

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: July 26, 2018

TEAM MANAGER: Mireya Loewe

APPLICANT	City of McAllen
TYPE OF ASSISTANCE	\$6,900,000 Financing
LEGAL PLEDGE	First Lien on the Net Revenues of the City's Waterworks and Sewer System

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, a request from the City of McAllen (Hidalgo County) for \$6,900,000 in financing from the State Water Implementation Revenue Fund for Texas for acquisition of water rights and for a waiver of the requirement that a portion of the assistance be used to mitigate the City's water loss.

PROJECT

Water Rights Acquisition
Project Number 51057

BACKGROUND

Passed by the 83rd Legislature and approved by Texas voters through a constitutional amendment, the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT) were created to provide affordable, alternative financing options to develop projects that are recommended water management strategies in the State Water Plan. The program, referred to as SWIFT, provides financing through low interest loans, deferral of loan repayments, and incremental repurchase terms for projects with state ownership aspects. SWIFT projects presented for consideration have been scored and ranked utilizing a prioritization criteria outlined in Texas Administrative Code Title 31 § 363.1304 and are included on the prioritized list of projects approved by the Board on April 5, 2018.

The City of McAllen (City) is the largest city in Hidalgo County with an estimated population of approximately 174,537. Water and wastewater services are provided by the McAllen Public Utility (MPU), which was created in 1945. The MPU is governed by a Board of Trustees that consists of four members elected at large, representing four places, in a citywide election for four-year terms, and one ex-officio member appointed by the Mayor.

COMMITMENT PERIOD: FIVE (5) MONTHS TO EXPIRE DECEMBER 31, 2018

In 2013, the City entered into an agreement with Hidalgo County Irrigation District No. 1 to purchase over several years a total of 4,000 acre-feet of water rights for municipal and industrial use. The City has already executed the purchase of 1,000 acre-feet of water rights under that contract. The proposed funding will be used to acquire the remaining 3,000 acre-feet of water rights. These additional water rights are needed to allow the McAllen Public Utility to continue to keep up with demand associated with population growth.

FINANCIAL

Key Issues

In addition to the SWIFT financing request, the City is also applying for \$12,000,000 in financing from the Drinking Water State Revolving Fund (DWSRF) and \$7,000,000 from the Clean Water State Revolving Fund (CWSRF). The DWSRF and CWSRF financings are considered in the financial analysis and the attached debt service schedule.

A change to the existing additional bonds test is also being requested and is further discussed below in the Legal section.

Pledge and Repayment

The City is pledging a first lien on the net revenues of the water and wastewater system for the repayment of the proposed loan. The City's current combined average monthly water and wastewater rate is \$42.01. Current rates and charges are sufficient to meet existing and proposed debt service requirements.

Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$998,102 over the life of the financing.

Internal Risk Score

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

The results of the City's financial sustainability indicators are strong. These more heavily-weighted risk score indicators show the City's short-term and long-term ability to repay the debt. The debt service coverage ratio is 1.77 times the current and proposed debt service in the first year of principal repayment. In addition, the City's level of reinvestment in the assets of the utility's infrastructure is typical with an asset condition ratio of 22 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are weaker than the state overall. The City's median household income of \$48,352 is 88 percent of the state's median. The City's unemployment rate of 4.7 percent is above the state average of 3.8 percent.

The current average water and wastewater rates equate to about 1.04 percent of the median household income, which is well below the industry benchmark of 2 percent for two services. The City reports a liquidity position of 80 days of cash on hand. An amount between 30 and 149 days is considered typical.

The majority of the City's utility debt is supported by the utility system. The utility system self-supporting debt ratio is moderate at 3.92 when compared to operating revenues, including the proposed debt. A debt to operating revenues ratio between 2 and 3.99 is considered strong for utility systems.

The City's strong debt service coverage ratio and self-supporting debt ratio, low household cost factor, typical asset condition ratio, and typical liquidity position mitigate the City's weak socioeconomic indicators. The City is assigned a risk score of 2A.

