal Forgiveness

The City qualifies for \$1,239,567 in loan forgiveness subsidy from the 2016 Clean Water State Revolving Fund Program for a green project.

### Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$1,931,228 in interest costs over the life of the loan. The City is also saving \$1,239,567 in loan forgiveness for a total of \$3,170,795.

### 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 although the City's payment capacity is strong, the its earnings trends and coverage ratios, while sound, may be more susceptible to adverse effects of changes in circumstances and economic conditions than the higher rated obligations.

The City's median household income of \$43,476 is below the median for the state of \$52,576. The 12.5% unemployment rate is above the state's unemployment rate of 4.5%. The City's current combined average monthly water and wastewater rate is 1.12% of the median household income, which is below the TWDB's benchmark of 2% for two services. The water and wastewater connections are stable and the per capita debt is low at \$946 including the proposed debt.

The City maintains 857 days of cash on hand for meeting the operating expenses of the utility system, which is considered to be a high level of liquidity. The City also has an additional \$35.6 million that is dedicated to capital improvements and debt service. These additional funds indicate that the City overall maintains reserves for unforeseen events and for future infrastructure investment.

Staff's risk score is based on the City's consistent positive operating trends, high liquidity position, and low debt per capita, which mitigate its low median household income and high unemployment rate.

## **LEGAL**

### Key Issues

None.

Conditions

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

- Fiscal sustainability plan;
- Executed loan forgiveness agreement;
- Emergency discovery; and
- Surplus funds.

Attachments: 1. Project Data Summary  
2. Debt Service Schedule  
3. Engineering/Environmental Review  
4. Project Budget  
5. Resolution (16- )  
6. Water Conservation Review  
7. Location Map

**Project Data Summary**

<b>Authority</b>	City of McAllen Public Utility Board
<b>Program</b>	Clean Water State Revolving Fund
<b>Commitment Code</b>	L1000529, LF1000540
<b>Project Number</b>	73731
<b>Intended Use Plan Year</b>	2016
<b>Fund Number</b>	951
<b>Type of Pledge</b>	2-Revenue
<b>Revenue Pledge Level</b>	First
<b>Legal Description</b>	\$7,110,000 City of McAllen Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 \$1,239,567 Loan Forgiveness
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow
<b>Population</b>	138,000
<b>Rural</b>	No
<b>Water Connections</b>	45,362
<b>Wastewater Connections</b>	40,390
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	Equivalency
<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>	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>	Non-Rated
<b>Fitch</b>	AA
<b>Special Issues</b>	None

**Project Team**

Team Manager	Mireya Loewe
Financial Analyst	Javier Pena
Engineering Reviewer	Augustine Tambe
Environmental Reviewer	Nicki Hise
Attorney	Joe Reynolds

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of McAllen, Texas Public Utility Board

**Waterworks and Sewer System Revenue Bonds, Proposed Series 2016**

<b>Dated Date:</b>	<b>9/30/2016</b>	<b>Source:</b>	<b>CWSRF-EQUIVALENCY</b>
<b>Delivery Date:</b>	<b>9/30/2016</b>	<b>Rate:</b>	<b>0.99%</b>
<b>First Interest:</b>	<b>3/30/2017</b>	<b>Insurance:</b>	<b>No</b>
<b>First Principal:</b>	<b>9/30/2017</b>	<b>Case:</b>	<b>Revenue</b>
<b>Last Principal:</b>	<b>9/30/2047</b>	<b>Admin.Fee:</b>	<b>\$ 129,146</b>
<b>Fiscal Year End:</b>	<b>01/00</b>	<b>Admin. Fee Payment Date:</b>	<b>9/30/2016</b>
<b>Required Coverage:</b>	<b>1.0</b>		

