

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: October 5, 2016

TEAM MANAGER: Mireya Loewe

<b>APPLICANT</b>	City of Eagle Pass
<b>TYPE OF ASSISTANCE</b>	\$17,090,000 Loan, Proposed Series 2016 \$11,900,000 Loan, Proposed Series 2017 \$15,075,000 Loan, Proposed Series 2018
<b>LEGAL PLEDGE</b>	First Lien on the Waterworks and Sewer System Net Revenues

**STAFF RECOMMENDATION**

Approve                       No Action

**ACTION REQUESTED**

Approve, by resolution, a request from the City of Eagle Pass (Maverick County) for a \$44,065,000 multi-year loan commitment from the Drinking Water State Revolving Fund to finance the planning, design, and construction of improvements and expansion of the water treatment and distribution system.

**PROJECT**

Upgrade and Expansion of the Water Treatment and Distribution System  
Project Number 62556

**BACKGROUND**

In February 2009, the Texas Water Development Board (TWDB) committed \$485,000 to the City of Eagle Pass (City) from the Economically Distressed Areas Program (EDAP) for the planning of multiple water and wastewater projects, including, replacement of cast iron pipe in the older sections of the City.

In February 2013, TWDB committed \$8.2 million from the Drinking Water State Revolving Fund (DWSRF) for this project. With this funding, the City has completed the purchase and installation of approximately 14,000 automatic-read meters. The City has also compiled the data to complete a water audit, leak study, water modeling, and an asset management plan; the finished reports will soon be presented to the City. In addition, the planning and most of the design has been completed for the upgrade and expansion of the water treatment plant (WTP) from 15 million gallons per day (mgd) to 18 mgd, replacement of water distribution lines in the Las Quintas and Jardines Verdes areas, replacement of cast iron water lines in the older sections of the City, water tank rehabilitation and replacement, and addition of ground storage tank.

The current request will fund the construction of the upgrade and expansion of the WTP, water line replacements and upgrades, and water tank rehabilitation and replacement. In addition, it

<b>Multi-Year Commitment:</b>	<b>Expiration Date</b>
<b>\$17,090,000 Series 2016</b>	<b>October 31, 2017</b>
<b>\$11,900,000 Series 2017</b>	<b>October 31, 2018</b>
<b>\$15,075,000 Series 2018</b>	<b>October 31, 2019</b>

will fund the planning, design, and construction of a new storage tank at the College Hills subdivision.

## **FINANCIAL**

### Key Issues

None.

### Multi-Year Commitments

The DWSRF program has the ability to offer applicants multi-year commitments. This flexibility allows the TWDB to manage program demand while allowing the applicant to fund large projects over time. Each annual commitment installment has its own expiration date and the applicable subsidy prescribed in the Intended Use Plan under which the applicant has been invited to apply will be locked for up to five years. In the event, the interest rate reduction is increased during multi-year commitment period the applicant will receive the increased reduction for that year.

The City has requested a multi-year commitment over a three-year period, 2016-2018. The interest rate reduction of 125 basis points will be available to all series through 2018.

### Pledge and Repayment

The City is pledging first lien on the net revenues of the waterworks and sewer system for the repayment of the proposed loans. The City has conducted a rate study that indicates the three-year commitment will require a \$2.58 increase to the combined water and wastewater rate, for an average total of \$44.23 per month. This increase will be implemented in October 2016. Based on staff's analysis of financial documentation received and the increase in combined water and wastewater rates, the rates will be sufficient to meet the existing and the proposed debt service requirements. A condition has been added to the resolution that requires the City to provide documentation prior to closing that sufficient rates and charges have been implemented.

### Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$3,172,627 over the life of the 2016 loan.

### Internal Risk Score

Staff assigns a 2B to the City and the proposed project to be funded by the TWDB. This means that the City's payment capacity is adequate.

The financial sustainability indicators for the City are adequate. The City shows that it has the ability to repay its debt. The City produces net revenues of 1.40 times the annual debt service requirements for the first year of principal repayment. This higher coverage level indicates the City's ability to handle unexpected expenses or declines in demand and still meet debt service requirements. Additionally, the long-term condition of the system is sound with an asset condition ratio of 46 years. This indicates a high level of reinvestment in the City's long-term assets to generate future revenues.

