Texas Water Development Board

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TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Todd Chenoweth, General Counsel
Jessica Zuba, Deputy Executive Administrator
Alexis Lorick, Assistant General Counsel

FROM: T. Clay Schultz, Ph.D., Director Regional Water Project Development
Dain Larsen, Manager, Regional Water Project Development

DATE: July 9, 2019

SUBJECT: Amendment to the Guadalupe Blanco River Authority's Closing Schedule.

ACTION REQUESTED

Amend by resolution previously adopted Texas Water Development Board Resolutions No. 18-093 and No. 18-094 to modify the Guadalupe Blanco River Authority's (Guadalupe, Comal, Hays, Caldwell Counties) State Water Implementation Revenue Fund for Texas annual loan closing schedules.

BACKGROUND

On July 26, 2018, the Texas Water Development Board (TWDB), through Resolutions No. 18-093 and No. 18-094 approved a $165,855,000 multi-year commitment to the Guadalupe Blanco River Authority (Authority) from the State Water Implementation Revenue Fund for Texas (SWIRFT) for the Carrizo Groundwater Supply project with anticipated closings through 2021, utilizing Low-Interest, Deferred and Board Participation financing. The Authority reached an agreement in July 2018 with Alliance Regional Water Authority to cooperatively construct and operate facilities needed for both regional water supply projects, including a water treatment plant and shared delivery system.

KEY ISSUES

The Authority is requesting to modify the annual commitment amounts for 2019, 2020 and 2021, reallocating funds originally scheduled to be closed in 2020 and 2021 to 2019. The Authority indicates this change is needed to better align the funding schedule with the current construction schedule.

The requested changes to the Annual Loan Closing Schedules are shown below.

Our Mission

To provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas

Board Members

Peter M. Lake, Chairman | Kathleen Jackson, Board Member | Brooke T. Paup, Board Member

Jeff Walker, Executive Administrator

Low-Interest and Deferred

Year	Amount per Resolution No. 18-093	Proposed Revised Amount
2018	$23,925,000	Closed
2019	$0	$9,740,000
2020	$10,470,000	$10,110,000
2021	$14,810,000	$5,430,000
Total	**$49,205,000**	**$25,280,000**

Board Participation

Year	Amount per Resolution No. 18-094	Proposed Revised Amount
2018	$34,285,000	Closed
2019	$0	$30,260,000
2020	$33,345,000	$32,385,000
2021	$49,020,000	$19,720,000
Total	**$116,650,000**	**$82,365,000**

RECOMMENDATION

The requested amendment does not change the total amount of financing to the Authority and will better align the available financing with the Authority's project schedule. The Executive Administrator recommends that TWDB Resolutions 18-093 and 18-094 be amended to reflect the annual loan closing schedules described above and as attached.

Attachments:

1. Proposed TWDB Resolution (19-)
2. TWDB Resolution (18-093)
3. TWDB Resolution (18-094)
4. Authority's 2019 response to Annual Loan Closing Schedule

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTIONS NO. 18-093 AND NO. 18-094 PROVIDING FINANCIAL ASSISTANCE TO THE GUADALUPE-BLANO RIVER AUTHORITY

(19 -)

WHEREAS, at its July 26, 2018 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 18-093 and No. 18-094, made a multi-year commitment to the Guadalupe-Blanco River Authority for financial assistance in the amount of $49,205,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) through the purchase of Guadalupe-Blanco River Authority Contract Revenue Bonds in proposed series years 2018, 2020, and 2021, and $116,650,000 from the Board Participation Account of the SWIRFT for Project 51055 (Project), all as is more specifically set forth in the TWDB's Resolutions No. 18-093 and No. 18-094 and accompanying documentation, to which documents express reference is made; and

WHEREAS, the TWDB and the Authority mutually closed on a distribution of financial assistance in one or more series from the SWIRFT in the amount of $23,925,000, and from the Board Participation Account of the SWIRFT in the amount of $34,285,000; and

