

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: July 23, 2015

TEAM MANAGER: JoAnne Duncan

APPLICANT	Lone Star Regional Water Authority
TYPE OF ASSISTANCE	\$15,475,000 Master Agreement (tax-exempt) \$6,635,000 Master Agreement (taxable) \$3,870,000 Loan Series 2015B (tax-exempt) \$1,660,000 Loan Series 2015B (taxable)
LEGAL PLEDGE	Contract Revenues

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Consider approving, by resolution, a request from the **Lone Star Regional Water Authority (Williamson and Bell Counties)** for financial assistance totaling \$27,640,000 consisting of \$22,110,000 in Board Participation and a \$5,530,000 loan from the State Water Implementation Revenue Fund for Texas to finance planning, acquisition, design, and construction of a water transmission pipeline, pump stations, storage tanks, and related appurtenances.

PROJECT:

East Williamson County Regional Water Transmission System
Project Number 51011

BACKGROUND

Passed by the 83rd Legislature and approved by Texas voters through a constitutional amendment, the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT) was created to provide affordable, alternative financing options to develop projects that are recommended water management strategies in the State Water Plan. The program, referred to as SWIFT, provides financing through low-interest loans, deferral of loan repayments, and incremental repurchase terms for projects with state ownership aspects. All SWIFT projects presented for consideration have been prioritized based on criteria outlined in Texas Administrative Code Title 31 § 363.1304 and are included on the prioritized list of projects approved by the Board on May 6, 2015.

The Lone Star Regional Water Authority (Authority) is proposing to construct approximately 23-miles of transmission main, beginning near the community of Circleville (north of Taylor on State Highway 95) connecting to the Brazos River Authority's (BRA) existing 36-inch diameter transmission line and ending at Interstate 35 near Jarrell. The Authority is proposing to construct

COMMITMENT PERIOD: TO EXPIRE DECEMBER 31, 2015

the transmission main, two high service pump stations, three storage tanks, disinfection equipment, metering, and connections to wholesale customers.

FINANCIAL

Key Issues

The Lone Star Regional Water Authority (Authority) project includes six participants, including: Sonterra Municipal Utility District (MUD), CL&L MUD, Central Texas Water Supply Corporation, Jarrell-Schwertner Water Supply Corporation, City of Jarrell, and Bell Milam Falls Water Supply Corporation. The participants are located in Bell and Williamson counties.

The Authority is pledging contract revenues for the repayment of the proposed loan. The Authority currently has draft water supply contracts with the participants. The Authority is required to execute water supply contracts with the participants prior to the execution of a financing agreement with TWDB.

The Authority intends to finance the proposed project under both the Board Participation and the SWIFT Low Interest Loan programs. Board Participation financing can fund as much as 80 percent of project costs with at least 20 percent of the total project cost provided from sources. And at least 20 percent of the total capacity of the proposed project must serve the existing needs of the applicant. The Authority proposes to finance its 20 percent of the project with SWIFT Low Interest loans.

Based on a review by the Authority's tax counsel, the proposed project will provide sufficient benefit to private entities; therefore, separate taxable issues are required. The Authority intends to issue two separate bond series, and enter into two Master Agreements for the Board Participation component of the project.

Pledge and Repayment

The draft contract indicates that each participant will pledge gross revenues of their water and wastewater systems. The City of Jarrell is also pledging ad valorem tax revenues to the Authority. The participants' payments will be based on both annual operations and maintenances expenses and debt service requirements. As a group, the participants produced \$1,607,415 in net revenues available for contract revenue debt service and operations and maintenance payments, with approximately half of the total produced by Central Texas Water Supply Corporation.

Existing revenues will be sufficient for the proposed repayment structure until 2029, when the deferred interest portion of the Board Participation will begin to be repaid. In 2036, additional revenues will be required when the Authority begins repayment of principal on the Board Participation. Revenues will need to increase by approximately \$595,597 in 2029, and an additional \$155,783 in 2036 for debt service only.

As previously stated, the draft water supply contract requires participants to make payments for operations and maintenance costs (cost of water and fixed expenses) based on the water usage of each participant. These costs are projected to be approximately \$293,000 in 2016, increase to \$3,240,000 in 2018 and approximately \$23,931,000 in 2049. Table 1 shows the estimated total

expenses for each participant, composed of both debt service and operations and maintenance expenses. Most of these expenses are for the cost of water, which varies with usage. The Authority, through a contract with the Brazos River Authority, will be required to purchase water annually at a minimum level of their highest historical usage. As a result, the Authority's water purchases will become a fixed expense that increases with the growth in population and usage of the participants, but will not decrease if usage is reduced.

Table 1- Participants by Projected Water Usage and Contract Revenue Payments by Calendar Year

Participant	% Usage	2016	2018	2049
Sonterra MUD	37.14	\$136,963	\$1,298,401	\$9,607,746
CL&L MUD	21.90	\$80,762	\$765,616	\$5,665,311
Central Texas WSC	14.29	\$52,698	\$499,573	\$3,696,680
Jarrell-Schwertner WSC	14.29	\$52,698	\$499,573	\$3,696,680
City of Jarrell	9.52	\$35,107	\$332,816	\$2,462,729
Bell Milam Falls WSC	2.86	\$10,547	\$99,985	\$739,853
TOTAL	100	\$368,775	\$3,495,964	\$25,868,999

Cost Savings

Based on 30-year maturity schedules and current interest rates and a 22% subsidy for the Low Interest Loans, the Authority could save approximately \$799,588 over the life of the Series 2015B (Low Interest) loans by utilizing Texas Water Development Board (TWDB) funding.

Internal Risk Score

Staff assigns a 2C to the Authority and the proposed project to be funded by the Texas Water Development Board. This means that the Authority's payment capacity is sufficient to cover the existing and proposed debt.

The population of the counties in the Authority's service area increased at an average annual rate of 3.44% from 2000 to 2013, while the State overall increased at a rate of 1.60% annually. The counties have an average median household income of \$60,932, which is 117.40% of the State median. The median household income in Williamson County is \$71,803, or 138.35% of the State overall. The unemployment rate for the counties range from 3.2% in Williamson County to 4.4% in Bell County, compared to 4.4% in the State of Texas overall and 5.3% national unemployment rate in May 2015.

The Authority is newly-created and currently doesn't produce audited financial statements. As a group, in 2014 the participants produced \$1.6 million in net revenues available for contract revenue payments. While this is a 28% decline since 2011, most of the decline is attributable to reduced water sales for Central Texas Water Supply Corporation due to multi-year drought conditions.

As a group, the participants have total outstanding debt of \$41.4 million, with Central Texas Water Supply Corporation's debt representing \$23 million of the total debt of the participants. Because some of the participants are wholesale providers, some participants serve the same

population as a wholesaler or retailer. Adjusting for potential overlapping population, the population served by the participants, not just by the proposed pipeline, is estimated to be 32,621, which results in an existing debt per capita amount of \$1,268 for the group of participants. For determination of an appropriate internal risk score, the benchmark is per capita total debt of \$2,000.

The proposed project would result in \$3,369 of additional per capita debt, but only for the current estimated population of 8,200 persons served by the proposed pipeline.

The participants individually maintain substantial liquidity with a range of 5.6 months of operating expenses in unrestricted net assets for Bell Milam Falls Water Supply Corporation to 14.4 months for Central Texas Water Supply Corporation and 14.6 for the City of Jarrell. For determination of an appropriate internal risk score, the benchmark is two to three months of cash operating expenses.

The socioeconomic indicators for the area served by the Authority are strong, and the participants have a moderate level of debt, strong liquidity, and produce sufficient net revenues for the proposed debt until 2029. However, as a group the participants' net revenues have declined for the past four years due to drought conditions. Also, the proposed project would be financed by a newly-created entity, and one of the primary water purchasers is also a newly-formed entity. These conditions increase the risk associated with the proposed project. The Authority is assigned a risk score of 2C.

LEGAL

Key Issues

Master Agreement

The Board Participation funding will be provided through a Master Agreement, which sets out the responsibilities, duties and liabilities of the Authority and the Board. Under the Master Agreement, the TWDB will purchase a percentage of the project, based on the amount of TWDB Board Participation funds provided as compared to the total amount of funds spent on the Project. The Authority obligates itself to purchase the TWDB's interest in the Project under a Payment Schedule attached to the Master Agreement, which provides that the Authority will make payments of principal and interest. Prior to final negotiations and execution of the Agreement, a draft of the final Agreement will be presented to Board.

Security and Source of Funds for the Authority's Purchase of TWDB's Interest in Project

Under the Master Agreement, the Authority pledges a parity lien on Contract Revenues. Under the Master Agreement, the Authority must maintain and enforce its contract in order to collect sufficient revenues to pay all of the parity obligations.

Conditions

Standard SWIFT, Board Participation, tax-exempt and taxable, and contract revenues conditions and further conditioned as follows:

- Prior to release of funds for land, provide legal documentation
- Prior to release of funds for land, favorable environmental determination

Attachments: 1. Project Data Summary

2. Debt Service Schedule
3. Engineering/Environmental
4. Project Budget
5. Resolutions (15-) and (15-)
6. Water Conservation Review
7. Location Map

Project Data Summary

Authority	Lone Star Regional Water Authority
Program	State Water Implementation Fund for Texas
Commitment Code	LB15034, LB15013, L15034, L15013
Project Number	51011
Intended Use Plan Year	N/A
Fund Number	0361
Type of Pledge	4- Contract Revenue
Revenue Pledge Level	N/A
Legal Description	\$15,475,000 Master Agreement \$6,635,000 Master Agreement \$3,870,000 Contract Revenue Bonds, Proposed Series 2015B \$1,660,000 Contract Revenue Bonds, Proposed Taxable Series 2015B
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	No
Disbursement Method	Escrow
Outlay Type	N/A
Population	8,200
Rural	No
Water Connections	06 wholesale customers
Wastewater Connections	0
Qualifies as Disadvantaged	N/A
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
SWIFT Financing Type	Low-Interest Loan and Board Participation
SWIFT Characteristic	None
Financial Managerial & Technical Complete	N/A
Funding Phase Code	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	No
Internal Risk Score	2C
External Ratings (for SRF rates)	
Standard and Poor's	Non-Rated
Moody's	Non-Rated
Fitch	Non-Rated
Special Issues	None

Project Team

Team Manager	JoAnne Duncan
Financial Analyst	Dain Larsen
Engineering Reviewer	JoAnne Duncan
Environmental Reviewer	Nicki Hise
Attorney	Joe Reynolds

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Lone Star Regional Water Authority

\$15,475,000 Master Agreement (tax-exempt)

Dated Date: 12/1/2015
Delivery Date: 12/1/2015
First Interest: 5/15/2016
First Principal: 11/15/2035
Last Principal: 11/15/2049
Fiscal Year End: 9/30

Source: SWIFT-PARTICIPATION
Insurance: No
Case: Contract Revenues
Admin.Fee: \$ -
Admin. Fee Payment Date: N/A
Required Coverage: 1.00

