

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015

TEAM MANAGER: Mireya Loewe

|                           |  |
|---------------------------|--|
| <b>APPLICANT</b>          | City of Rio Hondo                                    |
| <b>TYPE OF ASSISTANCE</b> | \$300,000 Loan<br>\$1,660,215 Loan Forgiveness       |
| <b>LEGAL PLEDGE</b>       | First Lien Waterworks and Sewer System Revenue Bonds |

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve, by resolution, a request from the City of Rio Hondo (Cameron County) for financial assistance in the amount of \$1,960,215 consisting of a \$300,000 loan and \$1,660,215 in loan forgiveness from the Drinking Water State Revolving Fund to finance water system improvements.

### PROJECT

Emergency Water Improvements  
Project Number 62600

### BACKGROUND

In 2013, the City of Rio Hondo (City) was notified by its raw water supplier, the Cameron County Irrigation District #2 (CCID2), that it was experiencing issues delivering both raw water and irrigation water to its customers because water supplies were limited due to severe drought conditions. On September 19, 2013, the City received emergency funding from the Texas Water Development Board's (TWDB) Drinking Water State Revolving Fund (DWSRF) to purchase pushwater, install an emergency interconnect, and replace an existing elevated storage tank. In addition, the commitment provided funding for the planning, acquisition, and design of needed improvements, including: rehabilitation of the City's existing water treatment plant; replacement of approximately 18,000 linear feet of water lines; and city-wide water meter replacement.

The City is now seeking funding to continue addressing old, deteriorated, and failing water system components within the City. Staff worked with the City and its engineering and financial advisors to maximize the project scope while remaining within an affordable financing package. The City's current funding request will provide construction funding to replace approximately 2,501 linear feet of deteriorating and failing asbestos cement pipes and PVC pipes. The funding will also be used to replace 750 manual water meters with automatic water meter reading system that will provide instantaneous leak detection at each meter. The proposed water system improvements will reduce the City's water loss issues and improve its energy use.

|  |
|--|
| <b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE DECEMBER 31, 2016</b> |
|--|

The City has completed the planning phase of the project and the design phase should be complete by the end of December 2015.

## **FINANCIAL**

### Key Issues

None.

### Pledge and Repayment

The City is pledging first lien on net revenues of the water and sewer system for the repayment of the proposed loan. On September 8, 2015, the City approved an increase to its water and wastewater rates to an average monthly water and sewer rate of \$72.64. This will allow the City to meet its debt service obligations and required debt coverages for its existing and proposed debt.

### Principal Forgiveness

The City qualifies for \$1,367,236 in disadvantaged status principal forgiveness and \$292,979 in green project principal forgiveness for a total of \$1,660,215.

### Cost Savings

Based on a \$300,000 loan and \$1,660,215 in principal forgiveness, the City could save approximately \$2,105,059 over the life of the commitment when compared to a market loan with current interest rates and a 20-year term.

### Internal Risk Score

Staff assigns a 2B to the City. This means that the City's repayment capacity is adequate, and the applicant's earnings trends and coverage ratios, while stable, may be more susceptible to moderate changes in circumstances and economic conditions than the higher rated obligations.

The median household income of \$26,023 is below the median for the state of \$51,900. The 3.8% unemployment rate is below the state's unemployment rate of 4.4%. The City's current combined average monthly water and wastewater rate is 3.35% of the median household income, which is above the TWDB's benchmark of 2% for two services. The current top ten water and wastewater customers represent about 13% of the system's total revenues, which indicates that the City is not relying heavily on them for debt service requirements. The water and wastewater connections are stable and the per capita debt is moderate at \$1,239 including the proposed debt.

Staff's risk score is based on the City's consistent positive operating trends, moderate debt per capita, and non-reliance on top ten customers, which mitigate its low median household income and high household cost factor.

## **LEGAL**

### Key Issues

None.

## **CONDITIONS**

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

- Standard emergency discovery conditions;
- Surplus Funds; and
- Executed Loan Forgiveness Agreement.

