

**TO:** Board Members

**THROUGH:** Kevin Patteson, Executive Administrator  
Les Trobman, General Counsel  
Jeff Walker, Deputy Executive Administrator, Water Supply Infrastructure

**FROM:** Jessica Zuba, Director, Regional Water Planning & Development  
Lee Huntoon, Team Manager, Panhandle/West Region  
Alexis Lorick, Assistant General Counsel

**DATE:** February 4, 2016

**SUBJECT:** **City of Ballinger Project No. 62607 Amendment of Project Scope and Budget; Conversion of Taxable to Tax-Exempt Status for Proposed Series 2016**

**ACTION REQUESTED**

Staff recommends approval by resolution, a request from the City of Ballinger (Runnels County) to amend the \$10,495,004 grant and loan commitment in Resolution 14-27 from the Drinking Water State Revolving Fund (DWSRF) to 1) amend the project scope and budget to an amount of \$856,700 with \$251,700 to be forgiven; and 2) change the status of its taxable bonds to that of tax-exempt.

**BACKGROUND**

The City of Ballinger (City) received a commitment on April 17, 2014 from the Texas Water Development Board (TWDB) in Resolution Number 14-27 for financial assistance in the amount of \$10,495,004 from the DWSRF to finance improvements to its water system, secured by the TWDB’s purchase of \$7,395,000 City of Ballinger, Texas, Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Proposed Taxable Series 2015, and \$3,100,004 in Loan Forgiveness. The City has not yet closed on this commitment.

The project had previously entailed evaluating and developing an alternative water supply. The City originally evaluated a well field to supplement the City’s surface water supply and construct pumping facilities and transmission lines to the City’s water treatment plant. Due to a lack of available fresh groundwater supply, the City began to evaluate other alternate water supply options. The City received a one-time extension of its commitment on April 10, 2015 in Resolution 15-043, which will expire on April 30, 2016.

### **KEY ISSUES**

The City's 2014 water loss audit indicates a water loss of approximately 26.5 percent. This water loss is largely attributed to antiquated water meters. The City proposes to replace its meters and add a "Smart Water Meter" system that would complement the City's overall objective of water conservation.

The need for a reliable alternate water supply continues to be a primary concern for the City's welfare and future. The City currently uses surface water from Lake Ballinger and O.H. Ivie Reservoir to supply raw water to its water treatment plant (WTP). Lake Ballinger has a history of extreme water level fluctuations including nearly drying up and refilling twice since 2003. Currently, O.H. Ivie Reservoir is at approximately 12.8 percent of its total capacity.

Additional alternate water supplies evaluated by the City included: purchasing water from the City of Abilene, possible reuse of the City's waste water effluent; and consideration of a raw water transmission line from Lake Ft. Phantom to the City. These options, including the original project scope of development of the groundwater supply, are no longer under consideration for this project. The City is eligible to receive reimbursement for the planning costs associated with the original intent of investigating the development of a groundwater supply.

In the City's initial financial assistance application submitted August 21, 2013, the City had executed water supply contracts with North Runnels Water Supply Corporation and Rowena Water Supply Corporation which impacted its ability to issue tax-exempt bonds. Since the original submittal, the City has confirmed that it has amended the water supply contracts with those entities and is able to issue tax-exempt debt for the City's water system at this time.

At this time, the City seeks to amend its commitment of financial assistance from the TWDB by amending the project scope and budget to include meter replacement resulting in a total amount of financial assistance from the TWDB of \$856,700 with \$251,700 to be forgiven and to change the status of its taxable bonds to tax exempt.

### **RECOMMENDATION**

The Executive Administrator recommends amending TWDB Resolution 14-27, as amended by 15-043 to amend the project scope and budget to an amount of \$856,700 with \$251,700 to be forgiven and to change the status of its taxable bonds to that of tax exempt.

This recommendation has been reviewed by legal counsel and is in compliance with applicable statutes and Board rules.