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	* LOW INTEREST LOANS DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	DEFERRED INTEREST	REPAYMENT	INTEREST PAID	TOTAL PAYMENT					
2016	1,607,415	72,158	-		300,444	(300,444)	-	-	-					
2017	1,607,415	158,396	-		659,512	(659,512)	-	-	-					
2018	1,607,415	158,396	-		659,512	(659,512)	-	-	-					
2019	1,607,415	302,691	-		659,512	(527,609)	-	131,902	131,902					
2020	1,607,415	301,109	-		659,512	(527,609)	-	131,902	131,902					
2021	1,607,415	299,216	-		659,512	(461,658)	-	197,853	197,853					
2022	1,607,415	301,979	-		659,512	(395,707)	-	263,805	263,805					
2023	1,607,415	304,339	-		659,512	(296,780)	-	362,731	362,731					
2024	1,607,415	301,394	-		659,512	(197,853)	-	461,658	461,658					
2025	1,607,415	303,220	-		659,512	(98,927)	-	560,585	560,585					
2026	1,607,415	299,844	-		659,512	-	-	659,512	659,512					
2027	1,607,415	301,168	-		659,512	-	-	659,512	659,512					
2028	2,203,012	302,041	-		659,512	-	-	659,512	659,512					
2029	2,203,012	302,481	-		659,512	-	589,373	1,248,884	1,248,884					
2030	2,203,012	297,649	-		659,512	-	589,373	1,248,884	1,248,884					
2031	2,203,012	302,540	-		659,512	-	589,373	1,248,884	1,248,884					
2032	2,203,012	297,033	-		659,512	-	589,373	1,248,884	1,248,884					
2033	2,203,012	296,217	-		659,512	-	589,373	1,248,884	1,248,884					
2034	2,203,012	300,080	-		659,512	-	589,373	1,248,884	1,248,884					
2035	2,203,012	293,704	-		659,512	-	589,373	1,248,884	1,248,884					
2036	2,358,795	297,092	805,000	4.019%	643,335	-	-	643,335	1,448,335					
2037	2,358,795	295,170	835,000	4.070%	610,166	-	-	610,166	1,445,166					
2038	2,358,795	297,939	860,000	4.112%	575,492	-	-	575,492	1,435,492					
2039	2,358,795	290,486	890,000	4.151%	539,339	-	-	539,339	1,429,339					
2040	2,358,795	292,813	920,000	4.187%	501,607	-	-	501,607	1,421,607					
2041	2,358,795	289,842	950,000	4.220%	462,302	-	-	462,302	1,412,302					
2042	2,358,795	291,495	985,000	4.247%	421,340	-	-	421,340	1,406,340					
2043	2,358,795	287,777	1,020,000	4.266%	378,667	-	-	378,667	1,398,667					
2044	2,358,795	288,768	1,055,000	4.285%	334,307	-	-	334,307	1,389,307					
2045	2,358,795	284,471	1,090,000	4.302%	288,258	-	-	288,258	1,378,258					
2046	2,358,795	284,887	1,130,000	4.347%	240,251	-	-	240,251	1,370,251					
2047	2,358,795	-	1,170,000	4.357%	190,202	-	-	190,202	1,360,202					
2048	2,358,795	-	1,210,000	4.366%	138,300	-	-	138,300	1,348,300					
2049	2,358,795	-	1,255,000	4.375%	84,432	-	-	84,432	1,339,432					
	\$	8,696,395	\$	15,475,000	\$	18,267,650	\$	(4,125,611)	\$	4,125,611	\$	18,267,650	\$	33,742,650

\$15,475,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	27.59 YEARS
NET INTEREST RATE	4.278%
AVERAGE ANNUAL REQUIREMENT	\$992,431

* The Authority has no existing debt, this column represents the debt service payments for the (2) proposed SWIFT Low Interest Loans for the project.

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Lone Star Regional Water Authority

\$6,635,000 Master Agreement (taxable)

Dated Date: 12/1/2015
Delivery Date: 12/1/2015
First Interest: 5/15/2016
First Principal: 11/15/2035
Last Principal: 11/15/2049
Fiscal Year End: 9/30

Source: SWIFT-PARTICIPATION
Insurance: No
Case: Contract Revenues
Admin.Fee: \$ -
Admin. Fee Payment Date: N/A
Required Coverage: 1.00

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	PRINCIPAL PAYMENT	INTEREST RATE	\$6,635,000 ISSUE		REPAYMENT	INTEREST PAYMENT	TOTAL PAYMENT	DEBT SERVICE	ACTUAL COVERAGE
				INTEREST PAYMENT	DEFERRED INTEREST					
2016	1,607,415	-		142,414	(142,414)	-	-	-	72,158	22.28
2017	1,607,415	-		312,616	(312,616)	-	-	-	158,396	10.15
2018	1,607,415	-		312,616	(312,616)	-	-	-	158,396	10.15
2019	1,607,415	-		312,616	(250,093)	-	62,523	62,523	497,117	3.23
2020	1,607,415	-		312,616	(250,093)	-	62,523	62,523	495,534	3.24
2021	1,607,415	-		312,616	(218,832)	-	93,785	93,785	590,855	2.72
2022	1,607,415	-		312,616	(187,570)	-	125,047	125,047	690,830	2.33
2023	1,607,415	-		312,616	(140,677)	-	171,939	171,939	839,009	1.92
2024	1,607,415	-		312,616	(93,785)	-	218,832	218,832	981,884	1.64
2025	1,607,415	-		312,616	(46,892)	-	265,724	265,724	1,129,529	1.42
2026	1,607,415	-		312,616	-	-	312,616	312,616	1,271,972	1.26
2027	1,607,415	-		312,616	-	-	312,616	312,616	1,273,296	1.26
2028	2,203,012	-		312,616	-	-	312,616	312,616	1,274,169	1.73
2029	2,203,012	-		312,616	-	279,370	591,986	591,986	2,143,351	1.03
2030	2,203,012	-		312,616	-	279,370	591,986	591,986	2,138,519	1.03
2031	2,203,012	-		312,616	-	279,370	591,986	591,986	2,143,411	1.03
2032	2,203,012	-		312,616	-	279,370	591,986	591,986	2,137,904	1.03
2033	2,203,012	-		312,616	-	279,370	591,986	591,986	2,137,088	1.03
2034	2,203,012	-		312,616	-	279,370	591,986	591,986	2,140,951	1.03
2035	2,203,012	-		312,616	-	279,370	591,986	591,986	2,134,575	1.03
2036	2,358,795	315,000	4.527%	305,486	-	-	305,486	620,486	2,365,913	1.00
2037	2,358,795	330,000	4.527%	290,887	-	-	290,887	620,887	2,361,223	1.00
2038	2,358,795	345,000	4.527%	275,608	-	-	275,608	620,608	2,354,040	1.00
2039	2,358,795	365,000	4.527%	259,537	-	-	259,537	624,537	2,344,362	1.01
2040	2,358,795	380,000	4.527%	242,674	-	-	242,674	622,674	2,337,094	1.01
2041	2,358,795	395,000	4.777%	224,638	-	-	224,638	619,638	2,321,782	1.02
2042	2,358,795	415,000	4.777%	205,292	-	-	205,292	620,292	2,318,127	1.02
2043	2,358,795	435,000	4.777%	184,989	-	-	184,989	619,989	2,306,434	1.02
2044	2,358,795	455,000	4.777%	163,732	-	-	163,732	618,732	2,296,806	1.03
2045	2,358,795	475,000	4.777%	141,519	-	-	141,519	616,519	2,279,247	1.03
2046	2,358,795	495,000	4.777%	118,350	-	-	118,350	613,350	2,268,489	1.04
2047	2,358,795	520,000	4.777%	94,107	-	-	94,107	614,107	1,974,309	1.19
2048	2,358,795	545,000	4.777%	68,669	-	-	68,669	613,669	1,961,969	1.20
2049	2,358,795	570,000	4.777%	42,038	-	-	42,038	612,038	1,951,470	1.21
		\$ 6,635,000		\$ 8,699,654	\$ (1,955,590)	\$ 1,955,590	\$ 8,699,654	\$ 15,334,654	\$ 57,773,699	

\$6,635,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	27.79 YEARS
NET INTEREST RATE	4.725%
AVERAGE ANNUAL REQUIREMENT	\$451,019

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$1,650,677

* The Authority has no existing de

Lone Star Regional WA
Engineering and Environmental Review

Engineering:Key Issues

No engineering issues were noted during the review of the application.

Project Need / Description

Need: Lone Star Regional Water Authority (Authority) needs to develop a system of transmission mains, pump stations, storage tanks, and metering stations necessary to transport treated surface water from the Brazos River Authority's (BRA) East Williamson County Regional Water System (EWCRWS) located on Lake Granger to the densely populated I-35 corridor in Williamson and Bell Counties.

Project Description: The Authority is proposing to construct approximately 23-miles of transmission main, beginning near the community of Circleville (north of Taylor on State Highway 95) where BRA's 36-inch diameter transmission line is accessible and ending at Interstate 35 near Jarrell. The Authority is proposing to construct the transmission main, two high service pump stations, three storage tanks, disinfection equipment, metering, and connections to wholesale customers.

Project Schedule

Project Task	Schedule Date
Closing	12/01/2015
Engineering Feasibility Report Completion (End of Planning Phase)	4/30/2016
Design Phase Complete	6/15/2016
Start of Construction	7/1/2016
Construction Completion	12/31/2017

Environmental:Key Issues

None known at this time.

Environmental Summary

Pursuant to the requirements of 31 Texas Administrative Code (TAC) §363.14, all financial assistance shall be conditioned to read that funding for acquisition, design, and construction costs for specific project elements will not be released until the environmental review has been completed and a favorable Environmental Determination (ED) has been issued.

Lone Star Regional WA
51011 - East Williamson County Regional Water Transmission System

Budget Items	Board Participation	TWDB Low-interest Loan	Total Cost
Construction			
Construction	\$16,551,080	\$4,137,770	\$20,688,850
Construction Total	\$16,551,080	\$4,137,770	\$20,688,850
Basic Engineering Services			
Construction Engineering	\$356,800	\$89,200	\$446,000
Design	\$1,622,400	\$405,600	\$2,028,000
Planning	\$42,000	\$10,500	\$52,500
Basic Engineering Services Total	\$2,021,200	\$505,300	\$2,526,500
Special Services			
Application	\$6,000	\$1,500	\$7,500
Environmental	\$56,000	\$14,000	\$70,000
Geotechnical	\$16,000	\$4,000	\$20,000
Inspection	\$238,400	\$59,600	\$298,000
Special Service Other - permits, easements, right of ways	\$480,000	\$120,000	\$600,000
Surveying	\$194,400	\$48,600	\$243,000
Special Services Total	\$990,800	\$247,700	\$1,238,500
Contingency			
Contingency	\$1,666,920	\$419,230	\$2,086,150
Contingency Total	\$1,666,920	\$419,230	\$2,086,150
Other			
Land Acquisition	\$240,000	\$60,000	\$300,000
Other Total	\$240,000	\$60,000	\$300,000
Fiscal Services			
Issuance Costs	\$640,000	\$160,000	\$800,000
Fiscal Services Total	\$640,000	\$160,000	\$800,000
Grand Total	\$22,110,000	\$5,530,000	\$27,640,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FROM LONE STAR REGIONAL WATER AUTHORITY
FOR THE TEXAS WATER DEVELOPMENT BOARD'S
ACQUISITION AND SALE OF AN INTEREST IN THE
EAST WILLIAMSON COUNTY REGIONAL WATER TRANSMISSION SYSTEM
SUPPLY TO WILLIAMSON COUNTY
WITH FUNDS FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR
TEXAS

(15-)

