

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: June 14, 2016

TEAM MANAGER: Luis Farias

<b>APPLICANT</b>	City of Jefferson
<b>TYPE OF ASSISTANCE</b>	\$2,600,000 Loan \$1,630,000 Loan \$1,030,000 Loan
<b>LEGAL PLEDGE</b>	Ad Valorem Tax and Surplus Revenues of the Waterworks and Sewer System

**STAFF RECOMMENDATION**

Approve                       No Action

**ACTION REQUESTED**

Approve by resolution, a request from the City of Jefferson (Marion County) for \$5,260,000 in financial assistance consisting of a \$2,600,000 loan from the Drinking Water State Revolving Fund, a \$1,630,000 loan from the Clean Water State Revolving fund, and a \$1,030,000 loan from the Texas Water Development Fund to finance the design and construction of water and wastewater distribution line upgrades, and the closure and decommission of the abandoned wastewater treatment plant.

**PROJECT**

Water Line Replacement  
Project Number 62697

Rehab & Extend Sewers  
Project Number 73729

WWTP Closure  
Project Number 21762

**BACKGROUND**

The City of Jefferson (City) is located in Marion County, approximately 15 miles north of Marshall, at the junction of U.S Highway 59 and State Hwy 49. The City was founded in 1841, making it one of the oldest incorporated areas in Texas. In the early times, the City was a port since the historic log jam on the Red River allowed flat-bottom steamers from the Mississippi and Red Rivers to land there. In the 1870s, the log jam was removed by the United States Corps of Engineers and the City ceased its port operations. Almost every building in the downtown area has a historical marker.

<b>COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE JUNE 30, 2017.</b>
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The historical nature of the City extends to the age of its infrastructure, especially the water and wastewater collection systems. The City buys potable water from the North East Texas Municipal Water District and constructed a new wastewater treatment plant (WWTP) in 2007. The most critical issues concern the distribution and collection systems, most of which are more than 50 years old. The water distribution system currently has a total of 79,000 feet (90%) of cast iron mains. The wastewater collection system consists of 56,000 feet (80%) of vitrified clay piping. Cast iron lines have become costly with age, reducing water flow and pressure rating. The clay collection lines are problematic in East Texas clay soils, where soil shifts and allow inflow and infiltration.

The City proposes to replace 23,500 feet of distribution water lines, about 27% of the total. The lines being replaced are six to twelve-inch, in size. These lines are the worst performing in the system and located in the oldest, central areas of the City. The City proposes to replace 11,000 feet (16%) of eight and twelve-inch sewer collection lines. Again, the wastewater collection lines have been prioritized, to replace the worst performing lines. Additionally, the City will replace 4,300 feet of eight-inch water transmission main, along State Highway 49.

The City will also close its old lagoon WWTP which has been approved by the Texas Commission on Environmental Quality (TCEQ). This plant was abandoned when the new WWTP was completed in 2007 and needs to be remediated, which mostly involves the removal of sludge from the old lagoons, to comply with TCEQ requirements. It is estimated that 13,600 cubic yards of sludge will be removed and transferred to a class II (non-hazardous) landfill.

## **FINANCIAL**

### Key Issues

None.

### Pledge and Repayment

The City is pledging ad valorem taxes and surplus net revenues for the repayment of the proposed loan. The City intends to utilize waterworks and sewer system revenues for the repayment of the proposed debt.

The City's current combined average monthly water and wastewater rate is \$83.83. The City's utility system produced \$343,296 in net revenues in 2014. The City implemented increases to the base water rate in January 2016, increasing the average monthly water bill by \$25.00. This will produce an additional \$348,000 in revenues in 2016. Based on staff's analysis of financial documentation received, current system revenues combined with the projected revenues from the recent rate increase are sufficient to meet the current and outstanding debt service requirements.

### Cost Savings

Based on a 20-year maturity and current interest rates, the City could save approximately \$537,971 over the life of the loan.

Internal Risk Score

Staff assigns a 2C to the City, and the proposed project to be funded by the Texas Water Development Board. This means that the City's repayment capacity is sufficient.

The City's socioeconomic indicators are lower than the State of Texas (State) overall. The City's population has increased at an average annual rate of 0.63% since 2000, compared to an increase at an annual rate of 1.60% for the population of the State overall. The City's average median household income is \$32,361, 62% of the median for the State overall. The average, unadjusted, unemployment rate for Marion County, where the City resides, was 6.7% in March 2016, compared to 4.5% in the State overall.

