TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel
Kathleen Jackson, Board Member
Brooke T. Paup, Board Member
Jeff Walker, Executive Administrator

FROM: Nancy Richards, Manager, Regional Water Project Development
Annette Mass, Assistant General Counsel

DATE: May 26, 2020

SUBJECT: Central Harris County Regional Water Authority Commitment Amendment

ACTION REQUESTED
Amend by resolution, the previously adopted Texas Water Development Board (TWDB) Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081, 17-081, and 18-088, to delegate authority to the Executive Administrator to approve the transfer of funds among the Central Harris County Regional Water Authority’s (Authority) State Water Implementation Revenue Fund for Texas (SWIRFT) projects.

BACKGROUND
Through Resolution Nos. 15-078, 16-081, 17-081, and 18-088 (Attachments B, C, D, and E), the TWDB has approved a total of $71,105,000 in multi-year commitments to the Authority from the SWIRFT for five water supply projects:

- Project No. 51008, Luce Bayou Interbasin Transfer in the amount of $1,500,000;
- Project No. 51009, Second Source Transmission Line Phase II in the amount of $9,515,000;
- Project No. 51021, Second Source Transmission Line Phase I in the amount of $12,365,000;
- Project No. 51023, Northeast Water Purification Plant in the amount of $35,140,000; and,
- Project No. 51043 CHCRWA Transmission and Distribution Expansion in the amount of $12,585,000.

As of December 2019, the Authority has closed on $67,545,000 of the total financing.
The Authority, by letter dated April 27, 2020 (Attachment F), has requested the ability to transfer funds between approved projects.

**KEY ISSUES**

In keeping with similar requests from other participants in the Houston area regional SWIRFT projects, the Authority is requesting the ability to transfer funds as needed between projects to allow them flexibility to maximize the use of available funds. Due to the scope and significant complexity of the projects funded under these commitments, the Executive Administrator (EA) recommends the amendment to TWDB resolutions to include a delegation of authority to the EA to exercise discretion and, where appropriate, approve the Authority’s future requests (to the extent that there are any) to move money between the Authority’s SWIRFT-funded projects, not more than once annually, without requesting Board approval.

This flexibility will allow the Authority to facilitate management of these large-scale projects in the most efficient way. It will also provide the Authority more dexterity in responding to cost changes that may occur.

The delegated authority will not extend to moving money that the TWDB committed in Resolution Nos. 15-078, 16-081, 17-081, and 18-088 for future years. The EA’s authority will be limited to moving money between projects within commitments that have closed. Further, prior to approval of transferring funds, the EA will review each of the projects to ensure that all projects remain sufficiently funded to complete.

**RECOMMENDATION**

The EA recommends that TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081, 17-081, and 18-088, be amended to reflect the delegation of authority to the EA to approve, where appropriate, the movement of money between Project Nos. 51008, 51009, 51021, 51023, and 51043 in order to facilitate project management.

Attachment(s):
Attachment A, proposed TWDB Resolution (20-) 
Attachment B, TWDB Resolution (15-078)
Attachment C, TWDB Resolution (16-081)
Attachment D, TWDB Resolution (17-081)
Attachment E, TWDB Resolution (18-088)
Attachment F, Letter from Authority
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 15-078 AS AMENDED BY RESOLUTION NOS. 16-081, 17-081, AND 18-088, TO PROVIDE AUTHORITY TO THE EXECUTIVE ADMINISTRATOR TO APPROVE THE TRANSFER OF FUNDS BETWEEN PROJECT NOS. 51008, 51009, 51021, 51023, AND 51043 COMMITTED FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS TO THE CENTRAL HARRIS COUNTY REGIONAL WATER AUTHORITY

WHEREAS, at its July 23, 2015, meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 15-078, made a multi-year commitment to Central Harris County Regional Water Authority (Authority) for financial assistance in the amount of $41,630,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of $41,630,000 Central Harris County Regional Water Authority Revenue Bonds, all as is more specifically set forth in TWDB Resolution No. 15-078 and accompanying documentation, to which documents express reference is made; and

WHEREAS, at its July 21, 2016, meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 16-081, made a commitment to Central Harris County Regional Water Authority (Authority) for additional financial assistance in the amount of $15,490,000 from the SWIRFT, through the purchase of $15,490,000 Central Harris County Regional Water Authority Revenue Bonds, all as is more specifically set forth in TWDB Resolution No. 16-081 and accompanying documentation, to which documents express reference is made; and