WHEREAS, by letter received by the TWDB in February 2019, the Authority requests that the TWDB amend TWDB Resolutions No. 18-093 and No. 18-094 to modify the Authority's Annual Loan Closing Schedule, requesting instead to receive distributions of its commitment from the SWIRFT and the Board Participation Account of the SWIRFT in 2019; and

WHEREAS, the TWDB hereby finds that the proposed amendments to TWDB Resolutions No. 18-093 and No. 18-094, as requested by the Authority, are reasonable and within the public interest and will serve a public purpose; and

WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law;

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

1. The commitment made through TWDB Resolution No. 18-093 to the Guadalupe-Blanco River Authority for financial assistance in the amount of $49,205,000 from the State Water Implementation Revenue Fund for Texas is amended and shall be evidenced by the TWDB's proposed purchase of the Guadalupe-Blanco River Authority Contract Revenue Bonds as follows:
    a. $9,740,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series 2019, to expire on December 31, 2019;

b. $10,110,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series 2020, to expire on December 31, 2020; and
c. $5,430,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series 2021, to expire on December 31, 2021.

2. The commitment made through TWDB Resolution No. 18-094 to the Guadalupe-Blanco River Authority for financial assistance in the amount of $116,650,000 from Board Participation Account of the State Water Implementation Revenue Fund for Texas is amended as follows:

    a. Subsections b and c of the commitment are amended to read
        i. (b) $30,260,000, set to expire December 31, 2019
        ii. (c) $32,385,000, set to expire December 31, 2020
    b. New Subsection d is added to the commitment to read:
        i. (d) $19,720,000, set to expire December 31, 2021

3. The Executive Administrator is authorized to execute future amendments to the Master Agreement as contemplated by the terms of that Agreement; and

4. All other terms and conditions of TWDB Resolutions No. 18-093 and No. 18-094 shall remain in full force and effect.

APPROVED and ordered of record this the 22nd day of July, 2019.

TEXAS WATER DEVELOPMENT BOARD

_____
Peter M. Lake, Chairman

DATE SIGNED: _____

ATTEST:

_____
Jeff Walker, Executive Administrator

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE GUADALUPE-BLANCO RIVER AUTHORITY IN THE FORM OF A MULTI-YEAR COMMITMENT FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS THROUGH THE PROPOSED PURCHASE OF $49,205,000 GUADALUPE BLANCO RIVER AUTHORITY CONTRACT REVENUE BONDS, PROPOSED SERIES 2018 THROUGH PROPOSED SERIES 2021

(18-093)

WHEREAS, the Guadalupe-Blanco River Authority (Authority) has filed an application for financial assistance in the amount of $49,205,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, design, and construction of certain water supply project(s) identified as Project No. 51055 (Project); and

WHEREAS, the Authority seeks financial assistance from the Texas Water Development Board (TWDB) in the form of a multi-year commitment through the TWDB's proposed purchase of $49,205,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, in one or more series, (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

WHEREAS, the Authority seeks a combination of "low-interest" and deferred financing from the TWDB for the Project; and

WHEREAS, the TWDB by separate Resolution will consider the Authority's request for financial assistance from the Board Participation Account of the SWIRFT for the Project; and

WHEREAS, the Authority has offered a pledge of wholesale contract revenues from the treated water supply agreements between it and the City of Lockhart, Goforth Special Utility District, and New Braunfels Utilities (a municipal utility system operating on behalf of the City of New Braunfels) as sufficient security for the repayment of the Obligations; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 363.1307;

WHEREAS, subject to the Authority's use of an approved debt service structure, interest rate subsidies are available to the Authority at up to the following levels: 35% for financial assistance for a term of 20 years, 25% for financial assistance for a term of 21 to 25 years, and 20% for financial assistance for a term of 26 to 30 years. The interest rate

subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the Authority, pursuant to this Resolution; and

WHEREAS, subject to the Authority's use of an approved debt service structure, for those Obligations which shall receive deferred financing from the TWDB, the interest on and principal of the Obligations may be deferred for up to eight years; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M;

2. that the Project is a recommended water management strategy project in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);