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$7,110,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE
					INTEREST PAYMENT	TOTAL PAYMENT		
2017	12,170,000	8,682,155	-	0.99%	27,515	27,515	8,709,670	1.40
2018	12,170,000	8,676,430	5,000	0.99%	55,030	60,030	8,736,460	1.39
2019	12,170,000	8,687,529	10,000	0.99%	55,030	65,030	8,752,559	1.39
2020	12,170,000	8,721,722	190,000	0.99%	55,030	245,030	8,966,752	1.36
2021	12,170,000	7,768,113	190,000	0.99%	55,030	245,030	8,013,143	1.52
2022	12,170,000	7,766,026	195,000	0.99%	55,030	250,030	8,016,056	1.52
2023	12,170,000	7,769,691	200,000	0.99%	55,030	255,030	8,024,721	1.52
2024	12,170,000	7,627,477	205,000	0.99%	55,030	260,030	7,887,507	1.54
2025	12,170,000	7,297,176	210,000	0.99%	55,030	265,030	7,562,206	1.61
2026	12,170,000	7,299,052	215,000	0.99%	54,955	269,955	7,569,007	1.61
2027	12,170,000	5,605,434	220,000	0.99%	54,660	274,660	5,880,094	2.07
2028	12,170,000	5,804,131	225,000	0.99%	54,091	279,091	6,083,222	2.00
2029	12,170,000	5,802,363	225,000	0.99%	53,281	278,281	6,080,644	2.00
2030	12,170,000	5,796,078	230,000	0.99%	52,233	282,233	6,078,311	2.00
2031	12,170,000	5,801,005	235,000	0.99%	50,930	285,930	6,086,935	2.00
2032	12,170,000	5,354,902	240,000	0.99%	49,373	289,373	5,644,275	2.16
2033	12,170,000	3,346,595	245,000	0.99%	47,565	292,565	3,639,160	3.34
2034	12,170,000	3,353,912	255,000	0.99%	45,527	300,527	3,654,439	3.33
2035	12,170,000	3,350,086	260,000	0.99%	43,299	303,299	3,653,385	3.33
2036	12,170,000	3,350,128	265,000	0.99%	40,896	305,896	3,656,024	3.33
2037	12,170,000	3,353,987	270,000	0.99%	38,314	308,314	3,662,301	3.32
2038	12,170,000	3,351,750	275,000	0.99%	35,534	310,534	3,662,284	3.32
2039	12,170,000	3,353,608	280,000	0.99%	32,536	312,536	3,666,144	3.32
2040	12,170,000	3,359,677	285,000	0.99%	29,315	314,315	3,673,992	3.31
2041	12,170,000	3,360,039	295,000	0.99%	25,848	320,848	3,680,887	3.31
2042	12,170,000	2,014,688	295,000	0.99%	22,205	317,205	2,331,893	5.22
2043	12,170,000	2,023,527	295,000	0.99%	18,503	313,503	2,337,030	5.21
2044	12,170,000	2,026,563	315,000	0.99%	14,644	329,644	2,356,207	5.17
2045	12,170,000	1,741,711	320,000	0.99%	10,596	330,596	2,072,307	5.87
2046	12,170,000	-	325,000	0.99%	6,451	331,451	331,451	36.72
2047	12,170,000	-	335,000	0.99%	2,178	337,178	337,178	36.09
		\$ 152,445,555	\$ 7,110,000		\$ 1,250,685	\$ 8,360,685	\$ 160,806,240	

<b>AVERAGE (MATURITY) LIFE</b>	<b>17.83 YEARS</b>
<b>NET INTEREST RATE</b>	<b>0.987%</b>
<b>COST SAVINGS</b>	<b>\$3,170,795</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$5,187,298</b>



**McAllen**  
**73731 North McAllen WWTP Reuse Project**  
**Engineering and Environmental Review**

**Engineering:**Key Issues:

None

Project Need/Description**Need:**

The City of McAllen (City) plans to deliver Type 1 reuse water to multiple clients, including the new 2,600-acre Tres Lagos subdivision, the McAllen Youth Sports Complex, and several schools. The delivery of Type 1 reuse water for land application will allow the City to off-set its potable water usage.

**Project Description:**

The proposed project will include improvements to the City's North Wastewater Treatment Plant (NWWTP) to make it capable of producing effluent that meets Type 1 reclaimed water standards, conversion of an abandoned aeration basin to function as a Type 1 reuse storage vessel, and construction of a booster pump station and approximately seven miles of reclaimed water transmission lines.

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Closing	9/30/2016
Design Phase Complete	11/30/2016
Engineering Feasibility Report Completion (End of Planning Phase)	11/30/2016
Start of Construction	4/30/2017
Construction Completion	12/31/2017

**Environmental Section:**Key Issues:

None known at this time.

Environmental Summary:

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude construction of the project. Based on this initial environmental review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect project implementation.

Some portions of the proposed project were Categorically Excluded from a full environmental review while other project components require further regulatory agency coordination. For this reason, the environmental review will be segmented.

A Categorical Exclusion for the wastewater treatment plant facility upgrades was issued on May 9, 2016. This portion of the proposed project is in compliance with the National Environmental Policy Act.

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 the reuse transmission lines will not be released until the environmental review has been completed and a favorable environmental determination has been issued.