WHEREAS, at its July 20, 2017, meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 17-081, made a further commitment to Central Harris County Regional Water Authority (Authority) for additional financial assistance in the amount of $4,900,000 from the SWIRFT, through the purchase of $4,900,000 Central Harris County Regional Water Authority Revenue Bonds, all as is more specifically set forth in TWDB Resolution No. 17-081 and accompanying documentation, to which documents express reference is made; and

WHEREAS, at its July 26, 2018, meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 18-088, made a commitment to Central Harris County Regional Water Authority (Authority) for additional financial assistance in the amount of $9,085,000 from the SWIRFT, through the purchase of $9,085,000 Central Harris County Regional Water Authority Revenue Bonds, all as is more specifically set forth in TWDB Resolution No. 18-088 and accompanying documentation, to which documents express reference is made; and

WHEREAS, the TWDB through TWDB Resolution Nos. 15-078, 16-081, 17-081, and 18-088, provided a multi-year commitment to the Authority for Project No. 51008, Luce Bayou Interbasin Transfer in the amount of $1,500,000; Project No. 51009, Second Source Transmission Line Phase II in the amount of $9,515,000; Project No. 51021, the
Second Source Transmission Line Phase I in the amount of $12,365,000; Project No. 51023, the Northeast Water Purification Plant Expansion in the amount of $35,140,000; and Project No. 51043, Internal Transmission and Distribution Line Expansion in the amount of $12,585,000.

WHEREAS, Project No. 51008, Project No. 51009, Project No. 51021, Project No. 51023, and Project No. 51043 are funded under the State Water Implementation Fund for Texas (SWIFT) Program and therefore all five Projects will follow the same program requirements; and

WHEREAS, the TWDB finds that due to the significant scope and complexity of the projects funded under the commitments, there is reason to allow the Executive Administrator to review and, where appropriate, to provide approval of the movement of funds between the projects funded by the TWDB through TWDB Resolution Nos. 15-078, as amended by TWDB Resolution Nos. 16-081, 17-081, and 18-088; and

WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law;

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

1. The commitment made through TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081, 17-081, and 18-088, is amended by this Resolution to include the following statement of resolution:

NOW THEREFORE, based on the findings above, the TWDB resolves that the Executive Administrator has the authority to where appropriate, approve, not more than annually, a request from the Authority to transfer funds from current or prior years between Project Nos. 51008, 51009, 51021, 51023, and 51043.

2. All other terms and conditions of TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081, 17-081, and 18-088, shall remain in full force and effect.

APPROVED and ordered of record this the 4th day of June 2020.

TEXAS WATER DEVELOPMENT BOARD

______________________________________________________
Peter Lake, Chairman

DATE SIGNED: _________________________________
ATTEST:

Jeff Walker  
Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO CENTRAL HARRIS
COUNTY REGIONAL WATER AUTHORITY
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
$41,630,000 CENTRAL HARRIS COUNTY REGIONAL WATER AUTHORITY REVENUE BONDS
PROPOSED SERIES 2015 THROUGH PROPOSED SERIES 2020

(15-078)

WHEREAS, the Central Harris County Regional Water Authority, located in Harris County, Texas, (Authority) has filed applications for financial assistance in the total amount of $41,630,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), to finance the planning, acquisition, design and construction of certain water supply projects identified below; and

WHEREAS, the Authority 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 $41,630,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2015 through Proposed Series 2020, (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 Authority has offered a pledge of 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 § 363.1307; and

WHEREAS, the commitment is approved for an interest rate subsidy through December 31, 2019; and

WHEREAS, interest rate subsidies are available to the Authority at the following levels: 35.5% for loans of a term of 20 years, 27% for loans of a term of 25 years, and 22% for loans of a term of 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the Authority, pursuant to this Resolution; 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 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, if required by Texas Water Code § 11.1271, has been submitted and implemented in accordance with 31 TAC § 363.1309(b)(1);
4. that the Authority satisfactorily completed any request 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 the current water audit, if required by Texas Water Code § 16.0121, has been completed by the Authority and filed with the TWDB in accordance with 31 TAC § 358.6;

6. that the Authority 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:

A commitment is made by the TWDB to Central Harris County Regional Water Authority for financial assistance in the amount of $41,630,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB’s proposed purchase of Central Harris County Regional Water Authority Revenue Bonds, in accordance with the schedule proposed below.

a) $10,805,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2015 A, B, and C to expire on December 31, 2015;
b) $2,395,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2016, to expire on December 31, 2016;
c) $21,650,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2017, to expire on December 31, 2017;
d) $1,685,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2018, to expire on December 31, 2018;
e) $1,535,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2019, to expire on December 31, 2019; and
f) $3,560,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2020, to expire on December 31, 2020.