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 Lone Star Regional Water Authority (Authority), has filed an application with the TWDB requesting that TWDB acquire an interest in the East Williamson County Regional Water Transmission System Supply to Williamson County, Project No. 51011 (Project), not to exceed eighty percent (80%) of the total Project cost, in order to enable excess capacity for the optimum regional development of the Project, using Board Participation Account from the SWIRFT; and

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

WHEREAS, the Project is expected to cost \$27,640,000, of which the TWDB's share, pursuant to this commitment, will not exceed \$22,110,000; and

WHEREAS, by separate Resolution the TWDB is considering a request from Lone Star Regional Water Authority for the TWDB to provide financial assistance through the TWDB's proposed purchase of \$3,870,000 Lone Star Regional Water Authority Contract Revenue Bonds, Proposed Series 2015B, and \$1,660,000 Lone Star Regional Water Authority Contract Revenue Bonds, Proposed Taxable Series 2015B, Project No. 51011; and

WHEREAS, the Authority will purchase the TWDB's interest in the Project with the proceeds of a future revenue bond issue, from other revenue, or from 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 contract revenues 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 members of the Authority in Bell and Williamson Counties; 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 that is attached hereto as Attachment A; and

WHEREAS, the TWDB staff seeks the Board's approval of the terms of the proposed Master Agreement and consent to the execution of a Master Agreement with substantially similar terms; and

WHEREAS, the TWDB hereby finds that:

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 in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code

§ 15.474(a);

8. the Authority satisfactorily completed any request 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), Water Code, in accordance with Texas Water Code § 15.435(g)(2) and 31 TAC § 363.1309(b)(2);
9. that the current water audit, if required by Texas Water Code § 16.0121, has been completed by the Authority and filed with the TWDB in accordance with 31 TAC § 358.6; and
10. 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 East Williamson County Regional Water Transmission System Supply to Williamson County, Project, not to exceed eighty percent (80%) of the total Project cost, based on an application filed by Lone Star Regional Water Authority, in an amount not to exceed \$22,110,000 from the Board Participation Account of the State Water Implementation Revenue Fund of Texas as further described below.
 - a) \$15,475,000 Tax-exempt Board Participation; and
 - b) \$6,635,000 Taxable Board Participation.

This commitment will expire on December 31, 2015.

2. the Board approves the terms of the Master Agreement attached to this Resolution as Attachment A; and
3. the Executive Administrator is authorized to negotiate and execute the terms of a Master Agreement, in substantially the form attached hereto as Attachment A, that will set forth the duties, responsibilities and liabilities of the TWDB and the Authority.

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 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.

The Following Conditions Must Be Included in the Master Agreement:

4. the Master Agreement must contain a provision that the pledged revenues from the Authority may not be pledged to the payment of any additional obligations of the Authority unless the Authority demonstrates to the Executive Administrator's satisfaction that the pledged revenues will be sufficient for the payment of the Authority's obligation to purchase the TWDB's interest in the Project and the additional obligations;
5. the Master Agreement must contain a provision requiring the Authority to maintain rates and charges sufficient to meet the revenue requirements of the Authority's obligation to purchase the TWDB's interest in the Project;
6. 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;
7. 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;
8. 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;
9. the Master Agreement must include a provision stating that the Authority shall report to the TWDB the amounts of project funds, if any, which were used to compensate historically underutilized businesses that worked on the project, in accordance with 31 TAC § 363.1312;

Contract Revenue Pledge

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 for the Executive Administrator's review;
11. the Master Agreement must contain a provision requiring the Authority to require its customers to maintain rates and charges sufficient to pay all of the Authority's revenue obligations arising from the operation of the Project;

Conditions to Close or for Release of Funds:

12. 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;
13. 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;
14. prior to closing, the Authority and the TWDB will execute a Master Agreement which will set forth the responsibilities, duties and liabilities of each party;
15. prior to closing, and if not previously provided with the application, the Authority shall submit executed contracts for engineering, and, if applicable, financial advisor and legal 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; and
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:

1. prior to execution of the financing agreement, 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 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 collection of revenues sufficient to meet the Authority's revenue obligations;

2. prior to release of funds for the purchase of land, the Authority will submit all necessary legal documentation for the purchase of the land, satisfactory in form and substance to the Executive Administrator; and
3. prior to the release of funds for the purchase of land, the Executive Administrator must make a favorable environmental determination relating to the Project site.

APPROVED and ordered of record this the 23rd day of July, 2015.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, Chairman

DATE SIGNED: _____

ATTEST:

Kevin Patteson
Executive Administrator

**MASTER AGREEMENT
BETWEEN
TEXAS WATER DEVELOPMENT BOARD
AND
LONE STAR REGIONAL WATER AUTHORITY**

**REGARDING BOARD PARTICIPATION IN THE
EAST WILLIAMSON COUNTY REGIONAL WATER TRANSMISSION SYSTEM
PROJECT NO. 51011**

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

Table of Contents

ARTICLE 2. BOARD PARTICIPATION	6
ARTICLE 3. AUTHORITY’S PURCHASE OBLIGATION	10
ARTICLE 4. PROCEDURES DURING PROJECT CONSTRUCTION	15
ARTICLE 5. OPERATION AND MAINTENANCE	16
ARTICLE 6. SALE AND LEASE OF PROPERTY BY AUTHORITY	18
ARTICLE 7. EFFECTIVE DATE AND TERM OF AGREEMENT	18
ARTICLE 8. FURTHER COVENANTS	19
ARTICLE 9. LAWS GOVERNING THE AGREEMENT; REMEDIES	19
ATTACHMENT A. BOND COUNSEL OPINION REGARDING IMPACT OF THE PROJECT ON THE TAX-EXEMPT STATUS OF TWDB BONDS	22
ATTACHMENT B. SCHEDULES	23
ATTACHMENT C. FORMAT FOR DETERMINATION OF AUTHORITY USE OF TWDB OWNERSHIP.....	24

MASTER AGREEMENT

BETWEEN

TEXAS WATER DEVELOPMENT BOARD

AND

LONE STAR REGIONAL WATER AUTHORITY

WHEREAS, the Texas Water Development Board, (the “TWDB”), a Texas agency created pursuant to Article 3, Section 49-c of the Texas Constitution, is authorized under the authority of § 15.435(c)(4), Water Code, and 31 Texas Administrative Code (TAC) §§ 363.1305 and 363.1308, to acquire, sell, transfer, and lease an interest in water supply projects using the Board Participation Program of the State Water Implementation Revenue Fund for Texas (SWIRFT) in order to encourage the optimum regional development of reservoirs and facilities for the transmission of water; and

WHEREAS, the AUTHORITY, a conservation and reclamation district duly created pursuant to Article XVI, Section 59 of the Texas Constitution and lawfully operating under Chapter 8364 of the Special District Local Laws Code, is proposing to develop a new water transmission project known as the East Williamson County Regional Water Transmission System, Project No. 51011; and

WHEREAS, the Project will consist of the planning, land acquisition, design, and construction of a transmission line system to transport treated water from the Brazos River Authority’s East Williamson County Regional Water Transmission System on Lake Granger to customers in Williamson and Bell Counties; and

WHEREAS, the Project is a recommended water management strategy in the 2012 State Water Plan and in the 2011 Region “G” Regional Water Plan; and

WHEREAS, at its meeting on July 23, 2015, the TWDB, through adoption of TWDB Resolution No. <<RESOLUTION NO.>> (Attachment A, referred to herein as the Resolution), approved the AUTHORITY’s application for the TWDB’s participation in the Project in an amount up to \$22,110,000 from the Board Participation Program of the SWIRFT; and

WHEREAS, under 31 TAC § 363.1308, the AUTHORITY will finance at least twenty percent (20%) of the Project and the TWDB may finance up to eighty percent (80%) of the Project; and

WHEREAS, the AUTHORITY will purchase the TWDB’s interest with the proceeds of a future bond issue, with other revenue, or with other lawful sources of funds in accordance with this Master Agreement to be executed by and between the AUTHORITY and the TWDB; and

WHEREAS, in the Resolution, the TWDB authorized the Executive Administrator to negotiate and execute a Master Agreement setting forth the duties, responsibilities and liabilities of the TWDB and the AUTHORITY; and

WHEREAS, this Master Agreement has been negotiated pursuant to the authority delegated to the Executive Administrator in the Resolution and is approved in substantially this form by the TWDB under the Resolution, subject to final terms approved by the Executive Administrator and is hereby entered into and executed between the TWDB and the AUTHORITY to authorize the TWDB's acquisition of an ownership interest in the Project and the subsequent purchase of the TWDB's ownership interest in such Project by the AUTHORITY.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, and in contemplation of and in accordance with the applicable laws of the State of Texas, the AUTHORITY, acting by and through its undersigned representatives as duly authorized by a resolution of its Board of Directors, and the TWDB, acting herein by and through its undersigned representative, as duly authorized by a TWDB Resolution, enter into this Agreement and mutually agree as follows:

ARTICLE 1. DEFINITIONS AND CONSTRUCTION

§1.1 DEFINITIONS. Words and phrases as used in this Agreement shall have the following meanings:

- (1) “*Additional Obligations*” means additional debt or other obligations for which the AUTHORITY pledges a parity lien on the same Contract Revenues as pledged herein.
- (2) “*Agreement*” means this Master Agreement.
- (3) “*Application*” means the AUTHORITY's application to the TWDB for Board Participation under SWIRFT for TWDB Project No. 51011, together with all attachments and any amendments thereto.
- (4) “*AUTHORITY*” means the Lone Star Regional Water Authority or its successors or assigns which succeed it as to any rights, powers or duties under this Agreement.
- (5) “*Authority Act*” means Article 16, Section 59 of the Texas Constitution and Chapter 8364 of the Special District Local Laws Code.
- (6) “*Call Date*” means the date prior to which the AUTHORITY cannot purchase the TWDB's portion of the Project, as set forth in the Schedules.
- (7) “*Construction Fund*” means a separate account created under § 2.2 of this Agreement and maintained at the depository bank of the AUTHORITY for the purpose of paying and accounting for Project Costs, and into which any funds may be transferred either directly from the TWDB or from the Escrow Account pursuant to approval by the Executive Administrator.

Funds in the Construction Fund may be used only for Project Costs or for the AUTHORITY's purchase of the TWDB's interest in the Project.

- (8) “*Construction Stage*” means that stage of the Project that involves the physical construction of the Project, including pumping equipment, storage facilities, transmission lines, and related appurtenances, and related engineering and inspection fees.
- (9) “*Cost of Acquisition*” means the amount of funds deposited into the Construction Fund and/or the Escrow Account by the TWDB for the acquisition of an undivided interest in the Project.
- (10) “*Customers*” means collectively:
- (a) Sonterra Municipal Utility District, CL&L Municipal Utility District, Central Texas Water Supply Corporation, Jarrell-Schwertner Water Supply Corporation, City of Jarrell, and BellMilam Falls Water Supply Corporation, all of which have signed contracts with the AUTHORITY to participate in paying the costs associated with the Project and for a right to contract to receive a portion of the raw or potable water from the Project upon its completion.
 - (b) Any entity that is a "political subdivision" as defined in § 16.001, Water Code, other than a water supply corporation and other than the Customers listed in (a) above with which the AUTHORITY executes a contract for the purpose of paying the costs associated with the Project and for purposes of supplying raw or potable water from the Project.
 - (c) Any person or entity that is not a "political subdivision" as defined in § 16.001, Water Code, including a water supply corporation, other than the Customers listed in (c) above, with which the AUTHORITY executes a contract for the purpose of paying the cost of the Site Acquisition Stage and for purposes of supplying raw or potable water from the Project upon its completion.
- (11) “*Date of Acquisition*” means each date that TWDB delivers funds to the Construction Fund and/or the Escrow Account for the acquisition of an undivided interest in the Project.
- (12) “*Design Stage*” means that stage of the Project that involves the design of the Project and related engineering fees.
- (13) “*Escrow*” means the TWDB's transfer of funds to the Escrow Agent until such funds are authorized for release to the AUTHORITY by the Executive Administrator.
- (14) “*Escrow Account*” means the account created under this Agreement for the TWDB's delivery of funds to be held in Escrow upon closing for the TWDB's acquisition of an undivided interest in the Project. Funds in the Escrow Account may be used only for Project Costs or for the AUTHORITY's purchase of the TWDB's interest in the Project.
- (15) “*Escrow Agent*” means the third party appointed to hold the escrow funds until such funds are authorized for release to the AUTHORITY.