The results of the City's financial indicators are moderate. The City's current total outstanding per capita debt is \$1,313, and would increase to \$4,052 with the proposed financing. This is considered to be a high level of debt. However, the City maintains 261 days of cash on hand for meeting the operating expenses of the utility system, which is considered to be a moderately high level of liquidity. The City's utility system produced an average of \$219,218 in net revenues from 2011 to 2013, and \$343,296 in net revenues in 2014. However, there is some vulnerability in the net revenues from the utility system with the ten largest customers represent approximately 34% and 25% of the water and wastewater revenues, respectively.

The City's utility system rates, with the recent \$25.00 rate increase, are considered high with a household cost factor of 3.11% for water and wastewater services. A household cost factor of 2% is considered the benchmark.

The City's socioeconomic indicators are below the State, and the City's financial performance is moderate with increasing net revenues in the utility system and a high level of liquidity, but moderately high debt and system rates. The City is assigned a risk score of 2C.

**LEGAL**Key Issues

None.

Conditions

Standard Drinking Water State Revolving Fund, Clean Water State Revolving Fund, Texas Water Development Fund, tax-exempt, and tax and surplus revenue conditions.

- Attachments:
1. Project Data Summary
  2. Debt Service Schedules
  3. Engineering/Environmental Review
  4. Project Budgets
  5. Resolutions (16- )
  6. Water Conservation Review
  7. Location Map

**Project Data Summary**

<b>Authority</b>	City of Jefferson
<b>Program</b>	Drinking Water State Revolving Fund Clean Water State Revolving Fund Texas Water Development Fund
<b>Commitment Code</b>	L1000527, L1000526, L1000528
<b>Project Number</b>	62697, 73729, 21762
<b>Intended Use Plan Year</b>	2016
<b>Fund Number</b>	951, 651, 371
<b>Type of Pledge</b>	3- Combo Tax and Rev
<b>Revenue Pledge Level</b>	Third
<b>Legal Description</b>	\$2,600,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A \$1,630,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016B \$1,030,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016C
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes - for DW and CW only
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow (DW), Outlay <> Escrow (CW)
<b>Population</b>	1,920
<b>Rural</b>	Yes
<b>Water Connections</b>	1,325
<b>Wastewater Connections</b>	1145
<b>Qualifies as Disadvantaged</b>	Yes
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	Non-Equivalency
<b>SWIFT Financing Type</b>	N/A
<b>SWIFT Characteristic</b>	N/A-
<b>Financial Managerial &amp; Technical Complete</b>	No- for DW only
<b>Funding Phase Code</b>	Design and Construction
<b>Pre-Design</b>	Yes
<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>	2C
<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**

Team Manager	Luis Farias
Financial Analyst	Ben Munguia
Engineering Reviewer	Joel Smith
Environmental Reviewer	Kathy Calnan
Attorney	Annette Mass

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Jefferson

**\$2,600,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed**

**Series 2016A**

Dated Date: 7/21/2016  
 Delivery Date: 7/21/2016  
 First Interest: 2/15/2017  
 First Principal: 2/15/2018  
 Last Principal: 2/15/2037  
 Fiscal Year End: 12/31

Source: DWSRF  
 Insurance: No  
 Case: Revenue  
 Admin.Fee: \$57,213  
 Admin. Fee Payment Date: 7/21/2016  
 Required Coverage: 1.1

**\$1,630,000 Combination Tax and Surplus Revenue Certificates of Obligation,**

**Proposed Series 2016B**

Dated Date: 7/21/2016  
 Delivery Date: 7/21/2016  
 First Interest: 2/15/2017  
 First Principal: 2/15/2018  
 Last Principal: 2/15/2037  
 Fiscal Year End: 12/31

Source: CWSRF-NON-EQUIVALENCY  
 Insurance: No  
 Case: Revenue  
 Admin.Fee: \$ 29,607  
 Admin. Fee Payment Date: 7/21/2016  
 Required Coverage: 1.1