Further, the commitment described above consists of the following Projects:

a) Project No. 51023 (Northeast Water Purification Plant Expansion) in the amount of $22,655,000;
b) Project No. 51021 (Second Source Transmission Line Phase I) in the amount of $9,460,000; and
c) Project No. 51009 (Second Source Transmission Line Phase II) in the amount of $9,515,000.

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 Authority;

3. this commitment is contingent upon the Authority’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 Authority 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. the Authority shall use a paying agent/registrar in accordance with 31 TAC Section 363.42(c)(2), and shall require the paying agent/registrar to provide a copy, to the TWDB and to the TWDB’s designated Trustee, of all receipts documenting debt service payments.

**The Following Conditions Must Be Included in the Obligations:**

6. 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;

7. the Obligations must include a provision wherein the Authority, 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 Authority’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 Authority’s Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB’s bonds if the Authority is an obligated person with respect to such bonds under SEC Rule 15c2-12;

8. the Obligations must contain a provision requiring the Authority to 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;
9. the Obligations must include a provision requiring the Authority to use any loan 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. 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;

12. loan proceeds shall not be used by the Authority 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 Authority 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 Authority, 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 Authority 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 Section 363.42(c)(1);

15. the Obligations must include a provision prohibiting the Authority 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 amended (Code) and the Treasury
Regulations promulgated thereunder (Regulations);

16. 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;

17. the Obligations must include a provision requiring the Authority 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 Authority 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 Authority may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the Authority, provided that the Authority 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 Authority 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;
18. the Obligations must include a provision prohibiting the Authority 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 Authority 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 provide that neither the Authority 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 Authority by the TWDB;

Revenue Pledge

21. 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;

22. if the Authority 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 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;

23. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if:

   (a) The Net Revenues of the Authority for the most recently completed Fiscal Year, or during any period of twelve (12) consecutive calendar months ending no more than ninety (90) days preceding the adoption of the resolution or order authorizing the issuance of such Additional Bonds, together with any funds then available on deposit in or to the credit of the Surplus Revenue Fund, were not less than 1.25 times the annual average of the principal and interest payments scheduled to become due on the Bonds and any Additional Bonds then outstanding and estimated to become due on such proposed Additional Bonds; or

   (b) The Authority has duly adopted revisions to its Service Fees and/or Pumpage Fees, effective at least sixty (60) days prior to the close of its most recent Fiscal Year or any other period of twelve (12) consecutive calendar months ending no more than ninety (90) days prior to the proposed date of issuance of such Additional Bonds, and the Authority has received a certificate executed by a certified public accountant or firm of certified public accounts to the effect that the Net Revenues of the Authority during such Fiscal Year or twelve-month period, if recalculated on the assumption that such revised Service Fees and/or Pumpage Fees had been in effect for the entirety of such Fiscal Year or twelve-month period, together with any funds then available on deposit in or to the credit of the Surplus Revenue Fund and any interest to be capitalized out of the proceeds of such proposed Additional Bonds, would have been no less than 1.25 times the annual average of the principal and interest payments scheduled to become due on
the Bonds and any Additional Bonds then outstanding and estimated to become due on such proposed Additional Bonds; or

(c) The Authority has received the written consent and approval to the issuance of such Additional Bonds from the Holders or beneficial owners of not less than two-thirds (2/3) in aggregate principal amount of the Bonds then outstanding.

Conditions to Close or for Release of Funds:

24. prior to closing, the Authority shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges sufficient for the repayment of all system debt service requirements;

25. prior to closing, and if not previously provided with the application, the Authority 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;

26. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Authority 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;

27. prior to release of funds for construction, the Authority must provide the TWDB with evidence that the necessary acquisitions of land, leases, easements, and rights-of-way have been completed, or that the Authority has the legal authority necessary to complete the acquisitions;

28. prior to release of funds for acquisition, design, or construction for specific project elements, the environmental review must be completed and a favorable environmental finding must have been issued;

29. prior to closing, the Authority’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 Authority when rendering this opinion;

30. prior to closing, the Authority’s bond counsel must prepare a written opinion that also states that the Obligations are not “private activity bonds.” Bond counsel may rely on covenants and representations of the Authority when rendering this opinion;

31. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the Authority’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations; and
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.