- (16) “*Event of Default*” means the non-performance or violation by the AUTHORITY of any obligation or provision in this Agreement if such non-performance or violation is not cured within 30 days after written notice by the TWDB to the AUTHORITY of the non-performance or violation.
- (17) “*Executive Administrator*” means the Executive Administrator of the TWDB.
- (18) “*Force Majeure*” means a failure or delay in a Party’s performance under this Agreement that is caused by acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such Party is unable to overcome.
- (19) “*Contract Revenues*” means all the “Contract Revenues of the System” as defined in the debt instruments authorizing the AUTHORITY’s outstanding Prior Lien Revenue Obligations.
- (20) “*Operation and Maintenance Expenses*” - All reasonable and necessary current costs of operation and maintenance of the System including, but not limited to, repairs, operating personnel, the cost of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, paying agents fees, and any other supplies, services, administrative costs, and equipment necessary for the use or operation of any property, and payments made by the AUTHORITY in satisfaction of judgments or other liabilities resulting from claims not covered by Issuer’s insurance. Depreciation shall not be considered an item of Operation and Maintenance Expense.
- (21) “*Parties*” or “*Party*” means the TWDB or the AUTHORITY and their authorized successors and assignees.
- (22) “*Planning Stage*” means that stage of the Project that involves the planning of the Project and related engineering fees.
- (23) “*Pledged Revenues*” means those revenues pledged to the payment of the AUTHORITY’s obligation to purchase the TWDB’s interest in the Project, as provided in Section 3.2 herein.
- (24) “*Prior Lien Revenue Obligations*” means all bonds, notes, or other obligations of the AUTHORITY whether now outstanding or hereafter issued, payable from and secured by a first lien on and pledge of the Contract Revenues.
- (25) “*Private Customers*” means, collectively, all of those Customers listed in subsection (c) in the definition of “Customers” above.
- (26) “*Project*” means the development and construction of a treated water conveyance system to transfer water from Lake Granger to Customers in Bell and Williamson Counties, as described in the Application.

- (27) *"Projects Contract"* means that certain projects contract between the Customers listed in subsection (a) in the definition of "Customers" above and the AUTHORITY, in form and substance acceptable to the TWDB.
- (28) *"Project Costs"* means costs of the Project associated with its construction, bond issuance costs, and all other costs and expenditures which under standard principles of accounting would constitute a capital cost of the Project, including specifically but not limited to: the cost of engineering planning, design, supervision and inspection; the cost of testing laboratories and other professional services associated with construction of the Project; abstractors' costs; the cost of constructing the well field infrastructure; the cost of acquiring all lands and interests in land for the Project, including all costs associated with planning, design, and construction of the Projects. The term "Project Costs" does not include any capitalized interest, reserve funds or operational expenses.
- (29) *"Public Customers"* means, collectively, all of those Customers in subsections (b) in the definition of "Customers" above.
- (30) *"Resolution"* has the meaning given to the term in the preamble to this Agreement.
- (31) *"Schedules"* means the payment schedule(s) attached hereto from time to time, which show the payments that the AUTHORITY is obligated to make in order to purchase the TWDB's interest in the Project. Each Schedule is associated with the funds delivered by TWDB upon each Date of Acquisition. Such Schedules shall, at a minimum, detail the interest rate to be paid by the AUTHORITY, the TWDB's source of funds, and the Call Date associated with the AUTHORITY's purchase obligation.
- (32) *"Site Acquisition Stage"* means the initial stage of the Project involving (a) surveying, appraisal, title work, site assessment in preparation for acquisition of land and easements; (b) acquisition of title to the land and easements; and (c) environmental assessment for construction activities. The Site Acquisition Stage shall be deemed complete upon the AUTHORITY's acquisition in fee title of all of the land and easements needed for development of the Project. Construction of the transmission system cannot commence until after the Site Acquisition Stage has been completed.
- (33) *"State"* means the State of Texas.
- (34) *"System"* means All of the AUTHORITY's existing water storage, treatment, transportation, distribution, and supply facilities, including all well fields, dams, reservoirs, and other properties, which heretofore have been acquired or constructed with the proceeds of all bonds or other obligations ever issued by the Issuer which have been payable from or secured by a lien on or pledge of any part of the revenues of the System, together with all future improvements, enlargements, extensions, and additions to any of the foregoing (and all future new facilities) acquired or constructed with the proceeds from the sale of any bonds or other obligations or any contingency fund therefor, or any water supply facilities which are deliberately and specifically, at the option of the AUTHORITY, made a part of the System by resolution of the AUTHORITY, and all repairs to or replacements of the System. The System does not include any facilities acquired or constructed by the AUTHORITY which are not issued as Additional

Bonds under any of the AUTHORITY's bond resolutions, and which are payable from any source, contract, or revenues whatsoever other than the Contract Revenues pledged by the AUTHORITY.

- (35) “TAC” means Texas Administrative Code.
- (36) “TCEQ” means the Texas Commission on Environmental Quality or any other board, commission or agency which succeeds it as to any rights, powers or duties under this Agreement.
- (37) “TWDB” means Texas Water Development Board or any other board, commission or agency which succeeds it as to any rights, powers or duties under this Agreement.
- (38) “TWDB Cost of Acquisition” means the total of the payments made by TWDB to the AUTHORITY for purchase of an undivided interest in the Project pursuant to this Agreement, less any purchases of TWDB's interest by the AUTHORITY.
- (39) “TWDB Rules” means the applicable rules and regulations of the TWDB set forth in Title 31 Texas Administrative Code Part 10.

ARTICLE 2. BOARD PARTICIPATION

§2.1 TWDB ACQUISITION OF OWNERSHIP. The TWDB agrees to participate in this Project by acquiring an undivided interest of up to 80% of the Project as a whole, including all work performed and all properties and facilities acquired or constructed as part of the Project, not to exceed an amount of \$22,110,000, pursuant to the Resolution and this Agreement. The TWDB's undivided ownership interest in the Project will cost not more than \$22,110,000, to be allocated for the costs of the Planning Stage, Site Acquisition Stage, the Design Stage, and the Construction Stage, respectively, in any manner determined to be acceptable by the TWDB's Executive Administrator, in accordance with the provisions of this Agreement. If the costs of the Project exceed \$22,110,000, the TWDB may consider, in its sole discretion, providing additional funds if requested by the AUTHORITY in writing, and if the TWDB's Cost of Acquisition does not exceed 80% of the total Project, then then the TWDB and the Authority will amend this Master Agreement to evidence the increased Cost of Acquisition, the change in percentage of ownership, and to provide additional Schedules to reflect the Authority's obligation to purchase the TWDB increased ownership interest. For the purposes of this Agreement, it is expressly understood that the TWDB is purchasing an undivided interest, to the extent permitted by law, in the entire Project, including real estate purchased for site acquisition, facilities constructed for the well field infrastructure, and all related appurtenances and any structures of the Project.

§2.2 ESCROW ACCOUNT AND CONSTRUCTION FUND. Prior to the delivery of TWDB funds, the AUTHORITY will create: (i) a Construction Fund; to be held by the AUTHORITY, and (ii) an Escrow Account under an escrow agreement approved by the Executive Administrator, to be held by the Escrow Agent. Funds in the Escrow Account and Construction Fund, including interest and investment earnings, are to be used only for Project Costs or for the AUTHORITY's purchase of the TWDB's

interest in the Project. Funds in the Escrow Account may be released by the Escrow Agent only upon direction by the Executive Administrator.

The funds to be placed in the Construction Fund and the Escrow Account are public funds and, as such, these funds shall be held at a designated state depository institution or other properly chartered and authorized institution and managed in accordance with the Public Funds Investment Act, Chapter 2256, Government Code (the “*PFIA*”), and secured in accordance with the Public Funds Collateral Act, Chapter 2257, Government Code (the “*PFCA*”).

§2.3 DELIVERY OF TWDB FUNDS. The TWDB shall deliver to the Construction Fund and/or the Escrow Account up to \$22,110,000 subject to the availability of funds and satisfactory documentation that the AUTHORITY has met all prerequisites for the delivery of TWDB funds under this Agreement, the TWDB’s rules, and the Resolution authorizing TWDB participation in the Project. The Executive Administrator shall determine from time to time the amounts to be delivered to the Construction Fund and/or the Escrow Account as appropriate. The Executive Administrator, or his or her designee, shall authorize release of funds from the Escrow Account to the Construction Fund for the Planning Stage, Site Acquisition Stage, Design Stage, and Construction Stage, as provided below, after the AUTHORITY has provided information, satisfactory to the Executive Administrator, that the funds are needed for eligible Project Costs. Upon each Date of Acquisition, Schedules shall be dated and signed by the TWDB’s Executive Administrator and by a duly authorized representative of the AUTHORITY to indicate agreement, and such agreed Schedules shall be appended to and incorporated into this Agreement.

A. PLANNING STAGE: After completion of all prerequisites for the release of funds for work to be performed under the Planning Stage satisfactory to the Executive Administrator, including, but not limited to those in 31 TAC Chapter 363, the Executive Administrator shall either deliver to the Construction Fund or authorize the release of funds from the Escrow Account to the Construction Fund for the costs associated with the Planning Stage.

B. SITE ACQUISITION STAGE: After receipt of the surveying, appraisal, title work, and site assessment, the Executive Administrator shall cause funds to be delivered to the Construction Fund, either by direct transfer or by authorizing the release from the Escrow Account to the Construction Fund for the costs associated with the Site Acquisition Stage, including surveying, and environmental assessment for the construction activities. Prior to the delivery of funds to the Construction Fund for the Site Acquisition Stage, the AUTHORITY must submit all necessary legal documentation for the purchase of the land, satisfactory in form and substance to the Executive Administrator, and the Executive Administrator must make a favorable environmental determination relating to the Site Acquisition Stage.

C. DESIGN STAGE: After completion of all prerequisites for the release of funds for work to be performed for the Design Stage satisfactory to the Executive Administrator, including, but not limited to those in 31 TAC Chapter 363, the Executive Administrator shall either deliver to the Construction Fund or authorize the release of funds from the Escrow Account to the Construction Fund for the costs associated with the Design Stage. Prior to the delivery of funds to the Construction Fund for the Design Stage, the Executive Administrator must make a favorable environmental determination relating to the Project.