3. that the Authority satisfactorily completed all requests by the Executive Administrator or a regional planning group for information relevant to the Project, including a water infrastructure financing survey under Texas Water Code § 16.053(q), in accordance with 31 TAC § 363.1309(b)(2);

4. that the Authority has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises and any applicable state law relating to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

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

A commitment is made by the TWDB to Guadalupe-Blanco River Authority for financial assistance in the amount of $49,205,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of Guadalupe Blanco River Authority Contract Revenue Bonds as follows:

a) $12,030,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series 2018A (Deferred Financing) (Gonzales Carrizo Water Supply Project), to expire on December 31, 2018;
b) $11,895,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series 2018B (Low-Interest Financing) (Gonzales Carrizo Water Supply Project) to expire on December 31, 2018;
c) $10,470,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series Proposed Series 2020, (Low-Interest Financing) (Gonzales Carrizo Water Supply Project), to expire on December 31, 2020; and

d) $14,810,000 Guadalupe-Blanco River Authority Contract Revenue Bonds, Proposed Series 2021 (Low-Interest Financing) (Gonzales Carrizo Water Supply Project), to expire on December 31, 2021

Such commitment is conditioned as follows:

Standard Conditions:

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;

2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that the Authority has complied with all of the requirements of the laws under which said Obligations were issued; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the Authority;

3. this commitment is contingent upon the Authority's continued compliance with all applicable laws, rules, policies and guidance as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement;

4. this commitment is contingent upon the Authority executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;

5. interest rate subsidies for non-level debt service structure are subject to adjustment by the Executive Administrator;

6. the Authority shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrar to provide a copy of all receipts documenting debt service payments to the TWDB and to the TWDB's designated Trustee;

The Following Conditions Must Be Included in the Obligations:

7. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, on any date beginning on or after the first interest payment date that 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;

8. the Obligations must include a provision wherein the Authority, 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 Authority'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 Authority's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the Authority is an obligated person with respect to such bonds under SEC Rule 15c2-12;

9. the Obligations must include a provision requiring the Authority to use any proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project for the following purposes as approved by the Executive Administrator: (1) 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 (2) eligible costs for the Project as authorized by the Executive Administrator;

10. 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;

11. financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

12. financial assistance proceeds shall not be used by the Authority 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 Authority 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, recycling and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project to the extent permitted by law;

13. the Obligations must include a provision stating that the Authority shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312;

14. the Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB's designated Trustee, and the Obligations shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC § 363.42(c)(1);

15. the Obligations must include a provision prohibiting the Authority from using the proceeds of this financial assistance in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

16. the Obligations must provide that no portion of the proceeds of the financial assistance 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 that were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) that produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the financial assistance (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;

17. the Obligations must include a provision requiring the Authority 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 Authority 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 Authority may, however, to the extent permitted by law, commingle Gross Proceeds of its financial assistance with other money of the Authority, provided that the Authority

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 financial assistance, 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 Authority shall maintain a copy of such calculations for at least six years after the final Computation Date;

c. as additional consideration for providing financial assistance, and in order to induce providing financial assistance 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;

18. the Obligations must include a provision prohibiting the Authority from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;

19. the Obligations must provide that the Authority will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;

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

21. the Obligations must provide that neither the Authority 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 Authority by the TWDB;

22. the Obligations must contain a provision requiring that, upon request by the Executive Administrator, the Authority shall submit annual audits of contracting parties for the Executive Administrator's review;

23. the Obligations must contain a provision requiring the Authority to maintain and enforce the contracts with its customers (from the treated water supply contracts) so that the revenues paid to the Authority by its customers are sufficient to meet the revenue requirements of the Authority's obligations arising from the operation of the water system;

24. the Obligations must contain a provision that the pledged contract revenues from the Authority may not be pledged to the payment of any additional parity obligations of the Authority secured by a pledge of the same contract revenues unless the Authority demonstrates to the Executive Administrator's satisfaction that the pledged contract revenues will be sufficient for the repayment of all Obligations and additional parity obligations;

Conditions to Close or for Release of Funds:

25. prior to closing, if not previously provided with the application, the Authority shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel, 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;

26. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Authority shall execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