- Attachment(s):
1. TWDB Resolution (16- )
  2. TWDB Resolution 15-043
  3. TWDB Resolution 14-27
  4. Letter from City of Ballinger, dated November 24, 2014
  5. Letter from City of Ballinger, dated February 2, 2016

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
AMENDING ITS COMMITMENT OF FINANCIAL ASSISTANCE  
TO THE CITY OF BALLINGER  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$605,000 TAX-EXEMPT CITY OF BALLINGER, TEXAS, TAX AND WATERWORKS AND  
SEWER SYSTEM SURPLUS REVENUE CERTIFICATES OF OBLIGATION  
PROPOSED SERIES 2016  
AND  
\$251,700 IN LOAN FORGIVENESS

(16- )

WHEREAS, on April 17<sup>th</sup>, 2014, the City of Ballinger (City) received a commitment from the Texas Water Development Board (TWDB) in Resolution Number 14-27 for financial assistance in the amount of \$10,495,004 from the Drinking Water State Revolving Fund (DWSRF) to finance improvements to its water system, secured by the TWDB's purchase of \$7,395,000 City of Ballinger, Texas, Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Proposed Taxable Series 2015, and \$3,100,004 in Loan Forgiveness for Project No. 62607; and

WHEREAS, by a letter dated November 25, 2014, the City requested to amend its commitment of financial assistance from the TWDB to secure the loan through the TWDB's proposed purchase of tax-exempt certificates of obligation rather than through a taxable series; and

WHEREAS, in accordance with 31 Texas Administrative Code § 371.35(e), through TWDB Resolution No. 15-043, the City received a one-time extension of its commitment for financial assistance from the TWDB on April 10<sup>th</sup>, 2015, which will expire April 30, 2016; and

WHEREAS, by correspondence dated February 2<sup>nd</sup>, 2016, the City seeks to further amend its commitment of financial assistance from the TWDB by reducing the total amount of financial assistance committed by the TWDB to \$856,700 with \$251,700 to be forgiven; and

WHEREAS, the City's pledge of taxes and a lien on the surplus net system revenues remains sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for, as amended, 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; and
2. that the Executive Administrator issued a Categorical Exclusion on January 15<sup>th</sup>, 2016, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the project contract

documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

1. the commitment made by the TWDB to provide financial assistance in the amount of \$10,495,004, as authorized in TWDB Resolution No. 14-27 and amended by TWDB Resolution No. 15-043, is further amended to reflect a reduction in the TWDB's commitment and to provide \$856,700 in total financial assistance through the proposed purchase of tax-exempt certificates of obligation entitled \$605,000 City of Ballinger, Texas, Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Proposed Series 2016 with \$251,700 to be forgiven. This commitment will expire April 30<sup>th</sup>, 2016; and
2. that Special Conditions 27 and 28 in TWDB Resolution No. 14-27, and amended by TWDB Resolution No. 15-043, are no longer applicable; and
3. that all other findings made by the TWDB in Resolution No. 14-27, as amended by 15-043, continue to be in full force and effect.

Such commitment made by the TWDB in Resolution No. 14-27, as amended by TWDB Resolution No. 15-043, is further conditioned as follows:

Conditions Related To Tax-Exempt Status:

1. 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;
2. 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;
3. 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);
4. 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;
5. 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;

6. 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;
7. 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;
8. 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;
9. 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;
10. 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; and

Special Condition:

11. 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 18<sup>th</sup> day of February, 2016.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

\_\_\_\_\_  
Kevin Patteson  
Executive Administrator

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
AMENDING TWDB RESOLUTION NO. 14-27  
TO EXTEND THE LOAN COMMITMENT PERIOD FOR THE \$7,395,000  
CITY OF BALLINGER, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM  
SURPLUS REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED TAXABLE SERIES 2015  
AND  
\$3,100,004 IN LOAN FORGIVENESS

(15-043)

WHEREAS, at its April 17, 2014 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 14-27, made a commitment to provide financial assistance in the amount of \$10,495,004 to City of Ballinger (City) from the Drinking Water State Revolving Fund, to finance improvements to its water system, to be secured by the TWDB's purchase of \$7,395,000 Tax and Waterworks and Sewer System Surplus Revenue Certificates Of Obligation, Proposed Series 2015, and \$3,100,004 in loan forgiveness, for Project No. 62607; and

WHEREAS, pursuant to TWDB Resolution No. 14-27, the commitment period will expire April 30, 2015; and

WHEREAS, the City has submitted a request to extend the TWDB's commitment for an additional eighteen (18) months to provide the City additional time to explore and negotiate feasible water supply alternatives, all as is more specifically set forth in the recommendations of the TWDB's staff, to which documents express reference is made; and

WHEREAS, in light of the ongoing commitment period as well as the uncertainty of the project development, the TWDB hereby finds that granting an extension of twelve (12) months is in the public interest.

