

# Texas Water Development Board

## PROJECT FUNDING REQUEST

**BOARD DATE:** March 12, 2019

**Team Manager:** Jeff Taylor

### ACTION REQUESTED

Approve by resolution a request from the Horizon Regional Municipal Utility District (El Paso County) for \$1,226,880 in financial assistance consisting of \$620,000 in financing and \$606,880 in principal forgiveness from the Clean Water State Revolving Fund for planning and design of a wastewater treatment plant expansion.

### STAFF RECOMMENDATION

Approve       No Action

### BACKGROUND

The Horizon Regional Municipal Utility District (District) is located in El Paso County (County) and is approximately 21 miles southeast from the City of El Paso. The District is roughly 14,219 square miles and serves 41,108 residents within its boundaries.

### PROJECT NEED AND DESCRIPTION

Each home in the Horizon View Community (Community) provides for wastewater disposal through individual on-site sewage septic tank systems. Residents report that a significant percentage of the septic systems have failed resulting in surface ponding of wastewater on subject lots or running off into adjacent streets. Residents are unable to afford the rehabilitation required to keep the septic systems operating efficiently. Therefore, a potential health risk exists within the Community and could affect the health and safety to the population of the District, which is adjacent.

The Community is already part of the District and the homes in the Community receive their water service from the District. The District plans to integrate the Community into their wastewater collection system to alleviate potential health risks to the region. The proposed project includes the installation of a wastewater collection system within the Community for routing to the District's existing wastewater treatment plant to address health and safety issues, even though there are no current pending enforcement actions. The wastewater treatment plant currently has the capacity to receive and treat the wastewater from the Horizon View Estates Communities.

The project as envisioned would decommission the existing septic systems, eliminating the surface ponding of sewage and overflow to adjacent lots. The project also includes the installation of a lift station and a wastewater collection system within the Community for collection and routing to the District's existing wastewater treatment plant. The District plans to apply in a future round of State Revolving Fund funding for the construction portion of the project.

<b>COMMITMENT PERIOD:</b> SIX (6) MONTHS TO EXPIRE SEPTEMBER 30, 2020.
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## **PROJECT SCHEDULE**

<b>Task</b>	<b>Schedule Date</b>
Closing	May 15, 2020
Engineering Feasibility Report Completion (End of Planning Phase)	July 1, 2020
Design Phase	October 1, 2020
Start of Construction	December 1, 2020
Construction Completion	June 1, 2021

## **KEY ISSUES**

The District qualifies for zero percent financing and \$606,880 in principal forgiveness as a disadvantaged community.

The District's 2018 audit had findings relating to material weakness in preparing financial statements. Prior to closing the District will need to submit a Corrective Action Plan acceptable to the Executive Administrator.

The District has been growing consistently with an average growth rate of 215 connections annually. The Community includes 776 single family lots of which 715 lots are occupied with homes. The current population is approximately 2,717 and expected to soon grow to 3,313 once the subdivision is fully built out.

## **LEGAL**

### Special Conditions

- Executed Principal Forgiveness Agreement; and,
- Return of surplus funds.

**FINANCIAL**

Risk Score: 2B

**Key Indicators**

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2018 El Paso County:	0.60%	State: 1.24%
Top 10 Taxpayers as % Total AV	5.81%	<15%
Median Household Income as % of State	76%	100%
Days of Cash on Hand (3-year Average)	65	30-149 days
Direct Debt as % Total Assessed Valuation	5.29%	2-5%
Debt Service Coverage Ratio	1.08x	1.0x
Asset Condition Ratio	33 years	12-24 years
Top 10 Customers of the System	15.47%	< 10-15%
Debt-to-Operating Revenues	0.48	4.00-5.99
Debt per Capita	\$1,949	\$1,500 - \$1,999
Assessed Valuation Growth, Average Annual 2013-2018	5.45%	Stable Trend
Unemployment (El Paso Co., November 2019)	3.7%	State: 3.3%

**Key Risk Score Strengths**

- Pledge of unlimited tax
- Meets debt service coverage requirements
- Top ten taxpayers in District account for under 6 percent of District's tax revenue
- Positive working capital

**Key Risk Score Concerns**

- Median household income below State
- Projected household cost factor above benchmark