27. prior to closing, the Authority'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 Authority when rendering this opinion;

28. prior to closing, the Authority's bond counsel must prepare a written opinion that states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the Authority when rendering this opinion;

29. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the Authority's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;

30. the transcript must include evidence that the information reporting requirements of § 149(e) of the Internal Revenue 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;

31. prior to closing, the Authority must submit executed contracts between the Authority and the contracting parties regarding the contract revenues pledged to the payment of the Authority's Obligations, in form and substance acceptable to the Executive Administrator. Such contracts shall include provisions consistent with the provisions of this Resolution regarding the contracting parties' annual audits, the setting of rates and charges and collection of revenues sufficient to meet the Authority's debt service obligations and additional parity obligations;

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

Special Conditions:

32. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, economic investigation, studies, surveys, or designs for that portion of the Project that proposes surface water or groundwater development, the Executive Administrator must have either issued a written finding that the Authority has the right to use the water that the Project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;

33. prior to the release of construction funds for that portion of a Project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the Authority has the right to use the water that the Project financed by the TWDB will provide;

APPROVED and ordered of record this, the 26th day of July, 2018.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, Chairman

DATE SIGNED: 7/27/18

ATTEST:

Jeff Walker, Executive Administrator

DOCUMENT TRANSFER

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD APPROVING AN APPLICATION FROM THE GUADALUPE-BLANCO RIVER AUTHORITY FOR THE TEXAS WATER DEVELOPMENT BOARD'S ACQUISITION AND SALE OF AN INTEREST IN THE GONZALES CARRIZO WATER SUPPLY PROJECT WITH FUNDS FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

(18-094)

WHEREAS, the Texas Water Development Board (TWDB), under the authority of Chapter 15, Subchapter H of the Texas Water Code, is authorized to use the Board Participation Account of the State Water Implementation Revenue Fund for Texas (SWIRFT) to encourage optimum regional development of projects through the acquisition of an interest in new water supply project facilities and the sale, transfer, or lease of its interest in those facilities; and

WHEREAS, the Guadalupe-Blanco River Authority (Authority), has filed an application with the TWDB requesting that the TWDB acquire an interest in its Gonzales Carrizo Water Supply Project, Project No. 51055 (Project), not to exceed eighty percent (80%) of the total Project cost, in order to enable the acquisition of excess capacity for the optimum regional development of the Project, using the Board Participation Account of the SWIRFT; and

WHEREAS, the Authority will finance at least twenty percent (20%) of the total Project costs from sources other than the Board Participation Account of the SWIRFT, pursuant to 31 TAC § 363.1308; and

WHEREAS, in 2018, the Authority is financing $49,205,000 in a combination of "low interest loan" and "deferred" financing from the TWDB, which is sufficient to satisfy the Authority's equity percentage on the TWDB's Board Participation Account Loan; and

WHEREAS, by separate request, the TWDB is considering a request from the Authority for the TWDB to provide financial assistance through the TWDB's proposed purchase of $49,205,000 Guadalupe Blanco River Authority Contract Revenue Bonds, Series 2018A and Series B (collectively for the Gonzales Carrizo Water Supply Project); and

WHEREAS, the Project is expected to cost $165,855,000, of which the TWDB's share, pursuant to this commitment, will not exceed $116,650,000; and

WHEREAS, the Authority will purchase the TWDB's interest in the Project from the proceeds of a future bond issue, other revenues, or other lawful sources of funds in accordance with a Master Agreement to be executed between the Authority and the TWDB; and

WHEREAS, the Authority has offered a pledge of wholesale contract revenues from the water supply agreements between the City of Lockhart, Goforth Special Utility District, and New Braunfels Utilities (a municipal utility system operating on behalf of the City of New Braunfels) as sufficient security for its obligation to purchase the TWDB's interest in the Project; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 363.1307;

WHEREAS, the TWDB has considered the long-term needs of the area, the costs of the Project, and the feasibility of the Project; and

WHEREAS, the Project will aid in addressing the long-term needs of the area by developing a wellfield and associated water rights and a high service pumps station for proposed and existing transmission systems; and