**Current Budget Summary**  
 City of McAllen, Texas  
 73731 North McAllen North WWTP Reuse Project

Budget Items	TWDB Funds	Local and Other Funds	Total
<b>Construction</b>			
Construction	\$7,718,421	\$0	\$7,718,421
<b>Subtotal for Construction</b>	<b>\$7,718,421</b>	<b>\$0</b>	<b>\$7,718,421</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$0	\$427,215	\$427,215
Design	\$0	\$667,943	\$667,943
Planning	\$0	\$35,000	\$35,000
<b>Subtotal for Basic Engineering Services</b>	<b>\$0</b>	<b>\$1,130,158</b>	<b>\$1,130,158</b>
<b>Special Services</b>			
Application	\$0	\$2,500	\$2,500
Environmental	\$0	\$10,000	\$10,000
Geotechnical	\$0	\$15,000	\$15,000
Inspection	\$0	\$80,000	\$80,000
Project Management (by engineer)	\$0	\$25,000	\$25,000
Surveying	\$0	\$50,000	\$50,000
Testing	\$0	\$40,000	\$40,000
<b>Subtotal for Special Services</b>	<b>\$0</b>	<b>\$222,500</b>	<b>\$222,500</b>
<b>Fiscal Services</b>			
Loan Origination Fee	\$129,146	\$0	\$129,146
<b>Subtotal for Fiscal Services</b>	<b>\$129,146</b>	<b>\$0</b>	<b>\$129,146</b>
<b>Contingency</b>			
Contingency	\$502,000	\$0	\$502,000
<b>Subtotal for Contingency</b>	<b>\$502,000</b>	<b>\$0</b>	<b>\$502,000</b>
<b>Total</b>	<b>\$8,349,567</b>	<b>\$1,352,658</b>	<b>\$9,702,225</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT  
OF \$8,349,567 TO CITY OF MCALLEN  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$7,110,000 OF MCALLEN, TEXAS WATERWORKS AND SEWER SYSTEM  
REVENUE BONDS, PROPOSED SERIES 2016  
AND  
\$1,239,567 IN LOAN FORGIVENESS

(16- )

WHEREAS, the City of McAllen (City) has filed an application for financial assistance in the amount of \$8,349,567 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73731; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$7,110,000 of McAllen, Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 (together with all authorizing documents, (Obligations)), and the execution of a Loan Forgiveness Agreement in an amount of \$1,239,567, 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 City's Waterworks and Sewer 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;
4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;

5. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects; and
6. that the Executive Administrator issued a Categorical Exclusion for the treatment plant facility upgrades on May 9, 2016, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the City of McAllen for financial assistance in the amount of \$8,349,567 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$7,110,000 of McAllen, Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of \$1,239,567. 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;
14. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

#### Conditions Related To Tax-Exempt Status

15. 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;
16. 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;
17. 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);
18. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:

- a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;
  - b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and
  - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
19. the Obligations must include a provision requiring the 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;

20. 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;
21. 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;
22. 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;
23. the transcript must include evidence that the information reporting requirements of § 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;
24. the Obligations must provide that neither the 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

25. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
26. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor’s implementing regulations. The 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;
27. 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;

28. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;
29. the Obligations and/or Loan Forgiveness Agreement 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;
30. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
31. the 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

32. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;
33. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;
34. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

35. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq.*;

Pledge Conditions For The Loan

36. 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;
37. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if An independent certified public accountant, or independent firm of certified public accountants, acting by and through a certified public accountant, signs a written certificate to the effect that, in his or it opinion, during either the next preceding fiscal year, or any twelve consecutive calendar month period out of the 18-month period immediately preceding the month in which the ordinance authorizing such issuance of the then proposed Additional Bonds is passed, the Net Revenues were at least 1.25 times an amount equal to the average annual principal and interest requirements and 1.10 times the maximum annual principal and interest requirements of all Bonds Similarly Secured which are outstanding after the delivery of the proposed Additional Bonds. It is specifically provided, however, that in calculating the amount of Net Revenues for the purposes of this subsection (b) if there has been any increase in the rates or charges for any services of the System which is then in effect, but which is then in effect during all or any part of the entire period for which the Net Revenues are being calculated (hereinafter referred to as the "entire period") then the certified public accountant, or in lieu of the certified accountant a firm of consulting engineers, shall determine and certify the amount of Net Revenues as being the total of (i) the actual Net Revenues for the entire period, plus (ii) a sum equal to the aggregate amount by which the actual billings to customers of the System during the entire period would have been increased if such increased rates or charges had been in effect during the entire period.net system revenues are at least 1.25 times the average annual debt service requirements after giving effect to the additional obligations when net revenues are determined from the last completed fiscal year or a 12 consecutive calendar month period ending not more than ninety (90) days preceding the adoption of the additional obligations as certified by a certified public accountant;

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

Special Conditions:

38. prior to closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
39. the Loan Forgiveness Agreement must include a provision stating that the City shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator;
40. 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; and
41. the City must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

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

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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

## WATER CONSERVATION REVIEW

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

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

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

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

**WATER LOSS AUDIT YEAR:**

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

**WATER LOSS THRESHOLDS:**

	Apparent Loss 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 McAllen, Hidalgo County