D. CONSTRUCTION STAGE After the Design Stage and Site Acquisition Stage releases have been completed, and after completion of all prerequisites to the release of funds for construction activities, including, but not limited to those in 31 TAC Chapter 363, the Executive Administrator shall either deliver to the Construction Fund or authorize the release from the Escrow Account to the Construction Fund of an amount up to the remainder of funds available under this Agreement for the costs associated with the Construction Stage. Prior to the delivery of funds to the Construction Fund for the Construction Stage, the Executive Administrator must make a favorable environmental determination relating to the Project.

§2.4 VESTING AND NATURE OF TWDB OWNERSHIP. Upon delivery of funds in any amount by the TWDB into the Construction Fund and/or the Escrow Account, there will be vested in the TWDB an undivided ownership interest in the Project along with the right to its use, as well as an undivided ownership right in all applicable operating permits with respect to the Project. The percentage of the TWDB's undivided ownership interest in the Project is initially set at 52% and shall remain at 52% until additional funding is provided under § 2.1 and this Master Agreement is amended or supplemented; or until all Stages of the Project are complete and final accounting is performed under § 2.5 of this Agreement; or upon a determination by the TWDB that the Project will not be completed, and a final accounting is performed under § 2.5 of this Agreement.

It is expressly understood that the TWDB is purchasing an undivided interest, to the extent permitted by law, in the entire Project, including real estate purchased by site acquisition, facilities constructed for the Project infrastructure, and all related appurtenances and any structures of the Project. TWDB's ownership interest in the Project does not provide the TWDB with any ownership right in the AUTHORITY's water permit. The TWDB's undivided interest in the Project shall include, but not be limited to, the right to develop, produce, and sell water from the Project to the extent of the amount of water in the TWDB's undivided interest, subject to the AUTHORITY's preferential right to purchase the TWDB's interest under § 3.8 of this Agreement. The AUTHORITY, upon request of the TWDB, will execute and record any conveyances and assignments which may be necessary to place title of the Project in the TWDB, with the exception that the AUTHORITY shall hold title to any land and facilities that are part of the Project in trust for the TWDB to the extent of the TWDB's interest in the Project. Upon written request of the TWDB, the AUTHORITY shall execute and record documents necessary to convey or assign title to the Project land and facilities to the extent of the TWDB's ownership interest in the Project. The AUTHORITY acknowledges that the TWDB's interest shall constitute an ownership interest whether or not the TWDB ever requires execution of any conveyance documents to evidence such interest.

§2.5 CALCULATION OF TWDB OWNERSHIP INTEREST. The AUTHORITY shall provide TWDB a final accounting of all Project Costs within six (6) months of completion of all Stages of the Project and the issuance of a certificate of approval under 31 TAC § 363.55, or upon a determination by TWDB that the Project will not be completed. Upon the TWDB's approval of the final accounting, the TWDB's total undivided ownership interest in the Project shall be calculated by dividing the TWDB Cost of Acquisition by the Project Costs incurred on the Project to that point in time. If, at the time that the TWDB approves the final accounting, the calculation of the TWDB's ownership interest exceeds 80% , the AUTHORITY shall, within 30 days after the TWDB's approval of the final accounting, take all actions necessary to remit to the TWDB the amount necessary to reduce the TWDB's ownership interest to 80% of the total Project Cost. The TWDB shall have the right to determine the schedule and method by which the funds are remitted to the TWDB. Upon remittance, any Schedule and any lease

payment schedule calculated pursuant to the terms of this Agreement shall be amended to reflect the remitted amount.

Upon the TWDB's approval of the final accounting and any actions taken to adjust the parties' ownership interest, the TWDB shall then own that percentage interest in the Project not to exceed 80%, and the AUTHORITY shall own the remainder, not less than 20%. Such ownership interests shall be documented in writing in **Attachment C** as agreed by both parties and made part of this Agreement for all purposes.

The use of each party's ownership in the Project shall be determined annually thereafter, based on the amount of water transported by the Project, in accordance with § 3.6 of this Agreement.

§2.6 TAX-EXEMPT ASSURANCES.

- A. The TWDB has identified a portion of the source of funds for its share of the Project Costs as the proceeds of tax-exempt obligations issued by the TWDB. As required by the Resolution, the AUTHORITY has provided a bond counsel opinion that is satisfactory and acceptable to the Executive Administrator of the TWDB as to any impact of the Project, or the use thereof and the AUTHORITY's payments under this Agreement (**Attachment B**) on the excludability of interest on obligations issued by the TWDB to fund their undivided interest in the Project from gross income of the owners of such obligations for federal income tax purposes. The AUTHORITY agrees to take such actions, including the execution and delivery of such certificates and agreements, as are necessary to assure, or to refrain from such actions as would materially adversely affect, such excludability from gross income, including, but not limited to: (1) the filing of a Form 8038-G in connection with the execution of this Agreement by the AUTHORITY in connection with the financing of the AUTHORITY's interest in the Project; and (2) the adoption of written procedures relating to arbitrage compliance, private business use and record retention.
- B. The TWDB and the AUTHORITY expressly acknowledge the following: (1) the Project will be constructed for the benefit of Public Customers and Private Customers; (2) the AUTHORITY will utilize revenues generated from its Public Customers and Private Customers to purchase the TWDB's ownership interest in the Project. The TWDB and the AUTHORITY intend to finance the acquisition of their respective interests in the Project through a combination of proceeds of taxable and tax-exempt obligations which are described in Section 103(a) of the Internal Revenue Code of 1986, cash contributions from the Public Customers and Private Customers, and such other sources of funds as may be needed.
- C. The AUTHORITY agrees to maintain two (2) separate accounts for the receipt of revenues from Public Customers and the receipt of revenues from Private Customers. Prior to each Date(s) of Acquisition, the TWDB shall identify the portion of the funds to be delivered on such Date(s) that are from proceeds of tax-exempt obligations. The AUTHORITY covenants that no revenues from Private Customers shall be used to purchase the TWDB's ownership interest in the Project. The AUTHORITY also

- covenants that revenues from Public Customers and Private Customers will secure only the share of the cost of the operation and maintenance in the Project allocable to their proportionate interests in the Project.
- D. At each Date of Acquisition, the AUTHORITY must submit a bond counsel opinion that is satisfactory and acceptable to the Executive Administrator of the TWDB as to any impact of the Project, or the use thereof, and the AUTHORITY's payments under this Agreement on the tax-exempt status of TWDB bonds.
 - E. To the extent that TWDB and the AUTHORITY use proceeds from tax-exempt obligations to finance all or a portion of their respective interests in the Project, the TWDB and the AUTHORITY hereby agree that the proceeds of their respective tax-exempt obligations will not be used in a manner that will cause the obligations to be "private activity bonds" or arbitrage bonds." In furtherance thereof, the AUTHORITY agrees to make timely payments of arbitrage rebate to the United States required to be made by section 148 of the Code.

ARTICLE 3. AUTHORITY'S PURCHASE OBLIGATION

§3.1 PURCHASE BY AUTHORITY. The AUTHORITY will purchase TWDB's ownership interest in the Project at the earliest possible date, which date shall be not later than the date(s) established by the Schedule(s), so that the State may fully recover its investment therein.

§3.2 PLEDGE BY AUTHORITY.

- A. In order to secure its obligations hereunder, including the ultimate purchase by the AUTHORITY of 100% of the TWDB's ownership interest in the Project, under the authority of the Authority Act, Texas Water Code §49.108, and other applicable law, the AUTHORITY pledges and grants to the TWDB as security for the payments hereunder, Contract Revenues of the System in such amounts as may be necessary, when and as required by this Agreement, and the Schedules incorporated herein, to purchase the TWDB's ownership interest in the Project.
- B. The AUTHORITY agrees that it shall be unconditionally obligated to purchase 100% of the TWDB's interest in the Project with the Contract Revenues of the System regardless of whether or not the AUTHORITY actually acquires or completes the Project, or whether or not the AUTHORITY actually approves, purchases, receives, accepts, or uses the Project; and such purchase shall not be subject to any abatement, set-off, recoupment, or counterclaim. The TWDB shall be entitled to rely on this Agreement and representation, notwithstanding any provision of this Agreement or any other contract or agreement to the contrary, and regardless of the validity of, or the performance of, the remainder of this Agreement or any other contract or agreement.
- C. The Obligations of the AUTHORITY under this Agreement shall be a special limited obligation of the AUTHORITY, payable from the sources described herein, and shall be enforceable as provided under this Agreement.

D. The Pledged Revenues from the AUTHORITY may not be pledged to the payment of any Additional Obligations of the AUTHORITY unless:

- (1) the AUTHORITY demonstrates to the Executive Administrator's satisfaction that the Pledged Revenues will be sufficient for the payment of the AUTHORITY's obligation to purchase the TWDB's interest in the Project and the Additional Obligations, and
- (2) the Authority delivers to the Executive Administrator an executed certificate that Contract Revenues will be sufficient for the purpose described in clause (1) of this Section.

The governing body of the AUTHORITY may not take action to authorize or approve the issuance of Additional Obligations unless it has delivered the certificate described in clause (2) of this Section and received written notification from the Executive Administrator that the AUTHORITY has satisfactorily made the demonstration described in clause (1) of this Section to the extent permitted by law.

E. The AUTHORITY shall submit annual audits of contracting parties for the Executive Administrator's review.

F. The Projects Contracts are approved, executed, and in effect. The Authority must maintain and enforce the Projects Contracts so that revenues paid to the Authority by the Customers are sufficient to meet the revenue requirements of the Authority's obligation to purchase the TWDB's interest in the Project that are being supported by the Pledged Revenues and, prior to beginning operations and maintenance of the Project, must enter into additional contractual obligations with the Customers, in form and substance acceptable to the TWDB, so that payments from the Customers are sufficient to pay all of the Authority's revenue obligations arising from the operation and maintenance of the Project. The TWDB reserves the right to compel compliance of this obligation by mandamus or any other appropriate means including those under Texas Water Code § 6.114.

§3.3 PRICE OF SALE TO AUTHORITY. The TWDB agrees to sell its ownership interest to the AUTHORITY at the following price, to-wit: the sum of the TWDB Cost of Acquisition plus an amount of interest calculated by multiplying the lending rate in effect at the Date of Acquisition (and identified on the Schedules) by the amount of TWDB money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of purchase or acquisition to the date or dates of the sale or transfer of any portion of TWDB's ownership interest in the Project to the AUTHORITY, plus TWDB's cost, if any, of operating and maintaining the Project from the Date of Acquisition to the date of such purchase by the AUTHORITY, less any payments received by the TWDB from the lease of the Project or sale of capacity therefrom.

The AUTHORITY shall assume at the time of purchase, to the extent disclosed by the TWDB at or prior to the sale, any and all direct, conditional, or contingent liabilities of the TWDB attributed to the Project in direct relation to the percentage of the Project acquired.

For purposes of this section, the dates of sale to the AUTHORITY shall be the dates on which the AUTHORITY provides payment to TWDB to acquire part or all of the TWDB's ownership interest in the Project. After all principal and accrued interest under the Schedules have been paid, the AUTHORITY's scheduled payments of principal under the Schedules or the AUTHORITY's partial purchases of TWDB's ownership interest made pursuant to § 3.4 or § 3.5 of this Agreement shall constitute the purchase of a proportion of the TWDB's ownership interest, such proportion to be calculated by dividing such principal payment by the TWDB Cost of Acquisition, provided the AUTHORITY also pays the same proportion of the TWDB's cost of operating and maintaining the Project to the date of each purchase. The lending rate in effect at each Date of Acquisition shall be based upon the TWDB's methodology, established by rule, for computing such rates. Interest will accrue on outstanding principal based upon simple interest rate calculation on a basis of a 360-day year consisting of twelve (12) 30-day months.