WHEREAS, pursuant to 31 TAC § 363.1308, the terms of the TWDB's ownership interest in the Project have been incorporated into a proposed Master Agreement that sets forth the responsibilities, duties, and liabilities of each party; and

WHEREAS, the Board has approved the terms of the Master Agreement between the TWDB and the Authority and consents to the negotiation and execution of a Master Agreement with substantially similar terms; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M;

2. it is reasonable to expect that the TWDB will recover its investment in the Project because the revenue to be generated by the projected number of customers served by the Project will be sufficient to purchase the excess capacity owned by the TWDB in accordance with 31 TAC § 363.1308(c)(1);

3. the cost of the Project exceeds the current financing capabilities of the area to be served by the Project, in accordance with 31 TAC § 363.1308(c)(2);

4. the optimum regional development cannot be reasonably financed by local interest based on an assessment of the estimated cost to construct the Project and the revenue to be generated by the projected number of customers of the facility, in accordance with 31 TAC § 363.1308(c)(3);

5. the public interest will be served by the TWDB's acquisition of an interest in the

Project because the cost of the Project to the public will be reduced by the Board's participation in the Project, in accordance with 31 TAC § 363.1308(c)(4);

6. the Project contemplates the optimum regional development that is reasonably required under all existing circumstances of the site because the design capacity of the components of the Project are sufficient to meet the foreseeable needs of the area, in accordance with 31 TAC § 363.1308(c)(5);

7. the Project is a recommended water management strategy project in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);

8. that the Authority has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises, and any applicable state law relating to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

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

1. a commitment is made by the TWDB to acquire and sell an ownership interest in the Authority's Gonzales Carrizo Water Supply Project, not to exceed eighty percent (80%) of the total Project cost based on an application filed by Guadalupe-Blanco River Authority, in an amount not to exceed $116,645,000 from the Board Participation Account of the State Water Implementation Revenue Fund for Texas, to be evidenced as follows:

   a) $34,285,000, to expire on December 31, 2018;
   b) $33,345,000 to expire on December 31, 2020;
   c) $49,020,000 to expire on December 31, 2021;

2. the Executive Administrator is authorized to negotiate and execute a Master Agreement that will set forth the duties, responsibilities, and liabilities of the TWDB and the Authority.

Such commitment is conditioned as follows:

<u>Standard Conditions:</u>

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 Authority's continued compliance with all applicable laws, rules, policies, and guidance as these may be amended from time to time to adapt to a change in law, in circumstance, or any other legal requirement;

3. this commitment is contingent upon the Authority executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;

<u>The Following Conditions Must Be Included in the Master Agreement:</u>

4. the Master Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Master Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;

5. loan proceeds are public funds and, as such, the Master Agreement 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;

6. loan proceeds shall not be used by the Authority when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. The Master Agreement shall include an environmental indemnification provision wherein the Authority 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, recycling, and disposition of any contaminated sewer sludge, contaminated sediments, and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project to the extent permitted by law;

7. the Master Agreement must include a provision stating that the Authority shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312;

8. the Authority agrees to take such actions as are necessary to assure, or to refrain from such actions as would materially adversely affect, the excludability from gross income for Federal income tax purposes of interest payable on such obligations as are issued by the TWDB to finance its acquisition of an interest in the Project;

9. the Master Agreement must include a provision stating that the Authority shall have the right to make an early purchase of all or a portion of the TWDB's ownership interest in the Project, on or after the specified Call Date that is on or after the first interest payment date 10 years from the dated date by making principal payments in excess of the scheduled principal payments. Such early purchases may be made no more than once a year, unless otherwise allowed by the Executive Administrator;

10. the Master Agreement must contain a provision requiring that, upon request by the Executive Administrator, the Authority shall submit annual audits of contracting parties to the Project for the Executive Administrator's review;

11. the Master Agreement must contain a provision requiring the Authority to maintain and enforce the Project contracts with its customers so that the revenues paid to the Authority by its customers are sufficient to meet the revenue requirements of the Authority's obligations arising from the operation of the Project;