The City scored well on other indicators showing the overall health of the City. The City has been able to retain its revenues, as evidenced by an increase in the fund balance over the last five

years relative to revenues. In addition, taxable property in the City has been stable over the last five years. This has resulted in an adequate net taxable assessed valuation per capita of \$46,922.

The City's socioeconomic indicators are below the state's median overall. The median household income of \$35,590 is 68% of the state's median. The City's unemployment rate of 11.3% is above the state average of 4.2%.

The City maintains a liquidity position with cash and short-term investments equal to 124 days of operating expenses. An amount between 30-149 days is considered to be an adequate level of liquidity. Adequate liquidity provides stability to the City by providing the resources needed to cover short-term, unplanned needs.

The City's financial sustainability indicators are positive, operating trends are positive, and liquidity is adequate. The City is assigned a risk score of 2B

## **LEGAL**

### Key Issues

None.

### Conditions

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

- Environmental determination of some project elements.

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

<b>Responsible Authority</b>	City of Eagle Pass
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Codes</b>	LM16100561 LM17100561 LM18100561
<b>Project Number</b>	62556
<b>Intended Use Plan Year</b>	2016
<b>Fund Number</b>	951
<b>Type of Pledge</b>	2
<b>Revenue Pledge Level</b>	First
<b>Legal Description</b>	\$17,090,000 City of Eagle Pass, Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 \$11,900,000 Proposed Series 2017 \$15,075,000 Proposed Series 2018
<b>Tax-Exempt or Taxable</b>	Tax Exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay=Escrow
<b>Population</b>	53,683
<b>Rural</b>	No
<b>Water Connections</b>	15,110
<b>Wastewater Connections</b>	13,850
<b>Qualifies as Disadvantaged</b>	No
<b>Disadvantaged Level</b>	9 - NA
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>Financial, Managerial and Technical Review Complete?</b>	No
<b>SWIFT Financing Type</b>	N/A
<b>SWIFT Project Type</b>	N/A
<b>Phase Committing</b>	Planning, 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>	2B
<b>External Ratings</b>	
<b>Standard and Poor's</b>	Not Rated
<b>Moody's</b>	A
<b>Fitch</b>	A
<b>Special Issues</b>	None

### Project Team

Team Manager	Mireya Loewe
Financial Analyst	Javier Pena
Engineering Reviewer	Donald Dawkins
Environmental Reviewer	Lauren Dill
Attorney	Joe Reynolds

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Eagle Pass

**\$17,090,000 Waterworks and Sewer System Revenue Bonds, Proposed Series 2016**

Dated Date:	12/15/2016	Source:	DWSRF
Delivery Date:	12/15/2016	Rate:	0.69%
First Interest:	6/1/2017	Insurance:	No
First Principal:	12/1/2018	Case:	Revenue
Last Principal:	12/1/2046	Admin.Fee:	\$ 376,064
Fiscal Year End:	09/30	Admin. Fee Payment Date:	12/15/2016
Required Coverage:	1.0		