LEGAL

Key Issues

The City has requested an amendment to the additional bonds test in the City's bond ordinance to permit the Finance Director of the City to execute the certification attesting that required coverages have been met so that additional parity bonds may be issued. The Board will consider the City's request in a separate agenda item. This Resolution contains the requested language.

The City is requesting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss. The City currently contracts for an independent study every five years to identify any weaknesses that affect the operational efficiency of its system and then prioritizes and budgets for infrastructure replace and upgrades, including meters. As discussed in the attached Water Conservation review, this meter replacement program should help the City mitigate its apparent loss. Pursuant to Tex. Water Code § 16.0121, the City must file an annual water audit that complies with TWDB rules, including computation of the City's system water loss. This annual data will permit the TWDB to assess improvements in the City's water loss and determine the effectiveness of its mitigation measures.

Conditions

Standard SWIFT, tax-exempt, and net revenue conditions.

- Attachments:
1. Project Data Summary
 2. Debt Service Schedule
 3. Engineering/Environmental Review
 4. Project Budget
 5. Resolution (18-)
 6. Water Conservation Review
 7. Location Map
 8. Water loss threshold waiver request

Project Data Summary

Responsible Authority	City of McAllen
Program	State Water Implementation Fund for Texas
Commitment Code	L18816
Project Number	51057
Intended Use Plan Year	N/A
Type of Pledge	2- Revenue
Revenue Pledge Level	First
Legal Description	City of McAllen, Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2018C
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	No
Disbursement Method	Escrow
Outlay Type	N/A
Population	174,537
Rural	No
Water Connections	46,780
Wastewater Connections	41,660
Qualifies as Disadvantaged	N/A
Disadvantaged Level	9-N/A
Clean Water State Revolving Fund Type	N/A
SWIFT Financing Type	Low-Interest Loan
SWIFT Characteristic	N/A
Financial Managerial & Technical Complete	N/A
Funding Phase Code	Acquisition
Pre-Design	No
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	No
Internal Risk Score	2A
External Ratings (for SRF rates)	
Standard and Poor's	AA
Moody's	Non-Rated
Fitch	AA+
Special Issues	None