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT/PROPOSED DEBT SERVICE*	\$2,600,000 ISSUE				\$1,630,000 ISSUE				TOTAL DEBT SERVICE	ACTUAL COVERAGE		
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT				
2017	691,296	242,635	-	0.00%	50,752	50,752	-	0.00%	32,687	32,687	326,074	2.12		
2018	691,296	274,648	110,000	1.83%	46,574	156,574	70,000	1.88%	29,986	99,986	531,207	1.30		
2019	691,296	272,643	110,000	1.83%	44,561	154,561	70,000	1.88%	28,670	98,670	525,874	1.31		
2020	691,296	270,624	115,000	1.83%	42,502	157,502	70,000	1.88%	27,354	97,354	525,480	1.32		
2021	691,296	273,445	115,000	1.83%	40,397	155,397	70,000	1.88%	26,038	96,038	524,880	1.32		
2022	691,296	272,136	115,000	1.83%	38,293	153,293	75,000	1.88%	24,675	99,675	525,104	1.32		
2023	691,296	269,754	120,000	1.83%	36,143	156,143	75,000	1.88%	23,265	98,265	524,161	1.32		
2024	691,296	272,256	120,000	1.83%	33,947	153,947	75,000	1.88%	21,855	96,855	523,058	1.32		
2025	691,296	269,599	125,000	1.83%	31,705	156,705	75,000	1.88%	20,445	95,445	521,748	1.32		
2026	691,296	267,912	125,000	1.83%	29,417	154,417	80,000	1.88%	18,988	98,988	521,318	1.33		
2027	691,296	271,052	130,000	1.83%	27,084	157,084	80,000	1.88%	17,484	97,484	525,620	1.32		
2028	691,296	267,031	130,000	1.83%	24,705	154,705	80,000	1.88%	15,980	95,980	517,716	1.34		
2029	691,296	196,567	135,000	1.83%	22,280	157,280	85,000	1.88%	14,429	99,429	453,276	1.53		
2030	691,296	156,593	135,000	1.83%	19,810	154,810	85,000	1.88%	12,831	97,831	409,234	1.69		
2031	691,296	127,612	140,000	1.83%	17,294	157,294	85,000	1.88%	11,233	96,233	381,138	1.81		
2032	691,296	124,929	140,000	1.83%	14,732	154,732	90,000	1.88%	9,588	99,588	379,249	1.82		
2033	691,296	121,201	145,000	1.83%	12,124	157,124	90,000	1.88%	7,896	97,896	376,221	1.84		
2034	691,296	123,373	145,000	1.83%	9,470	154,470	90,000	1.88%	6,204	96,204	374,047	1.85		
2035	691,296	120,399	150,000	1.83%	6,771	156,771	95,000	1.88%	4,465	99,465	376,635	1.84		
2036	691,296	121,278	150,000	1.83%	4,026	154,026	95,000	1.88%	2,679	97,679	372,983	1.85		
2037	691,296	127,857	145,000	1.83%	1,327	146,327	95,000	1.88%	893	95,893	370,076	1.87		
	\$	4,443,544	\$ 2,600,000		\$	553,911	\$ 3,153,911	\$	1,630,000	\$	357,645	\$ 1,987,645	\$	94,012,435

\$2,600,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.64 YEARS
NET INTEREST RATE	1.830%
COST SAVINGS	\$332,331
AVERAGE ANNUAL REQUIREMENT	\$150,186

\$1,630,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.67 YEARS
NET INTEREST RATE	1.880%
COST SAVINGS	\$ 205,640
AVERAGE ANNUAL REQUIREMENT	\$94,650

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$4,476,783

\*Includes proposed Texas Water Development Fund loan

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City of Jefferson

**City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016C**

<b>Dated Date:</b>	<b>7/21/2016</b>	<b>Source:</b>	<b>WDF</b>
<b>Delivery Date:</b>	<b>7/21/2016</b>	<b>Rate:</b>	<b>4.02%</b>
<b>First Interest:</b>	<b>2/15/2017</b>	<b>Insurance:</b>	<b>No</b>
<b>First Principal:</b>	<b>2/15/2018</b>	<b>Case:</b>	<b>Revenue</b>
<b>Last Principal:</b>	<b>2/15/2037</b>	<b>Admin.Fee:</b>	<b>\$ -</b>
<b>Fiscal Year End:</b>	<b>12/31</b>	<b>Admin. Fee Payment Date:</b>	<b>N/A</b>
<b>Required Coverage:</b>	<b>1.1</b>		