§3.4 SCHEDULE OF AUTHORITY PAYMENTS. The AUTHORITY agrees to purchase the TWDB's ownership interest in the Project beginning with the first scheduled principal payment and in accordance with all subsequent scheduled principal payments on the Schedules attached to this Agreement as **Attachment C** and any revisions made thereto pursuant to this Agreement. The AUTHORITY shall wire all payments to the TWDB in accordance with the Schedules, without the need for an invoice and at no cost to the TWDB, to the following:

TEXAS COMPT - AUSTIN

ABA# 114900164

BNF = ACCT#463-6005-80

ATTN: TWDB - _____

The AUTHORITY also agrees to make scheduled interest payments prior to the first scheduled principal payments as provided on the Schedules, and any revisions thereto pursuant this Agreement.

In exchange for having a preferential right to purchase the TWDB's ownership interest in the Project, the AUTHORITY agrees to pay all deferred interest and accrued interest attributed to the Project prior to the AUTHORITY's purchase of any ownership interest.

§3.5 EARLY PURCHASE BY AUTHORITY. The AUTHORITY shall have the right, the Schedules notwithstanding, to make an early purchase of all or a portion of the TWDB's ownership interest reflected in the Schedules on or after the Call Date specified in each Schedule by making principal payments in excess of the scheduled principal payments in the Schedules. Such early purchases may be made no more than once a year, unless otherwise allowed by the Executive Administrator. Early purchases under this section by the AUTHORITY must be made in minimum increments of \$5,000 principal amounts under any Schedule. Any partial early purchase will be applied in inverse order to the Schedules.

§3.6 LEASE OR PURCHASE UPON AUTHORITY'S USE OF TWDB OWNERSHIP.

- A. **DETERMINATION OF AUTHORITY USE OF TWDB OWNERSHIP.** The AUTHORITY shall report to the TWDB by March 1 of each year the AUTHORITY's actual use of the Project's capacity for each calendar year, beginning upon the TWDB's

approval of the final accounting under § 2.5 herein, in the format included herein as **Attachment D**. This report shall be submitted to:

Texas Water Development Board
Attn: Financial Monitoring
P.O. Box 13231
Austin, Texas 78711-3231

The AUTHORITY shall be considered to be using a portion of the TWDB's ownership interest in the Project when the AUTHORITY's transportation of water by the Project exceeds the AUTHORITY's interest shown on Attachment C in acre-feet per year, as determined under § 2.5 of this Agreement.

The usage or transportation of water shall be calculated as the combined flow of all water produced from the Project and metered by the AUTHORITY with water meters installed at locations acceptable to the Executive Administrator as may be necessary to accurately determine water produced from the Project. The water meters and water meter readings shall be accessible to the TWDB at all times. A minimum number of water meter readings will be made by the AUTHORITY as mutually agreed to by TWDB and the AUTHORITY. It shall be the responsibility of the AUTHORITY to ensure that such meters are installed prior to delivery of water from the Project and to monitor the accuracy of the meters at a minimum on an annual basis. If at any time the accuracy of the metering equipment is more than two percent (2%) in error, the AUTHORITY will, as soon as possible, correct the inaccuracy. Adjustments in the quantity of water measured during the period when the meters were not accurately measuring the quantity of water delivered, if such period can be determined, shall be agreed to by authorized representatives of AUTHORITY and the TWDB.

- B. METHOD OF AUTHORITY'S LEASE OR PURCHASE OF TWDB INTEREST.** In the event the AUTHORITY begins using any portion of the TWDB's ownership interest in the Project, either before or after any Call Date, the AUTHORITY will, at the TWDB's option, either: (1) lease from TWDB that portion of the TWDB's ownership interest that the AUTHORITY is using; (2) upon approval of TWDB, issue revenue bonds to the TWDB as consideration to purchase that portion of the TWDB's ownership interest that the AUTHORITY is using; or (3) purchase the TWDB's ownership interest with money. The sales price of any of TWDB's ownership interest under this Section shall be determined in accordance with §3.3 of this Agreement.
- C. PROVISIONS RELATING TO PURCHASE USING REVENUE BONDS AS CONSIDERATION.** If the AUTHORITY issues revenue bonds to be purchased by the TWDB as consideration to purchase all or a part of the TWDB's ownership interest in the Project in accordance with Section 15.435(c)(4), the principal amount of the revenue bonds shall be equal to the price for purchasing all or a portion of such ownership interest. The revenue bonds must be non-callable prior to the Call Dates of the Schedules. Terms and maturities of such revenue bonds will be subject to TWDB approval at the

time of purchase. The revenue bonds may, at the TWDB's option, either be on a parity with, or subordinate to, the outstanding Contract Revenue Bonds.

- D. **LEASE PAYMENTS.** If the AUTHORITY leases all or a portion of the TWDB's ownership interest in the Project, the lease payments will be the proportionate share that the percentage of the AUTHORITY's use of TWDB's ownership interest bears to a lease payment schedule to be determined in accordance with Article 3 of this Agreement, or the payment amount in the Schedules, whichever is greater. Such lease payment under this Agreement must be calculated to ensure that any such lease payments shall not be less than the proportionate share that the percentage of use bears to the annual principal and interest requirements attributable to the debt incurred by the State of Texas in acquiring its share of the Project, as determined by the TWDB. Lease payments shall be due and payable on each May 15 immediately following the AUTHORITY's calculation in which the AUTHORITY has used a portion of the TWDB's ownership interest.

§3.7 PROJECT SITE REVENUES. In exchange for the AUTHORITY's agreement to assume operation and maintenance costs of the Project, revenues derived from leases or other agreements related to the Project lands may be applied to pay costs of operation and maintenance for the Project and/or insuring the TWDB'S interest pursuant to § 5.2 of this Agreement, to the extent permitted by law. Any revenues not annually used for such purposes will be deposited into an account of the AUTHORITY and applied to pay the costs of operation and maintenance for the Project, insurance costs for the Project, including insuring the TWDB's interest, or utilized as contingency funds for operation and maintenance of the Project. Such revenues will be accounted for in the AUTHORITY's annual comprehensive audits and budgets and provided to the TWDB when such comprehensive audits and budgets are provided pursuant to this Agreement.

§3.8 PREFERENTIAL RIGHT TO LEASE AND PURCHASE. Pursuant to this Agreement, the AUTHORITY has a preferential right to lease the TWDB's undivided ownership interest in the Project, and the TWDB may not lease its interest in the Project without the AUTHORITY's consent. Upon an Event of Default, however, the AUTHORITY shall lose its preferential right to lease the TWDB's interest in the Project, and the TWDB may lease its interest in the Project without the AUTHORITY's consent.

The AUTHORITY has a right of first refusal prior to any sale of the Board's interest in the project and the TWDB may not sell or transfer its interest in the Project to any other party besides the AUTHORITY without the AUTHORITY's consent, which shall not be unreasonably withheld. Upon an Event of Default by the AUTHORITY, however, the TWDB may sell or transfer its interest in the Project without the AUTHORITY's consent.

The sale, transfer, or lease of the TWDB's interest in the Project to any entity other than the AUTHORITY would be subject to the requirement that the TWDB obtain the approval of the Attorney General as to the legality of any contract for such sale, transfer, or lease.

§3.9 PURCHASE AND LEASE SCHEDULES.

- A. **PURCHASES SCHEDULES.** The AUTHORITY obligates itself and agrees to purchase the TWDB's ownership interest in the Project as outlined in the attached

Schedules, which are incorporated herein for all purposes. Prior to each Date of Acquisition, the AUTHORITY shall deliver a Schedule for the AUTHORITY's purchase of the TWDB's ownership interest in the Project that will be acquired by the TWDB at such Date of Acquisition. This new Schedule will be appropriately labeled and appended to this Agreement. All Schedules submitted by the AUTHORITY for the purchase of the TWDB's ownership interest in the Project are subject to TWDB approval. In addition, at each purchase of the TWDB's ownership interest by the AUTHORITY pursuant to § 3.5 or § 3.6 of this Agreement, the schedule of payments in the Schedules shall be amended to reflect the reduction in the TWDB's ownership interest in the Project.

- B. **LEASES.** The schedule for the AUTHORITY's lease payments for the use of the TWDB's ownership interest in the Project will be calculated in accordance with the terms of this Agreement. The TWDB and the AUTHORITY agree that upon each lease of the TWDB's ownership interest by the AUTHORITY pursuant to § 3.6 of this Agreement, and prior to each payment date in the Schedules, the schedule of payments established in the Schedules will be amended to credit each lease payment by the AUTHORITY as follows: first to deferred interest, then to current interest and then to principal.
- C. **REVISIONS TO SCHEDULES.** Revisions to Schedules and lease payment schedules calculated in accordance with this Agreement are subject to TWDB approval and shall be dated and signed by both Parties to indicate agreement to the revisions prior to being appended to and incorporated into this Agreement.

ARTICLE 4. PROCEDURES DURING PROJECT CONSTRUCTION

§4.1 PROJECT SCHEDULE. The AUTHORITY shall proceed with all studies and planning in an expeditious manner, and provide for acquisition, design, construction and operation of the Project on a reasonable schedule.

§4.2 AUTHORITY RESPONSIBILITIES. The AUTHORITY shall perform the duties and functions required of it and governing its operations, including such provisions of law as may relate to bidding, awarding of contracts, acquisition of land and improvements and shall provide such personnel as may be necessary to secure and protect the property and facilities as acquired and constructed in connection with the Project.

§4.3 SUPERVISION OF CONSTRUCTION. During the construction of the Project, the AUTHORITY shall provide for adequate supervision of the Project to assure that all work covered by this Agreement is performed in a satisfactory manner in accordance with final plans and specifications and approved change orders.

§4.4 TWDB INSPECTION. TWDB or its authorized agent shall have the right to inspect construction of the Project at any time to assure compliance with the final plans and specifications. The inspections shall not subject TWDB or the State of Texas to any claims or actions for damages.

§4.5 REPORTS TO BE PROVIDED. Upon the delivery of any funds by the TWDB, the AUTHORITY shall prepare and file with TWDB quarterly reports on the status of the Project, including the Site Acquisition, Design and Construction Stages. Reports shall be provided to:

Texas Water Development Board
Attn: _____
P.O. Box 13231
Austin Texas 78711-3231

ARTICLE 5. OPERATION AND MAINTENANCE

§5.1 OPERATION AND MAINTENANCE. It is understood and agreed by the parties to this Agreement that the AUTHORITY will be responsible for the operation and maintenance of the Project and no requirement shall be made of the TWDB to share in this responsibility or in the cost. The AUTHORITY shall take whatever measures are reasonable and prudent to insure that the Project is operated safely, efficiently and in accordance with the laws creating and governing it and the general laws of the State. The AUTHORITY binds itself to take such action as may be necessary to insure that the Project is adequately maintained and protected, and shall keep in good and operable state of repair the physical properties comprising the Project.

§5.2 INDEMNIFICATION.