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

1. the commitment of the TWDB to provide financial assistance in the amount of \$10,495,004, as authorized in TWDB Resolution No. 14-27, is amended to extend the commitment to April 30, 2016; and
2. all other terms and conditions of TWDB Resolution No. 14-27 shall remain in full force and effect.

APPROVED and ordered of record this the 10<sup>th</sup> day of April, 2015.

TEXAS WATER DEVELOPMENT BOARD



*Carlos Rubinstein*

\_\_\_\_\_  
Carlos Rubinstein, Chairman

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

*4/10/15*

ATTEST:

*Kevin Patteson*

\_\_\_\_\_  
Kevin Patteson  
Executive Administrator

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO  
CITY OF BALLINGER  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$7,395,000 CITY OF BALLINGER, TEXAS, TAX AND WATERWORKS AND SEWER  
SYSTEM SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED  
TAXABLE SERIES 2014  
AND  
\$3,100,004 IN LOAN FORGIVENESS

(14-27)

WHEREAS, the City of Ballinger, located in Runnels County, Texas (City) has filed an application for financial assistance in the amount of \$10,495,004 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design and construction of certain water system improvements identified as Project No. 62607; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$7,395,000 City of Ballinger, Texas, Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Proposed Taxable Series 2014 (together with all authorizing documents (Obligations)) and \$3,100,004 in loan forgiveness, 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 taxes and surplus system revenues as sufficient security for the repayment of the Obligations; and

WHEREAS, the groundwater supply the project will develop is not a current or future source of supply for the City in the 2011 Region F Regional Water Plan or the 2012 State Water Plan; and

WHEREAS, the City is requesting a waiver of the requirement that the project be addressed in a manner that is consistent with the state and regional water plans because the groundwater to be developed by the City will be used to supplement or replace insufficient surface water; 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 the needs to be addressed by the project and the support of regional water planning Region F for the project, warrant a waiver from the consistency requirement in Texas Water Code § 16.053(j);
5. 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);
6. that the needs to be addressed by the project and the support of Regional Water Planning Region F for the project warrant a waiver of the requirement that the TWDB determine that the project is consistent with the State Water Plan and the approved Region F Regional Water Plan;
7. that the City meets the definition of Disadvantaged Community in 31 TAC § 371.1(24) and is therefore eligible for subsidy through the DWSRF; and
8. that the project is an Emergency Relief Project under 31 TAC §§ 371.40(7) and 371.51.

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

1. The TWDB hereby waives the requirement that it determine that the needs to be addressed by the project will be addressed in a manner that is consistent with the State Water Plan and with the approved regional water plan that includes the area benefiting from the proposed project, as allowed under Texas Water Code § 16.053(k).
2. A commitment is made by the TWDB to the City of Ballinger for financial assistance in the amount of \$10,495,004 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$7,395,000 City of Ballinger, Texas, Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Proposed Taxable Series 2014 (together with all authorizing documents (Obligations)) and \$3,100,004 in loan forgiveness.
3. This commitment will expire on April 30, 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 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 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 under 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;

State Revolving Fund Conditions

16. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
17. 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;

18. 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;
19. 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

20. prior to or at closing, the City shall pay a 2.25% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371;
21. 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;
22. 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

23. the Obligations must contain a provision that provides as follows:
  - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
  - b. if surplus revenues are based upon budgeted amounts:

- i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;
- ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and
- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

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

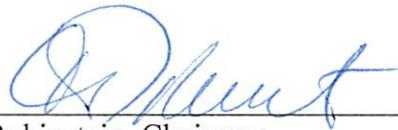
Special Conditions:

24. 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;
25. prior to closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

26. 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;
27. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the City has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;
28. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the City has the right to use the water that the project financed by the TWDB will provide; and
29. prior to the release of funds, the City shall provide a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule.

APPROVED and ordered of record this 17<sup>th</sup> day of April, 2014.