Conditions to Close or for Release of Funds:

12. prior to closing, the Authority and the TWDB will execute a Master Agreement that will set forth the responsibilities, duties, and liabilities of each party;

13. prior to closing, the Authority will provide an attorney's opinion that is satisfactory and acceptable to the Executive Administrator as to any impact of the Project on the tax-exempt status of any bonds issued by the TWDB to fund its acquisition of an interest in the Project;

14. prior to closing, the Authority must submit executed contracts between the Authority and the contracting parties to the Project regarding the contract revenues pledged to the payment of the Authority's obligation to purchase the TWDB's interest in the Project, in form and substance acceptable to the Executive Administrator. Such contracts shall include provisions consistent with the provisions of this Resolution regarding the contracting parties' annual audits, the setting of rates and charges, and maintenance of revenues sufficient to meet the Authority's obligations arising from the Project;

15. prior to closing, if not previously provided with the application, the Authority shall submit executed contracts for engineering, and, if applicable, financial advisor and legal counsel, 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;

16. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Authority shall execute an escrow agreement or trust agreement, approved

as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

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

Special Conditions:

17. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have either issued a written finding that the Authority has the right to use the water that the Project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;

18. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the Authority has the right to use the water that the Project financed by the TWDB will provide;

19. the Authority must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner during the phases financed by the TWDB during the project;

20. the Master Agreement must include a provision requiring that, prior to any action by the Authority to convey its interest to another entity, the conveyance and the assumption of said interest must be approved by the TWDB.

21. the Authority shall provide the TWDB with (a) monthly financial statement, to be submitted within ten (10) days after the close of each month, unless or until such requirement is waived in writing by the Executive Administrator or paid in full, whichever comes first, and (b) annual reports, to be submitted without charge within 120 days of the close of each fiscal year;

APPROVED and ordered of record this the 26th day of July, 2018.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, Chairman

DATE SIGNED: 7/27/18

ATTEST:

Jeff Walker, Executive Administrator

THE NATIONAL ARCHIVES

June 3, 2019

Mr. Dain Larsen
Manager, Region 5
Texas Water Development Board
P.O. Box 13231
Austin, TX 78711-3231

Re: Amendment to Closing Schedule
Guadalupe Blanco River Authority, Carrizo Groundwater Supply Project
TWDB Project No. 51055

Dear Mr. Larsen,

On February 2, 2019, GBRA completed and submitted a Multi-Year Commitment Annual Loan Closing Schedule updating the take down amounts over the next three years for the $165,855,000 SWIFT commitment GBRA received from the TWDB for its Carrizo Groundwater Supply Project. Based on timing of project costs and interest rate risks, GBRA requested to close on $40M in 2019 and to reduce the take down amounts for 2021 and 2020 for the Board Participation and Low Interest Loans. After discussions with your staff, we revised the allocations between Board Participation and Low Interest Loans to ensure consistency with the original commitment. The following table confirms the 2019, 2020, and 2021 closing amounts by fund.

Low Interest

Year	Amount per Resolution No. 18-093	Proposed Revised Amount
2019	$0	$9,740,000
2020	$10,470,000	$10,110,000
2021	$14,810,000	$5,430,000
Total	**$25,280,000**	**$25,280,000**

Board Participation

Year	Amount per Resolution No. 18-094	Proposed Revised Amount
2019	$0	$30,260,000
2020	$33,345,000	$32,385,000
2021	$49,020,000	$19,720,000
Total	**$82,365,000**	**$82,365,000**

Main Office: 933 East Court Street ~ Seguin, Texas 78155
830-379-5822 ~ 800-413-4130 ~ 830-379-9718 fax ~ www.gbra.org

GBRA Guadalupe-Blanco River Authority
flowing solutions

GBRA appreciates the financial assistance provided by the TWDB to develop this critical regional water supply project. Please do not hesitate to contact me if you have any questions or if additional information is needed.

Sincerely,

Darrell Nichols

Darrell Nichols
Senior Deputy General Manager

cc: Jesse Milonovich, P.E., TWDB
Sam Vaugh, HDR