- A. GENERAL INDEMNIFICATION.** To the extent permitted by law, the AUTHORITY shall indemnify and hold the TWDB and the State of Texas harmless, from any and all losses, damages, liability, or claims therefore, on account of personal injury, death, or property damage of any nature whatsoever caused by the AUTHORITY, arising out of the activities and work conducted pursuant to this Agreement. The AUTHORITY is solely responsible for liability arising out of its acts or omissions during the performance of this Agreement. In the event insurance coverage may be inadequate to completely indemnify and hold the TWDB harmless and free of all costs or liability for any and all claims for injuries to persons or property, or otherwise resulting from ownership or operation of the Project, then the AUTHORITY shall utilize any and all other funds and resources lawfully available as may be required to indemnify and hold the TWDB and the State of Texas harmless and free of all costs or liability for any and all such claims.
- B. ENVIRONMENTAL INDEMNIFICATION.** Proceeds of the TWDB's funds delivered for the TWDB's Cost of Acquisition shall not be used by the AUTHORITY to sample, test, remove or dispose of contaminated soils and/or media that may be present at or around the Project site or any sites upon which related facilities are located; nor shall such proceeds be used, either directly or indirectly, to acquire property or to remediate property(s) that contains known, hazardous wastes and hazardous substances. To the extent permitted by law, the AUTHORITY agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages, however and whenever arising, to the person or property of third parties caused either directly or indirectly by the sampling, analysis, transport, storage, treatment, recycling and disposal of any contaminated soil, surface water, groundwater and contaminated media that may

be generated or encountered by the AUTHORITY, its contractors, consultants, agents, officials and employees as a result of design and construction activities undertaken to complete this Project.

§5.3 INSURANCE. For so long as the TWDB maintains an ownership interest in the Project, the AUTHORITY agrees to maintain insurance in the type and amount that, in the reasonable judgment of the AUTHORITY and consistent with the standard practices of the AUTHORITY and in the industry, is necessary to protect the AUTHORITY, the TWDB, and employees and officials of the TWDB from liability arising out of this Agreement and the Project, including but not limited to worker's compensation, property damage, general liability and automobile liability, naming the TWDB as an additional insured, to the extent required to fulfill the requirements of this provision. Typically the AUTHORITY maintains single limit coverage limits of \$1,000,000 with excess liability coverage of \$4,000,000. These coverage limits are reviewed by the AUTHORITY's Board of Directors from time to time and may be adjusted as necessary. The AUTHORITY will require that all consultants and contractors involved with the project to maintain liability, automobile and workers compensation coverage in amounts necessary to protect the AUTHORITY and the TWDB and naming the AUTHORITY and TWDB as additional insured. The AUTHORITY must provide copies of all insurance policies relating to the TWDB and the State of Texas to the TWDB, and such insurance shall be effective at the time the TWDB acquires an ownership interest in the Project. Although the AUTHORITY does not currently intend to satisfy these insurance requirements through self-insurance, it may seek to self-insure in the future provided that (a) prior notification is forwarded to the Executive Administrator for approval along with copies of all pertinent insurance-related documentation, and (b) the Executive Administrator issues written approval allowing the Authority to self-insure.

§5.4 BUDGETS, AUDITS AND REPORTS. The AUTHORITY shall keep and maintain complete records, accounts and financial statements pertaining to the operation of the Project in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants. The AUTHORITY shall provide the TWDB with the reports required in this Section and any other report as the TWDB shall from time to time reasonably require. The AUTHORITY shall provide the TWDB with a copy of its annual budgets. The annual budget shall reflect Project revenues, maintenance and operation expenses and capital outlays anticipated for the next ensuing year. The AUTHORITY agrees to deliver copies of all minutes, monthly operating statements, contracts, leases, deeds, and other documents concerning the Project upon request of the TWDB. The AUTHORITY will submit comprehensive annual audits for each fiscal year to the TWDB within thirty (30) days of the completion of such audits. The audits for each fiscal year must be prepared according to the generally accepted auditing standards adopted by the American Institute of Certified Public Accountants within 135 days from the end of the AUTHORITY's fiscal year. These reports shall be provided to:

Texas Water Development Board
Attn: Financial Monitoring
P.O. Box 13231
Austin, Texas 78711-3231

§5.5 RECORDS RETENTION. Unless otherwise directed by the TWDB, the AUTHORITY shall retain all records relating to the provision of services herein for a period of six (6) years following the termination of this Agreement. Upon the request of the TWDB, the AUTHORITY shall allow representatives or designees of the Texas State Auditor, Texas Attorney General or TWDB to review

and/or audit said records at all reasonable times. Upon the request of the TWDB, after the expiration of the records retention period, the AUTHORITY shall return all files and records to the TWDB. The AUTHORITY may destroy all records in whatever media that are not returned at the expiration of the record retention period.

§5.6 TWDB OPERATION AND MAINTENANCE. If the AUTHORITY fails at any time to operate and maintain the Project as provided in this Article, or in any manner fails to comply with any provisions of this Agreement, the TWDB, in addition to other legal remedies, may take over, operate, and maintain the Project, or cause such to be done for the benefit of the TWDB. The TWDB shall give at least sixty (60) days written notice to the AUTHORITY of its intent to take over and operate and maintain the Project so as to provide the AUTHORITY with the opportunity to remedy the problem(s) identified by the TWDB. The AUTHORITY shall remain liable for any expenditures made by TWDB with respect to notice, remedies, operation and maintenance of the Project.

ARTICLE 6. SALE AND LEASE OF PROPERTY BY AUTHORITY

§6.1 DISPOSAL AND ENCUMBRANCE OF PROJECT. During the time that TWDB owns an undivided interest in the Project, the AUTHORITY will not sell, lease, or otherwise dispose of or encumber any part of the Project, except as provided herein.

§6.2 LEASE OF AUTHORITY PROPERTY. Subject to the provisions of §6.3 of this Agreement, the AUTHORITY may lease any of the property that is part of the Project for any purpose, if such lease or the use of such property will not be detrimental to the operation and maintenance of the Project, as determined by the AUTHORITY. No lease shall be made which will result in any damage to or substantial diminution of the value of any of the property that is part of Project, or which will in any manner interfere with the Project or divert, endanger or contaminate water that is to be produced or transported by operation of the Project.

§6.3 TWDB APPROVAL OF SALES AND LEASES. Except for short term leases of less than two (2) years, any lease or sale by the AUTHORITY of real property in which the TWDB has an interest under this Agreement shall require prior approval of the TWDB. Nothing contained in this Agreement shall be regarded or construed as creating a lien or encumbrance against the title to lands now or hereafter vested in the AUTHORITY insofar as the rights of third parties may be concerned. The AUTHORITY, however, hereby covenants not to sell or otherwise relinquish full right to the use of any lands and facilities acquired and necessary for the construction and operation of the Project for as long as the TWDB has an ownership interest in the Project.

§6.4 SALE OF CERTAIN ITEMS. The AUTHORITY may from time to time sell any machinery, fixtures, apparatus, tools, instruments, or other movable property and any materials used in connection with the Project, if the AUTHORITY shall determine that such articles are no longer needed or are no longer useful in connection with the operation and maintenance of the Project. If the costs of such items were included as Project Costs, then the value received from the sale shall be deducted from total Project Costs.

ARTICLE 7. EFFECTIVE DATE AND TERM OF AGREEMENT

§7.1 EFFECTIVE DATE. This Agreement shall become effective upon execution by all of the Parties.

§7.2 TERM. This Agreement shall continue in full force and effect until the AUTHORITY has satisfied all of its obligations hereunder and all of the TWDB's undivided ownership interest in the Project has been purchased by the AUTHORITY.

ARTICLE 8. FURTHER COVENANTS

§8.1 NOTICES. For purposes of providing notifications to the TWDB in accordance with the notification and reporting requirements set forth in this Agreement, the following points of contact are hereby established:

General Manager
Lone Star Regional Water Authority
P. O. Box 554
Jarrell, Texas 76537
Phone Number: 512.267.3243
Fax Number: 512.267.4572
Email Address: Danwaterauth@gmail.com

Executive Administrator
Texas Water Development Board
1700 North Congress Avenue
Austin, Texas 78701

It is the AUTHORITY's burden and responsibility to provide written notification to the Executive Administrator of any change to the AUTHORITY's point of contact.

§8.2 PROJEC EXPANSION. The AUTHORITY will submit to TWDB for approval any plan for future expansion of the Project that will commence before the AUTHORITY has purchased all of the TWDB's interest in the Project. The TWDB will not unreasonably withhold approval of said plan submitted by the AUTHORITY.

§8.3 TITLE COVENANTS. The AUTHORITY covenants that it will obtain title insurance to the land to be purchased for the Project. The AUTHORITY warrants, by executing this Agreement, that any and all title objections referenced by any title insurance commitment policy entered into at the Site Acquisition Stage will be cured to the satisfaction of the Executive Administrator. Additionally, if required by the TWDB, the AUTHORITY agrees to provide a policy of title insurance for the benefit of the TWDB in the event that the TWDB requires the execution of documents evidencing the TWDB's ownership interest in the Project.

§8.4 PLEDGE COVENANTS. The AUTHORITY hereby covenants that it has the lawful power to pledge its Contract Revenues to the payment of its obligations pursuant to this Agreement in the manner herein contemplated and has lawfully exercised such power under the AUTHORITY Act, Texas Water Code § 49.108, and other applicable laws.

ARTICLE 9. LAWS GOVERNING THE AGREEMENT; REMEDIES

§9.1 RULES AND APPLICATIONS INCORPORATED IN AGREEMENT. The TWDB and the AUTHORITY agree that the Application for Board Participation filed by the AUTHORITY, as finally approved by TWDB, are incorporated herein as a part of this Agreement and the AUTHORITY agrees to be bound by TWDB rules, the Resolution, and the representations made in its Application. The AUTHORITY represents that there are no material changes in the information contained in its Application and supplemental information submitted to the TWDB.

§9.2 APPLICABLE LAW. It is expressly understood by and between the parties hereto that the provisions of this Agreement are subject to the applicable provisions of the Constitution and laws of the State of Texas, and federal laws and regulations. The AUTHORITY agrees to comply 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. The parties hereto reserve all rights at law and in equity to enforce the performance of this Agreement, and each respectively covenants to exercise all such rights to the extent necessary to perform or cure any default on the part of the respective Party.

§9.3 REMEDIES. The TWDB, after providing notice and reasonable opportunity to cure, retains the discretion to pursue any remedy available to it through this Agreement or other law. The AUTHORITY agrees that the TWDB shall have available to it the remedies of mandamus and specific performance, even if failure of performance of the AUTHORITY could be adequately compensated through some other method. The AUTHORITY's opportunity to cure shall be no less than 30 days from the date the AUTHORITY receives notice from the TWDB, and shall continue as long as the AUTHORITY uses good faith and diligence to cure any defect accurately identified by the TWDB. Specific remedies available to the TWDB include, but are not limited to, the TWDB's right to:

- A. by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the TWDB under the Agreement and all rights of the TWDB, at law or in equity, whether or not any non-performance or violation has become an Event of Default, relating to the purchase, ownership, and lease or sale of the Project or TWDB's interest in the Project, including to the AUTHORITY's obligation to purchase the TWDB's interest in the Project under the Agreement. These rights include, but are not limited to, the right to require the AUTHORITY to charge and collect moneys adequate to carry out the terms of the Agreement;
- B. by action or suit in equity require the AUTHORITY to account as if it were the trustee of an express trust for the TWDB; and
- C. by action or suit in equity enjoin any acts which may be unlawful or in violation of the rights of the TWDB.