Attachments: 1. Project Data Summary  
2. Debt Service Schedule  
3. Engineering/Environmental Review  
4. Project Budget  
5. Resolution (15 - )  
6. Water Conservation Review  
7. Location Map

**PROJECT DATA SUMMARY**

|  |   |
|--|---|
| <b>Responsible Authority</b>                                 | City of Rio Hondo   |
| <b>Program</b>   | Drinking Water State Revolving Fund   |
| <b>Commitment Code</b>                                       | L1000365<br>LF1000366   |
| <b>Project Number</b>  | 62600   |
| <b>Intended Use Plan Year</b>                                | 2015  |
| <b>Fund Number</b>   | 951   |
| <b>Type of Pledge</b>  | 2   |
| <b>Revenue Pledge Level</b>                                  | First   |
| <b>Legal Description</b>                                     | \$300,000 City of Rio Hondo, Texas First Lien Waterworks and Sewer System Revenue Bonds, Proposed Series 2016<br>\$1,660,215 Loan Forgiveness |
| <b>Tax-exempt or Taxable</b>                                 | Tax-exempt  |
| <b>Refinance</b>   | No  |
| <b>Outlay Requirement</b>                                    | Yes   |
| <b>Disbursement Method</b>                                   | Escrow  |
| <b>Outlay Type</b>   | Outlay=Escrow Release   |
| <b>Population</b>  | 2,356   |
| <b>Rural</b>   | Yes   |
| <b>Water Connections</b>                                     | 685   |
| <b>Wastewater Connections</b>                                | 605   |
| <b>Qualifies as Disadvantaged</b>                            | Yes   |
| <b>Disadvantaged Level</b>                                   | 6   |
| <b>Clean Water State Revolving Fund Type</b>                 | N/A   |
| <b>Financial, Managerial, and Technical Review Complete?</b> | No  |
| <b>Phase Committing</b>                                      | Construction  |
| <b>Pre-Design</b>  | No  |
| <b>Project Consistent with Water Plan</b>                    | Yes   |
| <b>Water Conservation Plan</b>                               | Adopted   |
| <b>Water Rights Certification Required</b>                   | No  |
| <b>Internal Risk Score</b>                                   | 2B  |
| <b>External Ratings (for SRF rates)</b>                      |   |
| <b>Standard and Poor's</b>                                   | Non-Rated   |
| <b>Moody's</b>   | Non-Rated   |
| <b>Fitch</b>   | Non-Rated   |
| <b>Special Issues</b>  | None  |

**Project Team**

|                        |                 |
|------------------------|-----------------|
| Manager                | Mireya Loewe    |
| Financial Analyst      | Javier Pena     |
| Engineering Reviewer   | Donald Dawkins  |
| Environmental Reviewer | Nicki Hise      |
| Attorney               | Joe P. Reynolds |

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Rio Hondo

First Lien Waterworks and Sewer System Revenue Bonds, Proposed Series 2016

**Dated Date:** 3/1/2016  
**Delivery Date:** 3/1/2016  
**First Interest:** 9/1/2016  
**First Principal:** 3/1/2017  
**Last Principal:** 3/1/2035  
**Fiscal Year End:** 09/30  
**Required Coverage:** 1.0

**Source:** DWSRF  
**Rate:** 2.20%  
**Insurance:** No  
**Case:** Revenue  
**Admin.Fee:** \$6,601  
**Admin. Fee Payment Date:** 3/1/2016