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$1,030,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE
					INTEREST PAYMENT	TOTAL PAYMENT		
2017	691,296	198,469	-	0.00%	44,166	44,166	242,635	2.85
2018	691,296	198,945	35,000	4.02%	40,703	75,703	274,648	2.52
2019	691,296	198,348	35,000	4.02%	39,296	74,296	272,643	2.54
2020	691,296	197,735	35,000	4.02%	37,889	72,889	270,624	2.55
2021	691,296	197,064	40,000	4.02%	36,381	76,381	273,445	2.53
2022	691,296	197,363	40,000	4.02%	34,773	74,773	272,136	2.54
2023	691,296	196,589	40,000	4.02%	33,165	73,165	269,754	2.56
2024	691,296	195,800	45,000	4.02%	31,457	76,457	272,256	2.54
2025	691,296	194,951	45,000	4.02%	29,648	74,648	269,599	2.56
2026	691,296	195,074	45,000	4.02%	27,839	72,839	267,912	2.58
2027	691,296	195,123	50,000	4.02%	25,929	75,929	271,052	2.55
2028	691,296	193,112	50,000	4.02%	23,919	73,919	267,031	2.59
2029	691,296	119,759	55,000	4.02%	21,809	76,809	196,567	3.52
2030	691,296	81,995	55,000	4.02%	19,598	74,598	156,593	4.41
2031	691,296	50,326	60,000	4.02%	17,286	77,286	127,612	5.42
2032	691,296	50,055	60,000	4.02%	14,874	74,874	124,929	5.53
2033	691,296	48,739	60,000	4.02%	12,462	72,462	121,201	5.70
2034	691,296	48,423	65,000	4.02%	9,950	74,950	123,373	5.60
2035	691,296	48,062	65,000	4.02%	7,337	72,337	120,399	5.74
2036	691,296	46,655	70,000	4.02%	4,623	74,623	121,278	5.70
2037	691,296	46,249	80,000	4.02%	1,608	81,608	127,857	5.41
		\$ 2,898,837	\$ 1,030,000		\$ 514,707	\$ 1,544,707	\$ 4,443,544	

<b>AVERAGE (MATURITY) LIFE</b>	<b>12.43 YEARS</b>
<b>NET INTEREST RATE</b>	<b>4.020%</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$211,597</b>



**Jefferson**  
**73729 Rehab & Extend Sewers**  
**62697 Water Line Replacement**  
**21762 WWTP Closure**  
**Engineering and Environmental Review**

**Engineering:**

Key Issues:

None.

Project Need/Description

Need: The City is one of the oldest incorporated cities in Texas. Many of the components of the City's water and wastewater infrastructure are over 50 years old. The age of the water distribution and wastewater collection system lines results in increased line breaks leading to extensive repairs, inflow and infiltration to wastewater lines during rain events, and opportunities for contamination of potable water. With the passage of time, the maintenance costs to keep the system in compliance increases. The Drinking and Clean Water State Revolving funds will be used to replace these lines. The City constructed a new wastewater treatment plant (WWTP) in 2007. The Texas Water Development Funds will be used to close out and remediate the site of the City's old lagoon WWTP.

Project: The City has prioritized 23,500 feet of 6 to 12-inch water distribution lines and 11,000 feet of 6 to 12-inch wastewater collection lines for replacement. These lines are located in the oldest, central areas of the City. In addition, 4,300 feet of 8-inch water transmission main, along state highway 49 (SH 49), will be replaced. Once completed, the City will have eliminated the worst systemic breaks and leaks in both water and wastewater piping systems. The closure plan for the old WWTP was approved by the Texas Commission on Environmental Quality (TCEQ), in a letter dated April 9, 2015, that includes the removal and transportation to a landfill of 13,600 cubic yards of non-hazardous sludge. The closure of the old WWTP will bring the City into compliance with their TCEQ permit to operate their publically owned wastewater treatment works (POTW).

**Project Schedule:**

<b>Project Task</b>	<b>Schedule Date</b>
Engineering Feasibility Report Completion (End of Planning Phase)	7/1/2016
Closing	7/21/2016
Start of Construction	7/30/2016
Design Phase Complete	8/31/2016
Construction Completion	3/30/2018

**Environmental Section:**

Key Issues:

None known at this time.

Environmental Summary:

The environmental review of the project will be handled in two parts to meet program requirements associated with the funding source used to finance various project components. The replacement of water and sewer pipelines is being financed with federal funds (DWSRF and CWSRF), and therefore, require compliance with the National Environmental Policy Act (NEPA). The closure of the wastewater treatment plant (WWTP), which is not integral to the linework, is being financed with State funds (Water Development Fund) and does not require the same standard of review.