§9.4 VENUE. All amounts due and owing under this Agreement including, but not necessarily limited to, payments or damages for breach of this Agreement, shall be due and payable in Travis County, Texas, the county in which the principal offices of the TWDB are located. Jurisdiction and venue for any action on or related to the terms of this Agreement shall be exclusively in Travis County, Texas.

§9.5 AMENDMENT. This Agreement may be amended by agreement of the TWDB and the AUTHORITY in written form. Any such amendment shall be executed in the same manner as this Agreement was originally executed.

§9.6 SEVERABILITY. The TWDB and the AUTHORITY specifically agree that in case any one or more of the sections, subsections, provisions, clauses or words in this Agreement or the application of such sections, subsections, provisions, clauses or words to any situation or circumstance should be, or should be held to be, for any reason whatsoever invalid or unconstitutional, or in contravention of any federal, state or local laws, rules and regulations, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses or words in this Agreement or their application thereto. The Parties intend that this Agreement be severable and it shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause or word had not been included herein, and the rights and obligations of the Parties hereto shall be construed and remain in force accordingly.

§9.7 ENTIRE AGREEMENT. This Agreement, including the Application(s) for Board Participation under SWIRFT incorporated by reference herein, constitutes the entire agreement between the Parties with respect to the matters described herein.

§9.8 ARBITRATION. It is expressly understood that neither the AUTHORITY nor the TWDB shall, without its consent, be obligated to participate in, nor shall it be made a party to, any arbitration proceedings relating in any way to the Project or to any provisions of this Agreement.

§9.9 FORCE MAJEURE. If, by reason of Force Majeure, any Party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Agreement, then such Party shall give notice and the full particulars of such Force Majeure event in writing to the other Party within a reasonable time after the occurrence of the Force Majeure event. The obligations of the Party giving notice of such Force Majeure event may be suspended during the continuance of the event but for no longer period and any such Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

§9.10 SECURITY INTEREST IN CONTRACT REVENUES. The Parties expressly agree that the TWDB has a perfected security interest under Chapter 1208, Government Code, which provides that no filing, registering, recording or publication of this Agreement is required to establish a pledge of the Contract Revenues or to perfect, protect or maintain the lien created hereby on the Contract Revenues. In the event Chapter 1208, Government Code, is amended at any time while any obligations remain outstanding under tills Agreement, such that the lien on the Contract Revenues is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, the Authority agrees to take such action to comply with the applicable provisions of Chapter 9, Business & Commerce Code, to maintain perfection of the lien on and pledge of the Contract Revenues under tills Agreement. Notwithstanding the applicability of Chapter 1208, Government Code, the TWDB has the right to further protect its lien created hereby on the Contract Revenues by appropriate filing with the Secretary of State.

[Remainder of Page Intentionally Left Blank]

DRAFT

EXECUTED in multiple counterparts, each of which shall be deemed to be an original.

TEXAS WATER DEVELOPMENT BOARD

By: _____

Name: Kevin Patteson

Title: Executive Administrator

Date: _____

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the ___ day of _____, 20__, by Kevin Patteson in his capacity as Executive Administrator of the Texas Water Development Board, an agency of the State of Texas, on behalf of said agency.

(SEAL)

Notary Public, State of Texas

LONE STAR REGIONAL WATER AUTHORITY

<<RESPONSIBLE OFFICIAL>>

General Manager

Date: _____

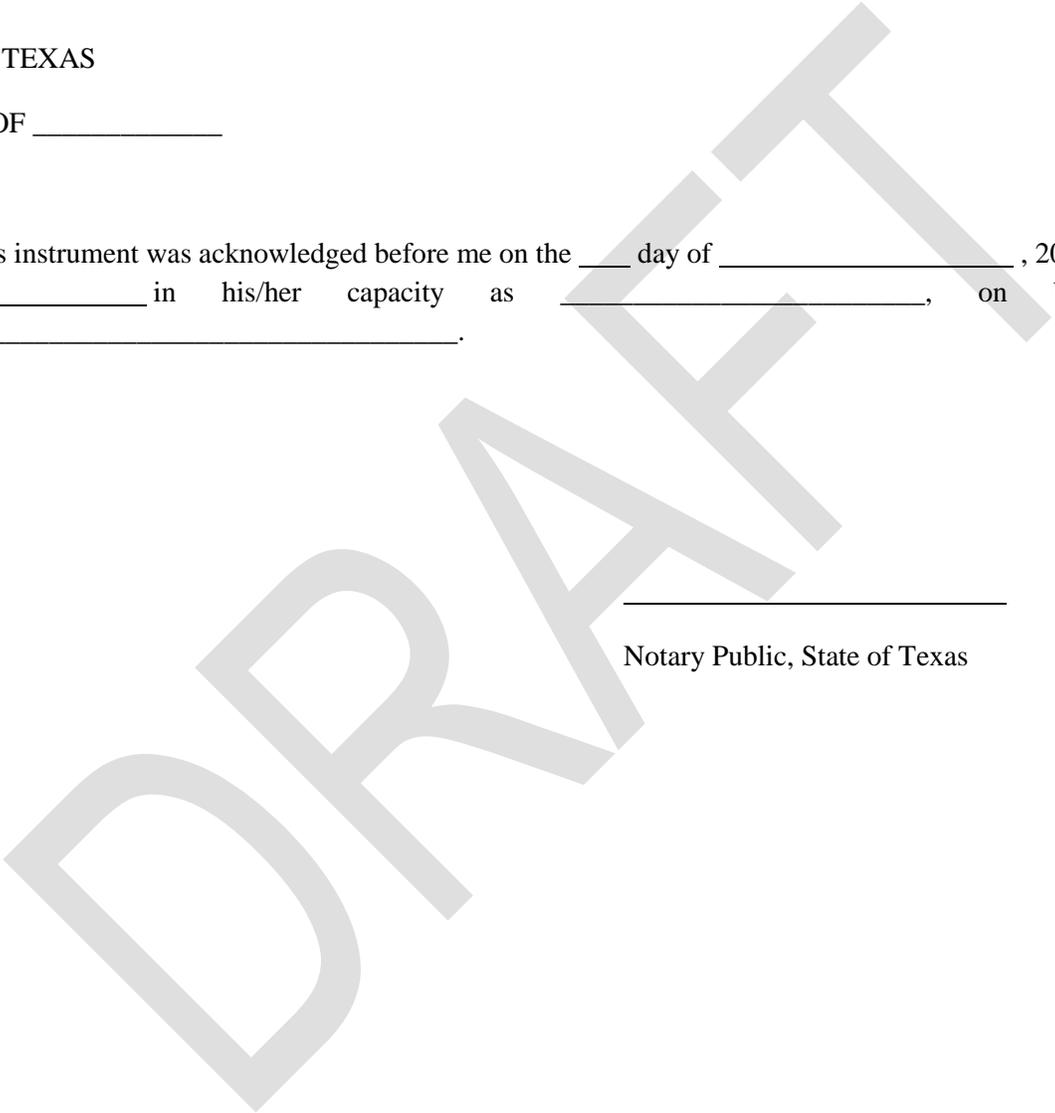
STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____
_____ in his/her capacity as _____, on behalf of
_____.

(SEAL)

Notary Public, State of Texas



ATTACHMENT A

TWDB RESOLUTION

DRAFT

ATTACHMENT B

BOND COUNSEL OPINION REGARDING
IMPACT OF THE PROJECT ON THE
TAX-EXEMPT STATUS OF TWDB BONDS

DRAFT

ATTACHMENT C

SCHEDULES

DRAFT

ATTACHMENT D

FORMAT FOR DETERMINATION OF AUTHORITY USE OF TWDB OWNERSHIP

DRAFT

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT
OF \$5,530,000 TO LONE STAR REGIONAL WATER AUTHORITY
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
\$3,870,000 LONE STAR REGIONAL WATER AUTHORITY CONTRACT REVENUE
BONDS, PROPOSED SERIES 2015B AND
\$1,660,000 LONE STAR REGIONAL WATER AUTHORITY CONTRACT REVENUE
BONDS, PROPOSED TAXABLE SERIES 2015B

(15-)

WHEREAS, the Lone Star Regional Water Authority, located in Bell and Williamson Counties, Texas, (Authority) has filed an application for financial assistance in the amount of \$5,530,000 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. 51011; and

WHEREAS, the Authority seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$3,870,000 Lone Star Regional Water Authority Contract Revenue Bonds, Proposed Series 2015B, and \$1,660,000 Lone Star Regional Water Authority Contract Revenue Bonds, Proposed Taxable Series 2015B 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, by separate Resolution the TWDB is considering a request from the Authority for the TWDB to acquire an interest in the East Williamson County Regional Water Transmission System under Project No. 51011 in an amount not to exceed \$22,110,000; and

WHEREAS, the Authority has offered a pledge of contract revenues as sufficient security for the repayment of the Obligations; and

WHEREAS, interest rate subsidies are available to the Authority at the following levels: 35.5% for loans of a term of 20 years, 27% for loans of a term of 25 years, and 22% for loans of a term of 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, 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 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 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 any request 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); and
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 Lone Star Regional Water Authority for financial assistance in the amount of \$5,530,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of \$3,870,000 Lone Star Regional Water Authority Contract Revenue Bonds, Proposed Series 2015B, and \$1,660,000 Lone Star Regional Water Authority Contract Revenue Bonds, Proposed Taxable Series 2015B. This commitment will expire on December 31, 2015.

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

The Following Conditions Must Be Included in the Obligations:

6. 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;
7. 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;
8. the Obligations must contain a provision requiring the Authority 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;
9. the Obligations must include a provision requiring the Authority to use any loan 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. 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 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 Section 363.42(c)(1);

Conditions for Tax-exempt Obligations

15. the tax-exempt Obligations must include a provision prohibiting the Authority 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 as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
16. the tax-exempt 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;
17. the tax-exempt 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 loan 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 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 Authority 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;
- 18. the tax-exempt 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 tax-exempt 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 tax-exempt 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;

Contract Revenue Pledge

- 21. 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;
- 22. the Obligations must contain a provision requiring the Authority to require its customers to maintain rates and charges sufficient to pay all of their revenue obligations arising from the operation of the water system;
- 23. 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:

- 24. prior to closing, and if not previously provided with the application, the Authority 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;

25. 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;
26. prior to release of funds for construction, the Authority must provide the TWDB with evidence that the necessary acquisitions of land, leases, easements, and rights-of-way have been completed, or that the Authority has the legal authority necessary to complete the acquisitions;
27. prior to release of funds for acquisition, design or construction for specific project elements, the environmental review must be completed and a favorable environmental finding must have been issued;
28. prior to closing on the tax-exempt Obligations, 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;
29. prior to closing on the tax-exempt Obligations, the Authority's bond counsel must prepare a written opinion that also states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the Authority when rendering this opinion;
30. 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; and
31. 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.

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

1. prior to release of funds for the purchase of land, the Authority will submit all necessary legal documentation for the purchase of the land, satisfactory in form and substance to the Executive Administrator;
2. prior to the release of funds for the purchase of land, the Executive Administrator must make a favorable environmental determination relating to the Project site; and

3. prior to the execution of the financing agreement, 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.

APPROVED and ordered of record this, the 23rd day of July, 2015.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, Chairman

DATE SIGNED: _____

ATTEST:

Kevin Patteson
Executive Administrator

WATER CONSERVATION REVIEW

Entity: _____

Review date: _____

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

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
Baseline				
5-year Goal				
10-year Goal				

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 bench marking 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.

Lone Star Regional Water Authority, Williamson & Bell County