**PLEDGE**

Type of Pledge	<input checked="" type="checkbox"/> Tax <input type="checkbox"/> Revenue <input type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input type="checkbox"/> First <input type="checkbox"/> Second <input type="checkbox"/> Third <input checked="" type="checkbox"/> N/A

**RATES AND CHARGES**

Average Residential Use	Gallons/Month	Current Rates	Projected Rates	Current Household Cost Factor	Projected Household Cost Factor
WATER	7,725	\$55.34	\$55.34	2.82	2.82
WASTEWATER	3,000	\$46.18	\$46.18		

**TAXES**

	2019 Tax Year Rate	Max Projected Tax Rate (Year 2019)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.1964	\$0.1964	\$1.50	97.41%	\$1,441,684,648
Interest & Sinking	\$0.3789	\$0.3789			
Total Tax Rate	\$0.5753	\$0.5753			

**Cost Savings**

Based on a 25-year maturity and current interest rates, the District could save approximately \$117,758 over the life of the financing. The District will also save an additional \$606,800 in principal forgiveness.

**Attachments:**

1. Project Data Summary
2. Debt Service Schedule
3. Project Budget
4. Resolution (20- )
5. Water Conservation Review
6. Location Map

**Project Data Summary**

<b>Responsible Authority</b>	Horizon Regional Municipal Water District
<b>Program</b>	Clean Water State Revolving Fund
<b>Commitment Code</b>	L1001104 and LF1001105
<b>Project Number</b>	73876
<b>Intended Use Plan Year</b>	2020
<b>Type of Pledge</b>	1- Tax
<b>Revenue Pledge Level</b>	N/A
<b>Legal Description</b>	\$620,000 Horizon Regional Municipal Utility District, Texas, Unlimited Tax Bonds, Proposed Series 2020 \$606,880 in Principal 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>	41,108
<b>Rural</b>	No
<b>Water Connections</b>	10,608
<b>Wastewater Connections</b>	8,169
<b>Qualifies as Disadvantaged</b>	Yes
<b>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>	Planning and Design
<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>	2B
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	Non-Rated
<b>Moody's</b>	A3
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	Corrective Action Plan prior to closing

**Project Team**

Team Manager	Jeff Taylor
Financial Analyst	Bill Collard
Engineering Reviewer	Jerry Millsaps
Environmental Reviewer	Chris Caran
Attorney	Breann Hunter

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Horizon Regional MUD

\$620,000 Horizon Regional Municipal Utility District, Texas, Unlimited Tax Bonds, Proposed Series 2020

Dated Date: 5/15/2020  
Delivery Date: 5/15/2020  
First Interest: 8/1/2020  
First Principal: 2/1/2021  
Last Principal: 2/1/2042  
Fiscal Year End: 09/30  
Required Coverage: 1.0

Source: CWSRF-EQUIVALENCY  
Rate: 0.00%  
IUP Year: 2020  
Case: Tax  
Admin.Fee: \$10,663  
Admin. Fee Payment Date: 5/15/2020  
Total Assessed Valuation: \$1,441,684,648