Pursuant to the requirements of 31 Texas Administrative Code Chapter 371, Subchapter E, Chapter 375, Subchapter E, and §363.14, all financial assistance shall be conditioned to read that funding for design and construction costs for specific project elements will not be released until the appropriate environmental review has been completed and a favorable environmental determination has been issued. A subsequent affirmation of commitment will be necessary for the SRF loans in order to comply with the National Environmental Policy Act.



**Project Budget Summary**  
City of Jefferson  
TWDB Project # 73729, 62697, 21762

Budget Items	DWSRF Funds	CWSRF Funds	WDF Funds	Total TWDB Funds
<b>Construction</b>				
Construction	\$1,944,750.00	\$1,259,695.00	\$706,950.00	\$3,911,395.00
<b>Subtotal for Construction</b>	<b>\$1,944,750.00</b>	<b>\$1,259,695.00</b>	<b>\$706,950.00</b>	<b>\$3,911,395.00</b>
<b>Basic Engineering Services</b>				
Construction Engineering	\$150,000.00	\$100,000.00	\$50,000.00	\$300,000.00
Design	\$60,000.00		\$55,000.00	\$115,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$210,000.00</b>	<b>\$100,000.00</b>	<b>\$105,000.00</b>	<b>\$415,000.00</b>
<b>Special Services</b>				
Geotechnical	\$25,000.00		\$25,000.00	\$50,000.00
Surveying	\$15,000.00		\$10,000.00	\$25,000.00
Testing	\$45,000.00	\$30,000.00	\$30,000.00	\$105,000.00
<b>Subtotal for Special Services</b>	<b>\$85,000.00</b>	<b>\$30,000.00</b>	<b>\$65,000.00</b>	<b>\$180,000.00</b>
<b>Fiscal Services</b>				
Loan Origination Fee	\$57,213.00	\$29,607.00		\$86,820.00
<b>Subtotal for Fiscal Services</b>	<b>\$57,213.00</b>	<b>\$29,607.00</b>		<b>\$86,820.00</b>
<b>Contingency</b>				
Contingency	\$303,037.00	\$210,698.00	\$153,050.00	\$666,785.00
<b>Subtotal for Contingency</b>	<b>\$303,037.00</b>	<b>\$210,698.00</b>	<b>\$153,050.00</b>	<b>\$666,785.00</b>
<b>Total</b>	<b>\$2,600,000.00</b>	<b>\$1,630,000.00</b>	<b>\$1,030,000.00</b>	<b>\$5,260,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$2,600,000 TO THE CITY OF JEFFERSON, TEXAS  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$2,600,000 CITY OF JEFFERSON, TEXAS COMBINATION TAX AND SURPLUS  
REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2016A

(16- )

WHEREAS, the City of Jefferson (City) has filed an application for financial assistance in the amount of \$2,600,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62697; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$2,600,000 City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A (together with all authorizing documents "Obligations"), 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 ad valorem tax and surplus system revenue as sufficient security for the repayment of the Obligations;

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 Chapter 371;

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 TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j); and

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).

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

A commitment is made by the TWDB to the City of Jefferson for financial assistance in the amount of \$2,600,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$2,600,000 City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016A. This commitment will expire on June 30, 2017.

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;
30. The Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

#### Drinking Water State Revolving Fund Conditions

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

32. 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;
33. 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

34. 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.

APPROVED and ordered of record this 14<sup>th</sup> day of June, 2016.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$1,630,000 TO THE CITY OF JEFFERSON, TEXAS  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$1,630,000 CITY OF JEFFERSON, TEXAS COMBINATION TAX AND SURPLUS  
REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2016B

(16- )

WHEREAS, the City of Jefferson (City) has filed an application for financial assistance in the amount of \$1,630,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, design and construction of certain wastewater system improvements identified as Project No. 73729; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$1,630,000 City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016B (together with all authorizing documents, "Obligations"), 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 ad valorem tax and surplus system revenue as sufficient security for the repayment of the Obligations; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 375.14;

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 Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;
3. that the 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; and
4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007.

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

A commitment is made by the TWDB to the City of Jefferson for financial assistance in the amount of \$1,630,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$1,630,000 City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016B. This commitment will expire on June 30, 2017.