Project Team

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

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of McAllen

City of McAllen, Texas Waterworks and Sewer System Revenue Bonds, Series 2018C

Dated Date: 11/13/2018 Delivery Date: 11/13/2018 First Interest: 8/1/2019 First Principal: 2/1/2020 Last Principal: 2/1/2048 Fiscal Year End: 09/30 Required Coverage: 1.0	Source: Rate: Insurance: Case: Admin.Fee: Admin. Fee Payment Date:	SWIFT-LOW-30YR 3.03% No Revenue \$0 N/A
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FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	\$6,900,000 ISSUE			\$7,000,000		\$12,000,000		TOTAL DEBT SERVICE	COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	CWSRF-EQ TOTAL PAYMENT	DWSRF TOTAL PAYMENT			
2019	\$14,789,784	\$7,723,158	\$0	-	\$138,384	\$138,384	\$68,693	\$143,360	\$8,073,595	1.83	
2020	14,789,784	7,725,674	115,000	1.54%	192,209	307,209	96,600	206,558	8,336,041	1.77	
2021	14,789,784	7,727,637	115,000	1.62%	190,392	305,392	101,566	211,432	8,346,027	1.77	
2022	14,789,784	7,910,352	120,000	1.67%	188,459	308,459	106,462	216,222	8,541,495	1.73	
2023	14,789,784	7,944,721	120,000	1.74%	186,413	306,413	106,324	215,970	8,573,428	1.73	
2024	14,789,784	7,612,047	180,000	1.86%	183,695	363,695	205,496	309,920	\$8,491,158	1.74	
2025	14,789,784	7,615,953	185,000	1.96%	180,208	365,208	203,978	308,072	\$8,493,211	1.74	
2026	14,789,784	6,116,109	190,000	2.03%	176,466	366,466	316,667	573,956	\$7,373,198	2.01	
2027	14,789,784	6,116,887	190,000	2.08%	172,562	362,562	323,493	577,488	\$7,380,430	2.00	
2028	14,789,784	6,119,023	195,000	2.15%	168,489	363,489	325,215	580,852	\$7,388,579	2.00	
2029	14,789,784	6,115,916	200,000	2.31%	164,083	364,083	326,869	584,048	\$7,390,916	2.00	
2030	14,789,784	6,117,830	205,000	2.46%	159,252	364,252	328,453	587,076	\$7,397,611	2.00	
2031	14,789,784	5,673,909	210,000	2.57%	154,032	364,032	329,969	594,894	\$6,962,804	2.12	
2032	14,789,784	3,665,334	220,000	2.67%	148,396	368,396	331,415	597,502	\$4,962,647	2.98	
2033	14,789,784	3,669,765	230,000	2.76%	142,285	372,285	332,793	599,942	\$4,974,785	2.97	
2034	14,789,784	3,667,881	240,000	2.84%	135,703	375,703	334,101	602,214	\$4,979,899	2.97	
2035	14,789,784	3,669,685	245,000	2.91%	128,730	373,730	340,306	609,276	\$4,992,997	2.96	
2036	14,789,784	3,670,183	250,000	2.97%	121,453	371,453	341,408	611,128	\$4,994,172	2.96	
2037	14,789,784	3,669,471	260,000	3.02%	113,815	373,815	342,440	617,770	\$5,003,496	2.96	
2038	14,789,784	3,672,707	265,000	3.06%	105,834	370,834	343,404	619,202	\$5,006,147	2.95	
2039	14,789,784	3,680,019	275,000	3.10%	97,517	372,517	349,264	625,424	\$5,027,224	2.94	
2040	14,789,784	3,681,514	285,000	3.13%	88,794	373,794	350,020	631,394	\$5,036,722	2.94	
2041	14,789,784	2,332,233	290,000	3.15%	79,767	369,767	350,708	632,154	\$3,684,862	4.01	
2042	14,789,784	2,342,079	300,000	3.18%	70,429	370,429	356,292	637,704	\$3,706,504	3.99	
2043	14,789,784	2,346,025	310,000	3.20%	60,699	370,699	356,772	643,002	\$3,716,498	3.98	
2044	14,789,784	2,061,983	320,000	3.23%	50,571	370,571	362,149	648,048	\$3,442,751	4.30	
2045	14,789,784	2,064,996	330,000	3.25%	40,041	370,041	362,423	652,842	\$3,450,302	4.29	
2046	14,789,784	316,627	340,000	3.27%	29,119	369,119	367,593	657,384	\$1,710,723	8.65	
2047	14,789,784	317,221	350,000	3.29%	17,803	367,803	372,625	666,632	\$1,724,281	8.58	
2048	14,789,784	-	365,000	3.30%	6,023	371,023	372,553	670,586	\$1,414,162	10.46	
		\$135,346,939	\$6,900,000		\$3,691,618	\$10,591,618	\$8,806,051	\$15,832,052	\$170,576,660		

AVERAGE (MATURITY) LIFE	17.68 YEARS
NET INTEREST RATE	3.026%
COST SAVINGS	\$998,102
AVERAGE ANNUAL REQUIREMENT	\$5,685,889

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. The TWDB is not and does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff in analyzing the application for financing and is illustrative only. It does not constitute any guaranty about future rates and is not to be so relied on by the borrower. The TWDB makes no claim of any kind regarding the applicability of the information at closing, at which time actual rates will be set.



McAllen
51057 Water Rights Acquisition
Engineering and Environmental Review

Engineering:Key Issues:

No issues.

Project Need/Description

Need: The City of McAllen needs to purchase additional water rights to secure water supplies and continue to keep up with water demand associated with population growth. Water rights purchase is a recommended water management strategy for the City under the 2017 State Water Plan.

Project: The funding will be used to acquire 3,000 acre-feet of water rights for municipal and industrial use from Hidalgo County Irrigation District No. 1.