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 97%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$620,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2020	0.379	\$5,321,063	\$0	\$5,321,063	\$4,892,275	\$0	0.00%	\$0	\$0	\$4,892,275	1.09
2021	0.379	5,321,063	-	5,321,063	4,890,544	25,000	-	-	25,000	4,915,544	1.08
2022	0.379	5,321,063	-	5,321,063	4,892,163	20,000	-	-	20,000	4,912,163	1.08
2023	0.379	5,321,063	-	5,321,063	4,891,038	20,000	-	-	20,000	4,911,038	1.08
2024	0.379	5,321,063	-	5,321,063	4,889,122	25,000	-	-	25,000	4,914,122	1.08
2025	0.379	5,321,063	-	5,321,063	4,887,119	25,000	-	-	25,000	4,912,119	1.08
2026	0.379	5,321,063	-	5,321,063	4,884,169	30,000	-	-	30,000	4,914,169	1.08
2027	0.379	5,321,063	-	5,321,063	4,882,256	30,000	-	-	30,000	4,912,256	1.08
2028	0.379	5,321,063	-	5,321,063	4,880,250	35,000	-	-	35,000	4,915,250	1.08
2029	0.379	5,321,063	-	5,321,063	4,880,013	35,000	-	-	35,000	4,915,013	1.08
2030	0.379	5,321,063	-	5,321,063	4,882,550	30,000	-	-	30,000	4,912,550	1.08
2031	0.379	5,321,063	-	5,321,063	4,881,294	30,000	-	-	30,000	4,911,294	1.08
2032	0.379	5,321,063	-	5,321,063	4,884,272	30,000	-	-	30,000	4,914,272	1.08
2033	0.379	5,321,063	-	5,321,063	4,881,406	30,000	-	-	30,000	4,911,406	1.08
2034	0.379	5,321,063	-	5,321,063	4,885,750	30,000	-	-	30,000	4,915,750	1.08
2035	0.379	5,321,063	-	5,321,063	4,882,244	30,000	-	-	30,000	4,912,244	1.08
2036	0.379	5,321,063	-	5,321,063	4,885,691	30,000	-	-	30,000	4,915,691	1.08
2037	0.379	5,321,063	-	5,321,063	4,885,913	30,000	-	-	30,000	4,915,913	1.08
2038	0.379	5,321,063	-	5,321,063	4,884,356	30,000	-	-	30,000	4,914,356	1.08
2039	0.379	5,321,063	-	5,321,063	4,886,356	30,000	-	-	30,000	4,916,356	1.08
2040	0.379	5,321,063	-	5,321,063	3,786,919	35,000	-	-	35,000	3,821,919	1.39
2041	0.379	5,321,063	-	5,321,063	3,800,028	25,000	-	-	25,000	3,825,028	1.39
2042	0.379	5,321,063	-	5,321,063	3,811,325	15,000	-	-	15,000	3,826,325	1.39
				\$122,384,455	\$109,107,050	\$620,000		\$0	\$620,000	\$109,727,050	

AVERAGE (MATURITY) LIFE	11.39 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$ 852,083
AVERAGE ANNUAL REQUIREMENT	\$4,770,741

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.



## Project Budget Summary

Horizon Regional MUD  
73876 - Horizon View Estates  
Wastewater Collection System

Budget Items	TWDB Funds This Commitment	Total
<b>Construction</b>		
<b>Subtotal for Construction</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Basic Engineering Services</b>		
Design	\$900,000.00	\$900,000.00
Planning	\$200,000.00	\$200,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$1,100,000.00</b>	<b>\$1,100,000.00</b>
<b>Special Services</b>		
Application	\$30,000.00	\$30,000.00
Environmental	\$25,000.00	\$25,000.00
<b>Subtotal for Special Services</b>	<b>\$55,000.00</b>	<b>\$55,000.00</b>
<b>Fiscal Services</b>		
Bond Counsel	\$24,700.00	\$24,700.00
Financial Advisor	\$17,350.00	\$17,350.00
Loan Origination Fee	\$10,663.00	\$10,663.00
Other (Attorney General Fee/Bond Issuance Costs)	\$16,709.00	\$16,709.00
<b>Subtotal for Fiscal Services</b>	<b>\$69,422.00</b>	<b>\$69,422.00</b>
<b>Other</b>		
<b>Subtotal for Other</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Contingency</b>		
Contingency	\$2,458.00	\$2,458.00
<b>Subtotal for Contingency</b>	<b>\$2,458.00</b>	<b>\$2,458.00</b>
<b>Total</b>	<b>\$1,226,880.00</b>	<b>\$1,226,880.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$1,226,880 TO THE HORIZON REGIONAL MUNICIPAL UTILITY DISTRICT  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$620,000 HORIZON REGIONAL MUNICIPAL UTILITY DISTRICT UNLIMITED TAX BONDS,  
PROPOSED SERIES 2020  
AND  
\$606,880 IN PRINCIPAL FORGIVENESS

(20 - )

WHEREAS, the Horizon Regional Municipal Utility District (District), located in El Paso County, has filed an application for financial assistance in the amount of \$1,226,880 from the Clean Water State Revolving Fund (CWSRF) to finance the planning and design of certain wastewater system improvements identified as Project No. 73876; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$620,000 Horizon Regional Municipal Utility District Unlimited Tax Bonds, Proposed Series 2020 (together with all authorizing documents, (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$606,880, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of unlimited tax revenue 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 District will be sufficient to meet all the Obligations assumed by the District, 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 District has submitted a proposed program of water conservation 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 District has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007; and

5. that the District meets the definition of a “Disadvantaged Community” in 31 TAC § 375.1(23) and is therefore eligible for principal forgiveness in the amount of \$606,880; and that the District qualifies as a “small” or “rural” system as determined by the applicable IUP, and the project is therefore eligible for principal forgiveness in the amount of a reduced interest rate.