| FISCAL YEAR | PROJECTED NET SYSTEM REVENUES | CURRENT DEBT SERVICE | PRINCIPAL PAYMENT | INTEREST RATE | \$300,000 ISSUE  |               | TOTAL DEBT SERVICE | COVERAGE |
|-------------|-------------------------------|----------------------|-------------------|---------------|------------------|---------------|--------------------|----------|
|             |                               |                      |                   |               | INTEREST PAYMENT | TOTAL PAYMENT |                    |          |
| 2016        | 152,353                       | 130,833              | -                 | 0.00%         | 2,722            | 2,722         | 133,555            | 1.14     |
| 2017        | 152,353                       | 131,127              | 15,000            | 0.09%         | 5,438            | 20,438        | 151,565            | 1.01     |
| 2018        | 152,353                       | 131,156              | 15,000            | 0.40%         | 5,401            | 20,401        | 151,557            | 1.01     |
| 2019        | 152,353                       | 129,927              | 15,000            | 0.64%         | 5,323            | 20,323        | 150,250            | 1.01     |
| 2020        | 152,353                       | 129,431              | 15,000            | 0.93%         | 5,205            | 20,205        | 149,636            | 1.02     |
| 2021        | 152,353                       | 128,554              | 15,000            | 1.26%         | 5,041            | 20,041        | 148,595            | 1.03     |
| 2022        | 152,353                       | 127,341              | 15,000            | 1.52%         | 4,833            | 19,833        | 147,174            | 1.04     |
| 2023        | 152,353                       | 125,799              | 15,000            | 1.66%         | 4,594            | 19,594        | 145,393            | 1.05     |
| 2024        | 152,353                       | 124,063              | 15,000            | 1.79%         | 4,335            | 19,335        | 143,398            | 1.06     |
| 2025        | 152,353                       | 122,148              | 15,000            | 1.91%         | 4,058            | 19,058        | 141,206            | 1.08     |
| 2026        | 152,353                       | 120,065              | 15,000            | 2.02%         | 3,763            | 18,763        | 138,828            | 1.10     |
| 2027        | 152,353                       | 117,829              | 15,000            | 2.11%         | 3,453            | 18,453        | 136,282            | 1.12     |
| 2028        | 152,353                       | 114,458              | 15,000            | 2.20%         | 3,130            | 18,130        | 132,588            | 1.15     |
| 2029        | 152,353                       | 112,980              | 15,000            | 2.28%         | 2,794            | 17,794        | 130,774            | 1.17     |
| 2030        | 152,353                       | 110,320              | 15,000            | 2.35%         | 2,447            | 17,447        | 127,767            | 1.19     |
| 2031        | 152,353                       | 107,539              | 15,000            | 2.42%         | 2,089            | 17,089        | 124,628            | 1.22     |
| 2032        | 152,353                       | 105,657              | 20,000            | 2.48%         | 1,660            | 21,660        | 127,317            | 1.20     |
| 2033        | 152,353                       | 102,637              | 20,000            | 2.53%         | 1,159            | 21,159        | 123,796            | 1.23     |
| 2034        | 152,353                       | 66,528               | 20,000            | 2.57%         | 649              | 20,649        | 87,177             | 1.75     |
| 2035        | 152,353                       | -                    | 15,000            | 2.61%         | 196              | 15,196        | 15,196             | 10.03    |
|             |                               | \$ 2,238,392         | \$ 300,000        |               | \$ 68,288        | \$ 368,288    | \$ 2,606,680       |          |

|                                   |                    |
|-----------------------------------|--------------------|
| <b>AVERAGE (MATURITY) LIFE</b>    | <b>10.35 YEARS</b> |
| <b>NET INTEREST RATE</b>          | <b>2.199%</b>      |
| <b>COST SAVINGS</b>               | <b>\$2,105,059</b> |
| <b>LOAN FORGIVENESS</b>           | <b>\$1,660,215</b> |
| <b>AVERAGE ANNUAL REQUIREMENT</b> | <b>\$130,334</b>   |

**Rio Hondo  
62600 Emergency Water Improvements  
Engineering and Environmental Review**

**Engineering:**Key Issues:

None

Project Need/Description

Needs: The City of Rio Hondo's (City) aging water facilities include dilapidated distribution and transmission lines, failing water treatment plant components, a failing raw water reservoir, and a dilapidated water metering system. These have resulted in system wide water loss in excess of 35%, high energy consumption, and high operation and maintenance cost.

Description: A previous commitment provided emergency funding to purchase push water from the Cameron County Irrigation District #2, install an emergency raw water interconnect with the Harlingen Irrigation District, and replace an existing elevated storage tank. In addition, the commitment provided funding for the planning, acquisition, and design of needed improvements, including: rehabilitation of the City's existing water treatment plant; replacement of approximately 18,000 linear feet of water lines; and city-wide water meter replacement.

This commitment will provide construction funding for rehabilitation work at the water treatment plant, replacement of approximately 750 manual reading meters with an automatic meter reading system, and replacement of approximately 2,500 linear feet of distribution lines. The size and scope of this construction project were defined to address the City's most important water infrastructure needs while remaining affordable and within the available funding.