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	2017-2018 FUTURE DEBT SERVICE	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	\$17,090,000 ISSUE		TOTAL DEBT SERVICE	COVERAGE
						INTEREST PAYMENT	TOTAL PAYMENT		
2017	3,138,508		1,714,054	-	0.00%	47,669	47,669	1,761,723	1.78
2018	3,138,508		1,720,653	-	0.00%	103,379	103,379	1,866,092	1.68
2019	3,138,508		1,720,660	425,000	0.00%	103,379	528,379	2,249,039	1.40
2020	3,138,508	42,060	1,722,564	430,000	0.00%	103,379	533,379	2,298,003	1.37
2021	3,138,508	134,416	1,676,188	440,000	0.00%	103,379	543,379	2,353,983	1.33
2022	3,138,508	452,248	1,678,013	450,000	0.00%	103,379	553,379	2,683,640	1.17
2023	3,138,508	782,248	1,683,144	460,000	0.00%	103,379	563,379	3,028,771	1.04
2024	3,138,508	797,248	1,258,207	475,000	0.00%	103,379	578,379	2,633,834	1.19
2025	3,138,508	817,248	951,676	485,000	0.69%	103,233	588,233	2,357,157	1.33
2026	3,138,508	837,248	952,531	495,000	0.69%	102,716	597,716	2,387,495	1.31
2027	3,138,508	852,047	1,247,861	505,000	0.69%	101,714	606,714	2,706,622	1.16
2028	3,138,508	876,324	1,247,658	515,000	0.69%	100,130	615,130	2,739,112	1.15
2029	3,138,508	894,909	1,251,805	530,000	0.69%	98,064	628,064	2,774,778	1.13
2030	3,138,508	917,647	1,245,457	540,000	0.69%	95,655	635,655	2,798,759	1.12
2031	3,138,508	934,682	1,243,659	555,000	0.69%	92,861	647,861	2,826,202	1.11
2032	3,138,508	956,202	1,246,376	565,000	0.69%	89,695	654,695	2,857,273	1.10
2033	3,138,508	977,131	1,248,625	580,000	0.69%	86,173	666,173	2,891,929	1.09
2034	3,138,508	997,480	1,245,400	590,000	0.69%	82,281	672,281	2,915,161	1.08
2035	3,138,508	1,017,265	1,111,195	605,000	0.69%	78,007	683,007	2,811,467	1.12
2036	3,138,508	1,036,460	661,099	620,000	0.69%	73,351	693,351	2,390,910	1.31
2037	3,138,508	1,055,040	275,787	635,000	0.69%	68,329	703,329	2,034,156	1.54
2038	3,138,508	1,082,987	275,241	650,000	0.69%	62,963	712,963	2,071,191	1.52
2039	3,138,508	1,100,325	274,457	660,000	0.69%	57,330	717,330	2,092,112	1.50
2040	3,138,508	1,117,119	268,505	680,000	0.69%	51,433	731,433	2,117,057	1.48
2041	3,138,508	1,143,410	267,430	695,000	0.69%	45,279	740,279	2,151,119	1.46
2042	3,138,508	1,164,212	266,206	710,000	0.69%	38,921	748,921	2,179,339	1.44
2043	3,138,508	1,189,568	264,830	725,000	0.69%	32,356	757,356	2,211,754	1.42
2044	3,138,508	1,214,499	263,302	740,000	0.69%	25,580	765,580	2,243,381	1.40
2045	3,138,508	1,234,021	-	760,000	0.69%	18,567	778,567	2,012,588	1.56
2046	3,138,508	1,258,128	-	775,000	0.69%	11,313	786,313	2,044,441	1.54
2047	3,138,508	1,286,767	-	795,000	0.69%	3,816	798,816	2,085,583	1.50
			\$ 28,982,583	\$ 17,090,000		\$ 2,291,082	\$ 19,381,082	\$ 74,574,664	

<b>AVERAGE (MATURITY) LIFE</b>	<b>17.53 YEARS</b>
<b>NET INTEREST RATE</b>	<b>0.690%</b>
<b>COST SAVINGS</b>	<b>\$3,172,627</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$2,405,634</b>

*Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable.*



**Eagle Pass**  
**62556 Upgrade and Expansion of the Water Treatment and Distribution System**  
**Engineering and Environmental Review**

**Engineering:**

Key Issues:

None.

Project Need/Description

Need: The City of Eagle Pass (City) needs to replace deteriorated and undersized pipe, rehabilitate aging water storage tanks, add water storage capacity, replace old and inaccurate water meters, and replace water plant filters' membranes that are reaching their expected service life. In addition, the City must expand its water treatment plant because, per the Texas Commission of Environmental Quality (TCEQ) rules, it has exceeded 85% of its permitted capacity.

Project Description: The proposed project consists of planning, design, and construction of improvements to and expansion of the existing membrane surface water treatment plant (WTP) from 15 million gallons per day (mgd) to 18 mgd; replacement of deteriorated cast iron water lines; replacement of the water distribution system in Las Quintas, and Jardines Verdes subdivisions; water tank rehabilitation; and construction of a new ground storage tank at College Hills. In addition, the project includes a leak detection study, a water audit, water modeling, and a GIS-based asset management plan.

Project Schedule:

<b>Project Task</b>	<b>Schedule Date</b>
Closing	12/15/2016
Design Phase Complete	10/28/2016
Construction Completion	5/20/2017

**Environmental Section:**

Key Issues:

None.

Environmental Summary:

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude construction of the project. Based on this initial environmental review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect project implementation.