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

A commitment is made by the TWDB to the Horizon Regional Municipal Utility District for financial assistance in the amount of \$1,226,880 from the Clean Water State Revolving Fund through the TWDB’s proposed purchase of \$620,000 Horizon Regional Municipal Utility District Unlimited Tax Bonds, Proposed Series 2020, and the execution of a Principal Forgiveness Agreement in the amount of \$606,880. This commitment will expire on September 30, 2020.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that 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 District;
3. this commitment is contingent upon the District’s compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the District agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;
5. the Obligations must provide that the Obligations can be called for early redemption 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;
6. the District, 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 District’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 District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;

7. the Obligations must contain a provision requiring the District to levy a tax and/or maintain and collect sufficient rates and charges, as applicable, to produce system funds 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;
8. the Obligations must include a provision requiring the District to use any loan proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the District to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the District to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting in a manner as approved 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. 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;
12. loan proceeds shall not be used by the District 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 District 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 District, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

13. prior to closing, the District shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges and/or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements;
14. prior to closing, and if not previously provided with the application, the District 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;
15. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the District 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;
16. the Executive Administrator may require that the District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

#### Conditions Related to Tax-Exempt Status

17. the District'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 District when rendering this opinion;
18. the District'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 District when rendering this opinion;
19. the Obligations must include a provision prohibiting the District from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of section 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
20. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of section 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) 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 section 1.148-1(b) of the Regulations; and
  - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125 percent of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
21. the Obligations must include a provision requiring the District take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of section 148 of the Code. The Obligations must provide that the District 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 District may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the District, provided that the District separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;
  - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its loan, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder. The District 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;
22. the Obligations must include a provision prohibiting the District from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
23. the Obligations must provide that the District will not cause or permit the Obligations to be treated as “federally guaranteed” obligations within the meaning of section 149(b) of the Code;
24. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the District’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
25. the Obligations must contain a provision that the District will refrain from using from using the proceeds provided by this TWDB commitment or the proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Obligations in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);
26. the transcript must include evidence that the information reporting requirements of section 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of section 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;
27. the Obligations must provide that neither the District 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 District by the TWDB;

#### State Revolving Fund Conditions

28. the District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
29. 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 District, 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;

30. the Obligations must include a provision stating that the District 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 District 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;
31. 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 District will adhere to the approved project schedule;
32. the Obligations Principal Forgiveness Agreement must contain a covenant that the District 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 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;
33. 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;
34. the District 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 projected useful life of the project, as determined by the schedule;

#### Clean Water State Revolving Fund Conditions

35. the District shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375;
36. 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;

37. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the District 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;

Pledge Conditions for the Loan

38. the Obligations must contain a provision that for each year the Bonds are outstanding, the District will levy a debt service tax rate, and collect taxes sufficient for the repayment of annual principal and interest requirements on the Obligations;

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

Special Conditions:

39. prior to closing, the District shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
40. the Principal Forgiveness Agreement must include a provision stating that the District shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 12<sup>th</sup> day of March 2020.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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

Water  
 Wastewater  
 Other

## WATER CONSERVATION REVIEW

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

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

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

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

**WATER LOSS AUDIT YEAR:**

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

**WATER LOSS THRESHOLDS:**

	Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
If population ≤ 10K, connections/mile < 32 :			NA			NA
If population ≤ 10K, connections/mile ≥ 32 :		NA			NA	
If population > 10K :		NA			NA	

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

**ADDITIONAL INFORMATION:**

**STAFF NOTES AND RECOMMENDATIONS:**

## DEFINITIONS

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

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

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

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

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

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

**NA** means not applicable.

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

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

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

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

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

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

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



# Horizon Regional Municipal Utility District El Paso County