**Project Schedule:**

| <b>Project Task</b>     | <b>Schedule Date</b> |
|-------------------------|----------------------|
| Design Phase Complete   | 12/30/2015           |
| Closing                 | 3/1/2016             |
| Start of Construction   | 3/31/2016            |
| Construction Completion | 3/31/2017            |

**Environmental Section:**Key Issues:

None known at this time.

Environmental Summary:

A Categorical Exclusion (CE) for this project was issued on August 26, 2013. As required by 31 Texas Administrative Code (TAC) §371.41, environmental review of the proposed project has been completed. The proposed project is in compliance with the National Environmental Policy Act.

**Rio Hondo**  
**62600 - Emergency Water Improvements**

| Budget Items                            | Previous Commitments | Current Request    | Local & Other Funds | Total Cost         |
|---|----------------------|--------------------|---------------------|--------------------|
| <b>Construction</b>                     |                      |                    |                     |                    |
| Construction                            | \$2,264,429          | \$1,545,680        | \$0                 | \$3,810,109        |
| <b>Construction Total</b>               | <b>\$2,264,429</b>   | <b>\$1,545,680</b> | <b>\$0</b>          | <b>\$3,810,109</b> |
| <b>Basic Engineering Services</b>       |                      |                    |                     |                    |
| Construction                            |                      |                    |                     |                    |
| Engineering                             | \$49,472             | \$94,840           | \$0                 | \$144,312          |
| Design                                  | \$503,295            | \$0                | \$0                 | \$503,295          |
| Planning                                | \$270,951            | \$0                | \$0                 | \$270,951          |
| <b>Basic Engineering Services Total</b> | <b>\$823,718</b>     | <b>\$94,840</b>    | <b>\$0</b>          | <b>\$918,558</b>   |
| <b>Special Services</b>                 |                      |                    |                     |                    |
| Environmental                           | \$45,000             | \$0                | \$0                 | \$45,000           |
| Geotechnical                            | \$44,500             | \$0                | \$0                 | \$44,500           |
| Inspection                              | \$67,647             | \$91,023           | \$0                 | \$158,670          |
| Permits                                 | \$3,000              | \$0                | \$0                 | \$3,000            |
| Project Management                      | \$15,000             | \$0                | \$0                 | \$15,000           |
| Surveying                               | \$70,000             | \$0                | \$0                 | \$70,000           |
| Testing                                 | \$44,000             | \$5,013            | \$0                 | \$49,013           |
| <b>Special Services Total</b>           | <b>\$289,147</b>     | <b>\$96,036</b>    | <b>\$0</b>          | <b>\$385,183</b>   |
| <b>Contingency</b>                      |                      |                    |                     |                    |
| Contingency                             | \$105,000            | \$179,343          | \$0                 | \$284,343          |
| <b>Contingency Total</b>                | <b>\$105,000</b>     | <b>\$179,343</b>   | <b>\$0</b>          | <b>\$284,343</b>   |
| <b>Other</b>                            |                      |                    |                     |                    |
| Land/Easement Acquisition               | \$18,500             | \$0                | \$0                 | \$18,500           |
| Administration                          | \$40,000             | \$0                | \$0                 | \$40,000           |
| Push Water                              | \$125,000            | \$0                | \$0                 | \$125,000          |
| Project Legal Expenses                  | \$25,000             | \$0                | \$0                 | \$25,000           |
| <b>Other Total</b>                      | <b>\$208,500</b>     | <b>\$0</b>         | <b>\$0</b>          | <b>\$208,500</b>   |
| <b>Fiscal Services</b>                  |                      |                    |                     |                    |
| Bond Counsel                            | \$10,000             | \$20,715           | \$0                 | \$30,715           |
| Financial Advisor                       | \$60,000             | \$15,000           | \$0                 | \$75,000           |
| Issuance Costs                          | \$5,000              | \$2,000            | \$0                 | \$7,000            |
| Loan Origination Fee                    | \$28,122             | \$6,601            | \$0                 | \$34,723           |
| <b>Fiscal Services Total</b>            | <b>\$103,122</b>     | <b>\$44,316</b>    | <b>\$0</b>          | <b>\$147,438</b>   |
| <b>Grand Total</b>                      | <b>\$3,793,916</b>   | <b>\$1,960,215</b> | <b>\$0</b>          | <b>\$5,754,131</b> |