Project Schedule:

Project Task	Schedule Date
Closing	11/15/2018
Construction Completion	11/13/2018

Schedule Notes:

The City proposes to complete the documentation necessary to obtain the water rights certificate and request release of all funds by the time the loan closes.

Environmental Section:Key Issues:

None.

Environmental Summary:

As required by 31 Texas Administrative Code § 363.14, the environmental review of the proposed project has been completed. A Memorandum to File was issued on June 13, 2018.



Project Budget Summary
McAllen
51057 - Water Rights Acquisition

Attachment 4

Budget Items	TWDB Funds	Total
Other		
Water Rights Purchase	\$6,900,000.00	\$6,900,000.00
Subtotal for Other	\$6,900,000.00	\$6,900,000.00
Total	\$6,900,000.00	\$6,900,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$6,900,000 TO THE CITY OF MCALLEN
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
\$6,900,000 CITY OF MCALLEN TEXAS WATERWORKS AND SEWER SYSTEM REVENUE
BONDS,
PROPOSED SERIES 2018C

(18 -__)

WHEREAS, the City of McAllen (City) has filed an application for financial assistance in the amount of \$6,900,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the acquisition of water rights identified as Project No. 51057 (Project); and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$6,900,000 City of McAllen Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2018C (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

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

WHEREAS, subject to the City's use of an approved debt service structure, interest rate subsidies are available to the City at up to the following levels: 35 percent for financial assistance for a term of 20 years, 25 percent for financial assistance for a term of 21 to 25 years, and 20 percent for financial assistance for a term of 26 to 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the City, pursuant to this Resolution; and

WHEREAS, the City is requesting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss because the City contracts for an independent study every five years to identify any weaknesses that affect the operational efficiency of its system and then prioritizes and budgets for infrastructure replacement and upgrades, including meters; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M;

2. that the Project is a recommended water management strategy project in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);
3. that a water conservation plan has been submitted and implemented in accordance with Texas Water Code § 11.1271 and 31 TAC § 363.1309(b)(1);
4. that the City satisfactorily completed all requests by the Executive Administrator or a regional planning group for information relevant to the Project, including a water infrastructure financing survey under Texas Water Code § 16.053(q), in accordance with 31 TAC § 363.1309(b)(2);
5. that, based on the conditions as described above, the City is satisfactorily addressing the City's system water loss, which supports a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss in accordance with Texas Water Code § 16.0121(g); and
6. that the City has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises and any applicable state law relating to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

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

1. For the reasons stated above, the TWDB hereby waives the requirements of Texas Water Code § 16.0121(g); and
2. A commitment is made by the TWDB to City of McAllen for financial assistance in the amount of \$6,900,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of \$6,900,000 City of McAllen, Texas Waterworks and Sewer System Revenue Bonds, Proposed Series 2018C. This commitment will expire on December 31, 2018.

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 the City has complied with all of the requirements of the laws under which said Obligations were issued; 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 continued compliance with all applicable laws, rules, policies and guidance as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement;
4. this commitment is contingent upon the City executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;
5. interest rate subsidies for non-level debt service structure are subject to adjustment by the Executive Administrator;
6. the City shall use a paying agent/registrars in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrars to provide a copy of all receipts documenting debt service payments to the TWDB and to the TWDB's designated Trustee;

The Following Conditions Must Be Included in the Obligations:

7. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, on any date beginning on or after the first interest payment date that 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;
8. the Obligations must include a provision wherein 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;
9. the Obligations must include a provision requiring the City to use any proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project for the following purposes as approved by the Executive Administrator: (1) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (2) eligible costs for the Project as authorized by the Executive Administrator;

10. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
11. financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
12. financial assistance 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, recycling 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;
13. the Obligations must include a provision stating that the City shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312;
14. the Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB's designated Trustee, and the Obligations shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC § 363.42(c)(1);
15. the Obligations must include a provision prohibiting the City from using the proceeds of this financial assistance in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
16. the Obligations must provide that no portion of the proceeds of the financial assistance 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 that were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) that produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the financial assistance (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 percent of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
17. the 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 financial assistance 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 financial assistance, 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 providing financial assistance, and in order to induce providing financial assistance by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;