Four project components were previously categorically excluded from a full environmental review: water treatment plant membrane replacement and capacity expansion, sludge dewatering belt press project, cast iron water line replacement, and tank rehabilitation/replacement project. A Categorical Exclusion (CE) for these components was issued on May 20, 2013. A CE has been proposed for the Las Quintas and the Jardines Verdes Distribution Replacement Projects and the new ground storage tank at the College Hills Storage Tank and Pump Station Site.

Pursuant to the requirements of 31 Texas Administrative Code §371.41, all financial assistance shall be conditioned to read that funding for design and construction costs for these project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued.



## Current Budget Summary

Eagle Pass

### 62556 - Meter Replacement & Projects Design

Budget Items	TWDB Previous Commitment	TWDB Series 2016	TWDB Series 2017	TWDB Series 2018	This Commitment Subtotal	Total
<b>Construction</b>						
Construction	\$4,647,221	\$12,630,000	\$9,110,000	\$11,560,000	\$33,300,000	\$37,947,221
<b>Subtotal for Construction</b>	<b>\$4,647,221</b>	<b>\$12,630,000</b>	<b>\$9,110,000</b>	<b>\$11,560,000</b>	<b>\$33,300,000</b>	<b>\$37,947,221</b>
<b>Basic Engineering Services</b>						
Construction Engineering	\$55,410	\$315,750	\$227,750	\$289,000	\$832,500	\$887,910
Design	\$1,870,700	\$631,500	\$455,500	\$578,000	\$1,665,000	\$3,535,700
Planning	\$135,880	\$0	\$0	\$0	\$0	\$135,880
<b>Subtotal for Basic Engineering</b>	<b>\$2,061,990</b>	<b>\$947,250</b>	<b>\$683,250</b>	<b>\$867,000</b>	<b>\$2,497,500</b>	<b>\$4,559,490</b>
<b>Special Services</b>						
Application	\$23,900	\$40,000	\$0	\$0	\$40,000	\$63,900
Environmental	\$69,700	\$0	\$0	\$0	\$0	\$69,700
Geotechnical	\$70,525	\$64,000	\$0	\$0	\$64,000	\$134,525
Inspection	\$20,500	\$252,600	\$182,200	\$231,200	\$666,000	\$686,500
Project Management (by Engineer)	\$0	\$12,630	\$9,110	\$11,560	\$33,300	\$33,300
Testing	\$0	\$25,000	\$50,000	\$25,000	\$100,000	\$100,000
Permits	\$82,900	\$25,000	\$25,000	\$0	\$50,000	\$132,900
O&M Manual	\$0	\$0	\$0	\$100,000	\$100,000	\$100,000
Surveying	\$191,800	\$500,000	\$0	\$0	\$500,000	\$691,800
Water Distribution Modeling	\$200,000	\$100,000	\$0	\$0	\$100,000	\$300,000
<b>Subtotal for Special Services</b>	<b>\$659,325</b>	<b>\$1,019,230</b>	<b>\$266,310</b>	<b>\$367,760</b>	<b>\$1,653,300</b>	<b>\$2,312,625</b>
<b>Fiscal Services</b>						
Bond Counsel	\$60,100	\$20,000	\$20,000	\$20,000	\$60,000	\$120,100
Bond Reserve Fund	\$153,567	\$378,900	\$273,300	\$346,800	\$999,000	\$1,152,567
Financial Advisor	\$90,000	\$100,000	\$90,000	\$95,000	\$285,000	\$375,000
Fiscal/Legal	\$1,500	\$100,000	\$100,000	\$100,000	\$300,000	\$301,500
Loan Origination Fee	\$127,518	\$376,064	\$261,858	\$331,724	\$969,646	\$1,097,164
<b>Subtotal for Fiscal Services</b>	<b>\$432,685</b>	<b>\$974,964</b>	<b>\$745,158</b>	<b>\$893,524</b>	<b>\$2,613,646</b>	<b>\$3,046,331</b>
<b>Other</b>						
Administration	\$51,700	\$126,300	\$91,100	\$115,600	\$333,000	\$384,700
Asset Management Plan	\$100,000	\$0	\$0	\$0	\$0	\$100,000
Project Legal Expenses	\$96,300	\$126,300	\$91,100	\$115,600	\$333,000	\$429,300
<b>Subtotal for Other</b>	<b>\$248,000</b>	<b>\$252,600</b>	<b>\$182,200</b>	<b>\$231,200</b>	<b>\$666,000</b>	<b>\$914,000</b>
<b>Contingency</b>						
Contingency	\$174,075	\$1,265,956	\$913,082	\$1,155,516	\$3,334,554	\$3,508,629
<b>Subtotal for Contingency</b>	<b>\$174,075</b>	<b>\$1,265,956</b>	<b>\$913,082</b>	<b>\$1,155,516</b>	<b>\$3,334,554</b>	<b>\$3,508,629</b>
<b>Total</b>	<b>\$8,223,296</b>	<b>\$17,090,000</b>	<b>\$11,900,000</b>	<b>\$15,075,000</b>	<b>\$44,065,000</b>	<b>\$52,288,296</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO CITY OF  
EAGLE PASS  
IN THE FORM OF A MULTI-YEAR COMMITMENT  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$44,065,000 CITY OF EAGLE PASS, TEXAS WATERWORKS AND SEWER  
SYSTEM REVENUE BONDS,  
PROPOSED SERIES 2016  
THROUGH PROPOSED SERIES 2018