APPROVED and ordered of record this the 23rd day of July, 2015.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, Chairman

DATE SIGNED: 7-23-15

ATTEST:

Kevin Patteson
Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION 15-078
AND
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO CENTRAL HARRIS
COUNTY REGIONAL WATER AUTHORITY
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF $15,490,000 CENTRAL HARRIS COUNTY
REGIONAL WATER AUTHORITY REVENUE BONDS,
PROPOSED SERIES 2016 THROUGH PROPOSED SERIES 2020
(16-081)

WHEREAS, at its July 23, 2015 meeting, the Texas Water Development Board (TWDB), by
TWDB Resolution No. 15-078, made a multi-year commitment to provide financial assistance to Central
Harris County Regional Water Authority (Authority) from the State Water Implementation Revenue
Fund for Texas (SWIRFT) through the TWDB’s proposed purchase of $41,630,000 Central Harris
County Regional Water Authority Revenue Bonds Proposed Series 2015 through 2020 for Project Nos.
51023, 51021, and 51009; and

WHEREAS, the Authority has filed an application requesting that the TWDB amend TWDB
Resolution No. 15-078 to increase the commitment in the amount of $2,905,000 from the SWIRFT for
Project No. 51021; and

WHEREAS, the Authority has filed an application for financial assistance in the amount of
$12,585,000 from SWIRFT to finance the planning, acquisition, design, and construction of Project
No. 51043; and

WHEREAS, the Authority seeks an amendment to TWDB Resolution No. 15-078 for
additional financial assistance for Project No. 51021,

WHEREAS the Authority seeks financial assistance for Project No. 51043 in the form of a
multi-year commitment through the TWDB’s proposed purchase of $15,490,000 Central Harris
County Regional Water Authority Revenue Bonds, Proposed Series 2016 through Proposed Series
2020 (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 Authority has offered a pledge of 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 § 363.1307; and

WHEREAS, interest rate subsidies are available to the Authority at the following levels: 35% for
a loan of a term of 20 years, 25% for a loan of a term of 21 to 25 years, and 20% for a loan of 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 Authority, pursuant to this Resolution; and
WHEREAS, the TWDB hereby finds that the amendment to increase the commitment in the amount of $2,905,000 for Project No. 51021, is reasonable and that the request is in the public interest and will serve a public purpose; and

WHEREAS, the TWDB hereby finds:

1. that TWDB Resolution No. 15-078 is amended as described above to reflect a commitment in the total amount of $12,365,000 for Project No. 51021;

2. that all other terms and conditions of TWDB Resolution No. 15-078 shall remain in full force and effect as related to Project No. 51021;

3. 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;

4. that Project No. 51043 is a recommended water management strategy in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);

5. that the Authority satisfactorily completed any request 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);

6. that the current water audit, if required by Texas Water Code § 16.0121, has been completed by the Authority and filed with the TWDB in accordance with 31 TAC § 358.6;

7. that the Authority 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); and

8. that the amendment to TWDB Resolution No. 15-078 to increase the commitment by $2,905,000 is reasonable, is in the public interest and will serve a public purpose and the commitment will be made in accordance with the annual loan closing schedule as proposed below.

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

1. The commitment made through TWDB Resolution No. 15-078 is amended to include an additional $2,905,000 for Project No. 5102.

2. All other terms and conditions of TWDB Resolution No. 15-078 shall remain in full force and effect; and

3. The commitment made through TWDB Resolution No. 15-078 is amended to include a commitment made by the TWDB to the Central Harris County Regional Water Authority for financial assistance in the amount of $15,490,000 from the State Water Implementation Revenue
Fund for Texas, to be evidenced by the TWDB’s proposed purchase of Central Harris County Regional Water Authority Revenue Bonds as follows:

a) $9,270,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2016, to expire on December 31, 2016;
b) $21,650,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2017, to expire on December 31, 2017;
c) $5,235,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2018, to expire on December 31, 2018;
d) $6,600,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2019, to expire on December 31, 2019; and
e) $3,560,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2020, to expire on December 31, 2020.