TEXAS WATER DEVELOPMENT BOARD



\_\_\_\_\_  
Carlos Rubinstein, Chairman

DATE SIGNED: 4/17/2014

ATTEST:

  
  
\_\_\_\_\_  
Kevin Patteson  
Executive Administrator

**Bryan Grimes**  
**City Manager**  
**City of Ballinger, Texas**  
**325.365.3511**  
**citymanager.ballinger@verizon.net**

Attachment 4

November 25, 2014

Lee Huntoon  
Regional Water Manager – Team 1  
Water Supply & Infrastructure  
Texas Water Development Board

InRe: Ballinger DWSRF Funding

Lee,

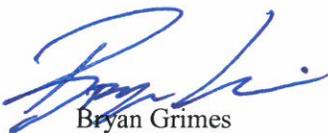
The City of Ballinger would like to request the following modifications to our DWSRF project. We feel these modifications are necessary and will further assist the City with our water concerns.

1. The City of Ballinger is formally requesting an extension for a period of 6 months so that we can peruse and finalize an Alternative Water Source. Our current funding period expires on April 13,
2. Per our FA, the City of Ballinger will be changing the status of our taxable bonds to that of tax exempt. As I understand it, this would require Board Approval. We anticipate all documents signed and executed by December 10, 2014.
3. The City of Ballinger is currently experiencing a considerable water loss. Several outside audits of our water loss have indicated that we have antiquated water meters. In an effort to remedy this, to retain this precious resource, and to better educate our water customers, we are requesting to add a “Smart Water Meter” system to our funding request. We feel that this technology compliments our overall objective of water conservation.

As always, we look forward in continuing the excellent working relationship we have with the Texas Water Development Board. The City of Ballinger is extremely grateful for the hard work of the Board and its staff as our partners in securing, preserving, and conserving this precious natural resource.

If you have any questions, please feel free to let me know.

Respectfully,



Bryan Grimes  
City Manager  
City of Ballinger

[www.ballinger-tx.com](http://www.ballinger-tx.com)

***The Best Little Town in Texas!***

**Bryan Grimes  
City Manager  
City of Ballinger, Texas  
325.365.3511  
citymanager.ballinger@verizon.net**

February 2, 2016

Lee A. Huntoon  
Team 1 Panhandle/West Regional Manager  
Texas Water Development Board  
Austin, Texas

Lee,

This letter is to inform you that with the awarded Texas Water Development Board (TWDB) project funds, the City of Ballinger, Texas (City) will have sufficient funds to complete planning, design, and construction of the referenced project. The attached project budget shows the current distribution of funds for the Drinking Water State Revolving Fund (DWSRF) loan. No additional funds would be necessary to complete the project.

Estimated Project Start Date: May 1, 2016  
Estimated Project Finish Date: September 30, 2016

Please see attached Project Budget.

Sincerely,

*Bryan Grimes*

Bryan Grimes  
City Manager  
City of Ballinger, Texas

[www.ballinger-tx.com](http://www.ballinger-tx.com)

***The Best Little Town in Texas!***

<b>PROJECT BUDGET - Entity Name BALLINGER</b>			
<b>Uses</b>	<b>TWDB Funds Series 1</b>	<b>Total TWDB Cost</b>	<b>Total Cost</b>
<b>Construction</b>			
Construction	645,000	645,000	645,000
<b>Subtotal Construction</b>	<b>645,000</b>	<b>645,000</b>	<b>645,000</b>
<b>Basic Engineering Fees</b>		-	-
Planning +	90,000	90,000	90,000
Design	-	-	-
Construction Engineering	-	-	-
<b>Subtotal Basic Engineering Fees</b>	<b>90,000</b>	<b>90,000</b>	<b>90,000</b>
<b>Fiscal Services</b>		-	-
Financial Advisor	19,000	19,000	19,000
Bond Counsel	7,500	7,500	7,500
Issuance Cost	1,750	1,750	1,750
Bond Insurance/Surety	-	-	-
Fiscal/Legal	750	750	750
Capitalized Interest	-	-	-
Bond Reserve Fund	-	-	-
Loan Origination Fee	13,313	13,313	13,313
<b>Subtotal Fiscal Services</b>	<b>42,313</b>	<b>42,313</b>	<b>42,313</b>
<b>Contingency</b>		-	-
Contingency	79,387	79,387	79,387
<b>Subtotal Contingency</b>	<b>79,387</b>	<b>79,387</b>	<b>79,387</b>
<b>TOTAL COSTS</b>	<b>856,700</b>	<b>856,700</b>	<b>856,700</b>