18. the 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;
19. 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;
20. the Obligations must contain a covenant that the City will refrain from using the proceeds of the Obligations to pay debt service on another issue of obligations of the borrower in contravention of section 149(d) of the Code (related to “advance refundings”);
21. 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

22. 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;
23. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after the term of any financial assistance provided by the TWDB pursuant to this commitment, the Obligations must contain a provision providing that 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;
24. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if the Finance Director of the City 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 18-month period immediately preceding the month in which the ordinance authorizing such issuance of the then 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 bonds similarly secured which are outstanding after the delivery of the proposed additional bonds. It is specifically provided, however, that in calculating the amount of net revenues for the purposes of this subsection, if there has been any increase in the rates or charges for any services of the System which is then in effect, but which is then 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 an independent certified public accountant, or in lieu of the

certified 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 increased rates or charges had been in effect during the entire period.

25. prior to closing, 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;
26. prior to closing, the City's bond counsel must prepare a written opinion that states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;
27. 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;
28. the transcript must include evidence that the information reporting requirements of § 149(e) of the Internal Revenue 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;

APPROVED and ordered of record this, the 26th day of July, 2018.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, 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
Baseline				
5-year Goal				
10-year Goal				

WATER LOSS AUDIT YEAR:

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

WATER LOSS THRESHOLDS:

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

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

ADDITIONAL INFORMATION:

STAFF NOTES AND RECOMMENDATIONS:

DEFINITIONS

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

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

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

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

GPCD means gallons per capita per day.

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





McALLEN

PUBLIC UTILITY

CHARLES E. AMOS, Chairman
TONY AGUIRRE, Jr., Vice-Chairman
ERNEST R. WILLIAMS, Trustee
ALBERT CARDENAS, Trustee
JAMES E. DARLING, Ex-Officio Member

MARCO A. VEGA, P.E., General Manager

May 7, 2018

Mireya Loewe.
Texas Water Development Board
1700 N. Congress Ave.
Austin, Texas 78711-3231

RE: Exemption request for Water Loss Threshold Criteria

Dear Ms. Loewe:

This letter is intended to formally request an exemption to water loss threshold criteria established in HB 3605. Specifically, the "Average Customer Meter Accuracy" value of 94.5% reported in the 2016 Annual Water Audit Report (Copy Attached), exceeded the minimum threshold value of 95%, as specified in HB 3605.

McAllen Public Utility recognizes the importance of maintaining an efficient potable water delivery system for conservation purposes as well as service reliability and long term economic sustainability. In addition to complying with TWDB requirements for the completion of the annual water audit report, McAllen Public Utility (MPU) has historically contracted a third party consultant to perform a Comprehensive Water Audit on our entire system every 5 years with the objective of identifying weaknesses in our system that affect overall operational efficiency. Recommendations and findings resulting from this study are used to develop a plan for improvements including prioritizing replacement of aging infrastructure and/or upgrade of certain infrastructure that is deemed in need of replacement.

McAllen Public Utility also has a financial accounting practice in place (by ordinance) that automatically funds an asset's depreciation account based on 35% of initial capitalization costs. This practice allows us to maintain a separate account that can only be used for replacement projects, such as meter replacements, and not "new" assets.

Every Fiscal Year, MPU includes Meter Replacements as a Budgetary Line Item in our list of Depreciation Projects/Items. In this current Fiscal Year alone, we have budgeted for the replacement of 2,700 meters. A copy of our "Projects/Items Funded from the Water Depreciation Fund" page is attached highlighting the 2,700 meters. It is our intention to continue to fund these replacements on an annual basis.

We welcome the opportunity to continue to coordinate with the TWDB on any related matter and look forward to moving forward with pending financial applications. Please inform us if any additional information is needed.

Sincerely,

Marco A. Vega, P.E.
General Manager

cg: mv

cc: Carlos Gonzalez, P.E., McAllen Public Utility
John Sutton, Texas Water Development Board