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$1,960,215 TO CITY OF RIO HONDO  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$300,000 CITY OF RIO HONDO, TEXAS FIRST LIEN  
WATERWORKS AND SEWER SYSTEM REVENUE BONDS,  
PROPOSED SERIES 2016  
AND  
\$1,660,215 IN LOAN FORGIVENESS

(15- )

WHEREAS, the City of Rio Hondo (City) has filed an application for financial assistance in the amount of \$1,960,215 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62600; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$300,000 City of Rio Hondo, Texas First Lien Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 (together with all authorizing documents) (Obligations), and the execution of a Loan Forgiveness Agreement in an amount of \$1,660,215, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of a first lien on net system revenues as sufficient security for the repayment of the Obligations; and

WHEREAS, the loan is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC Chapter 371; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;
4. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j);

5. that the City meets the definition of Disadvantaged Community in 31 TAC § 371.1(24) and is therefore eligible for subsidy through the DWSRF;
6. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects; and
7. that the Executive Administrator issued a Categorical Exclusion on August 26, 2013, such finding being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

a commitment is made by the TWDB to the City of Rio Hondo for financial assistance in the amount of \$1,960,215 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$300,000 City of Rio Hondo, Texas First Lien Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of \$1,660,215. This commitment will expire on December 31, 2016.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
5. the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for

the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
7. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) eligible project costs as authorized by the Executive Administrator;
8. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
9. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
10. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;
11. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;
12. prior to closing, and if not previously provided with the application, the City shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;
13. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

14. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
15. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;

Conditions Related To Tax-Exempt Status

16. the City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion;
17. the City's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;
18. the Obligations must include a provision prohibiting the City from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
19. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:
  - a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;
  - b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and
  - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
20. the Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 148 of the Code. The Obligations must provide that the City will:
  - a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and

apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its Loan with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;

- b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its Loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date;
  - c. as additional consideration for the making of the Loan, and in order to induce the making of the Loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
  - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
- 21. the Obligations must include a provision prohibiting the City from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
  - 22. the Obligations must provide that the City will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;
  - 23. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the City's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
  - 24. 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;
  - 25. the Obligations must provide that neither the City nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the City by the TWDB;

State Revolving Fund Conditions

26. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
27. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
28. the Obligations must include a provision stating that the City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;
29. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;

#### Drinking Water State Revolving Fund Conditions

30. prior to or at closing, the City shall pay a 2.25% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371;
31. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the City has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;
32. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

#### Pledge Conditions for the Loan

33. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations;
34. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations; and

35. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if net system revenues are at least 1.25 times the average annual debt service requirements after giving effect to the additional obligations when net revenues are a) determined from the last completed fiscal year or a 12 consecutive calendar month period ending not more than ninety (90) days preceding the adoption of the additional obligations as certified by a certified public accountant; or b) the City certifies that the City is expected to continue to meet or exceed the net system revenue test with a minimum coverage of 1.25 times the average annual debt service requirement. An authorized representative of the City must provide the calculations, identifying reasonable assumptions, in a manner and format that is acceptable to the Executive Administrator.

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

Special Conditions:

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

APPROVED and ordered of record this 14<sup>th</sup> day of December, 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 |
|---------------------|------------|------------------|-----------------|--------------------|
| <b>Baseline</b>     |            |                  |                 |                    |
| <b>5-year Goal</b>  |            |                  |                 |                    |
| <b>10-year Goal</b> |            |                  |                 |                    |

**WATER LOSS AUDIT YEAR:**

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

**WATER LOSS THRESHOLDS:**

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

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

**ADDITIONAL INFORMATION:**

**STAFF NOTES AND RECOMMENDATIONS:**

## DEFINITIONS

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

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

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

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

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

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

**NA** means not applicable.

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

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

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

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

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

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

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

# City of Rio Hondo, Cameron County