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 375;
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;

#### Conditions Related To Tax-Exempt Status

15. 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;
16. 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;
17. 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);
18. 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;
19. 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;
- 20. 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;
  - 21. 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;
  - 22. 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;
  - 23. 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;
  - 24. 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

25. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
26. 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;
27. 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;
28. 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;
29. the Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;
30. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
31. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule;

#### Clean Water State Revolving Fund Conditions

32. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;

33. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;

Pledge Conditions For The Loan

34. 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.

APPROVED and ordered of record this 14<sup>th</sup> day of June, 2016.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO  
THE CITY OF JEFFERSON, TEXAS  
FROM THE FINANCIAL ASSISTANCE ACCOUNT OF  
THE TEXAS WATER DEVELOPMENT FUND II  
THROUGH THE PROPOSED PURCHASE OF  
\$1,030,000 CITY OF JEFFERSON, TEXAS COMBINATION TAX AND SURPLUS  
REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2016C

(16- )

WHEREAS, the City of Jefferson (City), has filed an application for financial assistance in the amount of \$1,030,000 from the Financial Assistance Account of the Texas Water Development Fund II, established by Texas Water Code § 17.959 to finance wastewater system improvements, identified as Project No. 21762; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$1,030,000 through the TWDB's purchase of \$1,030,000 City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016C (together with all authorizing documents "Obligations"), 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 ad valorem tax and surplus system revenue as sufficient security for the repayment of the Obligations; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC Chapter 363;

WHEREAS, the TWDB has considered all matters required by law and in particular the following:

1. the water quality needs of the waters into which effluent from the treatment works will be discharged, the benefit of the treatment works to such water quality needs, the relationship of the treatment works to the overall, statewide water quality needs, and the relationship of the treatment works to water quality planning for the state, in accordance with Texas Water Code § 17.275(1);
2. the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the treatment works, including interest, in accordance with Texas Water Code § 17.275(2); and
3. that the City has not been designated, pursuant to Texas Water Code § 26.082, as a regional system to serve all or part of the waste disposal needs of a defined area, the development of such systems being the declared policy of the legislature, in accordance with Texas Water Code § 17.275(3); and

WHEREAS, the TWDB hereby finds:

1. that the public interest will benefit from state assistance in the financing of this project, in accordance with Texas Water Code § 17.277(a);
2. 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;
3. that the application and financial assistance requested meet the requirements of Texas Water Code, Chapter 17, Subchapters E, F, and L, and 31 TAC Chapter 363, Subchapter A; and
4. that any treatment works to be financed under the application will consider cost-effective innovative, nonconventional methods of treatment such as rock reed, root zone, ponding, irrigation, or other methods that may have been developed by the National Aeronautics and Space Administration or the Tennessee Valley Authority, in accordance with Texas Water Code § 17.189.

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

A commitment is made by the TWDB to the City of Jefferson for financial assistance in the amount of \$1,030,000 from the Financial Assistance Account of the Texas Water Development Board Development Fund II, to be evidenced by the TWDB's purchase of \$1,030,000 City of Jefferson, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016C. This commitment will expire on June 30, 2017.

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 363;

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, 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 required under the TWDB's financial assistance program and not previously provided with the application, the City shall submit an executed engineering contract as appropriate for the project scope of work, and an executed financial advisor contract and executed bond counsel contract as appropriate for the work to be performed in obtaining the TWDB's financial assistance for the project, in a form and substance that are satisfactory to the Executive Administrator. Fees to be reimbursed under any consulting contract must be reasonable in relation to the services performed, must be reflected in the contract, and must be acceptable to the Executive Administrator;
13. prior to closing, when any portion of loan proceeds are to be held in escrow or in trust, the City 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;
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;
16. the Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products and manufactured goods produced in the United States, as required by Texas Water Code § 17.183;

#### Conditions Related To Tax-Exempt Status

17. 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;

18. 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;
19. 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);
20. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 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;
21. 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;
- 22. 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;
  - 23. 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;
  - 24. 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;
  - 25. 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;
  - 26. 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;

#### Pledge Conditions For The Loan

- 27. 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.

APPROVED and ordered of record this, the 14<sup>th</sup> day of June, 2016.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

\_\_\_\_\_  
Jeff Walker  
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 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 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 Jefferson,  
Marion County**