(16- )

WHEREAS, the City of Eagle Pass (City) has filed an application for financial assistance in the amount of \$44,065,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 62556; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the form of a multi-year commitment through the TWDB's proposed purchase of \$44,065,000 City of Eagle Pass, Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2016 through Proposed Series 2018 (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 a first lien on the waterworks and sewer system net revenues 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 § 371.13; 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 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);
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 Executive Administrator issued a Categorical Exclusion on May 20, 2013 for a portion of the project, 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 on the original Categorical Exclusion but finds that new components added to the project will require further environmental review.

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

A commitment is made by the TWDB to the City of Eagle Pass for financial assistance in the amount of \$44,065,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$44,065,000 City of Eagle Pass, Texas Waterworks and Sewer System Revenue Bonds as follows:

- a) \$17,090,000 Proposed Series 2016, to expire on October 31, 2017;
- b) \$11,900,000 Proposed Series 2017, to expire on October 31, 2018; and
- c) \$15,075,000 Proposed Series 2018, to expire on October 31, 2019;

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 remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;
8. 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 and completion of a final accounting 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) deposit into a reserve fund;
9. 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;
10. 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;

11. 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;
12. 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;
13. 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;
14. 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;
15. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
16. 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

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;

### State Revolving Fund Conditions

27. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
28. 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;
29. 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;
30. 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;
31. 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 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines;

### Drinking Water State Revolving Fund Conditions

32. prior to or at closing, the City shall pay a 2.25% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371;
33. 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;
34. 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

35. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations;
36. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;
37. the Obligations must contain a provision that additional revenue obligations may only be incurred if a certificate is executed by an independent certified public accountant, or independent firm or certified public accountants, acting by and through a certified public accountant, signs a written certificate to the effect that, in his or her opinion, during either the next preceding fiscal year, or any twelve consecutive calendar month period out of the eighteen (18) month period immediately preceding the month in which the ordinance authorizing the issuance of the proposed Additional Bonds is passed, the Net Revenues were at least 1.25 times an amount equal to the average annual principal and interest requirements and 1.10 times the maximum annual principal and interest requirements of all Parity Bonds and any Additional Bonds which are scheduled to be outstanding after the delivery of the proposed Additional Bonds. It is specifically provided, however, that in calculating the amount of Net Revenues for the purpose of this subsection, if there has been any increase in the rates or charges for services of the System which is then in effect, but which was not in effect during all or any part of the entire period for which the Net Revenues are being calculated (hereinafter referred to as the "entire period,") then the certified public accountant, or in lieu of the certified public accountant, a firm of consulting engineers, shall determine and certify the amount of Net Revenues as being the total of (i) the actual Net Revenues for the entire period, plus (ii) a sum equal to the aggregate amount by which the actual billings to customers of the System during the entire period would have been increased if such rates or charges had been in effect during the entire period.

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

Special Conditions:

38. the City must comply with the existing environmental finding of the Executive Administrator, including the standard emergency discovery conditions for threatened and endangered species and cultural resources; and
39. prior to the release of funds for design and construction costs for the Las Quintas and Jardines Verdes distribution replacement and the new groundwater storage tank, an environmental review must be completed and a favorable environmental determination issued.

APPROVED and ordered of record this 5th day of October, 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 Eagle Pass, Maverick County