Further, the commitment made through TWDB Resolution No. 15-078 as hereby amended and described above consists of the following Projects:

a) Project No. 51023 (Northeast Water Purification Plant Expansion) in the amount of $22,655,000;
b) Project No. 51021 (Second Source Transmission Line Phase I) in the amount of $12,365,000;
c) Project No. 51009 (Second Source Transmission Line Phase II) in the amount of $9,515,000; and
d) Project No. 51043 (Internal Transmission and Distribution Line Expansion) in the amount of $12,585,000.

Such commitment as it relates to Project No. 51043 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 Authority;

3. this commitment is contingent upon the Authority’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 Authority 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. the Authority shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrar to provide a copy, to the TWDB and to the TWDB's designated Trustee, of all receipts documenting debt service payments;

The Following Conditions Must Be Included in the Obligations:

6. 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;

7. the Obligations must include a provision wherein the Authority, 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 Authority'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 Authority's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the Authority is an obligated person with respect to such bonds under SEC Rule 15c2-12;

8. the Obligations must contain a provision requiring the Authority 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;

9. the Obligations must include a provision requiring the Authority to use any loan 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. 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;

12. loan proceeds shall not be used by the Authority 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 Authority 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 Authority, 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 Authority 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 Authority 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 as amended (Code) and the Treasury
Regulations promulgated thereunder (Regulations);

16. 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;

17. the Obligations must include a provision requiring the Authority 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 Authority 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 Authority may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the Authority, provided that the Authority 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 Authority 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;

18. the Obligations must include a provision prohibiting the Authority 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 Authority 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 provide that neither the Authority 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 Authority by the TWDB;

Revenue Pledge

21. 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;

22. if the Authority 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 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;

23. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if:

   (a) The Net Revenues of the Authority for the most recently completed Fiscal Year, or during any period of twelve (12) consecutive calendar months ending no more than ninety (90) days preceding the adoption of the resolution or order authorizing the issuance of such Additional Bonds, together with any funds then available on deposit in or to the credit of the Surplus Revenue Fund, were not less than 1.25 times the annual average of the principal and interest payments scheduled to become due on the Bonds and any Additional Bonds then outstanding and estimated to become due on such proposed Additional Bonds; or

   (b) The Authority has duly adopted revisions to its Service Fees and/or Pumpage Fees, effective at least sixty (60) days prior to the close of its most recent Fiscal Year or any other period of twelve (12) consecutive calendar months ending no more than ninety (90) days prior to the proposed date of issuance of such Additional Bonds, and the Authority has received a certificate executed by a certified public accountant or firm of certified public accounts to the effect that the Net Revenues of the Authority during such Fiscal Year or twelve-month period, if recalculated on the assumption that such revised Service Fees and/or Pumpage Fees had been in effect for the entirety of such Fiscal Year or twelve-month period, together with any funds then available on deposit in or to the credit of the Surplus Revenue Fund and any interest to be capitalized out of the proceeds of such proposed Additional Bonds, would have been no less than 1.25 times the annual average of the principal and interest payments scheduled to become due on the Bonds and any Additional Bonds then outstanding and estimated to become due on such proposed Additional Bonds; or

   (c) The Authority has received the written consent and approval to the issuance of such Additional Bonds from the Holders or beneficial owners of not less than two-thirds (2/3) in aggregate principal amount of the Bonds then outstanding.

Conditions to Close or for Release of Funds:

24. prior to closing, and if not previously provided with the application, the Authority 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;

25. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Authority 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;
26. prior to closing, the Authority’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 Authority when rendering this opinion;

27. prior to closing, the Authority’s bond counsel must prepare a written opinion that also states that the Obligations are not “private activity bonds.” Bond counsel may rely on covenants and representations of the Authority when rendering this opinion;

28. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the Authority’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations; and

29. 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.

APPROVED and ordered of record this, the 21st day of July, 2016.

TEXAS WATER DEVELOPMENT BOARD

Beck K. Bruun, Chairman

DATE SIGNED: 7-21-16

ATTEST:

Jeff Walker
Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD
RESOLUTION NOS. 15-078 and 16-081
TO PROVIDE FINANCIAL ASSISTANCE TO THE CENTRAL HARRIS COUNTY REGIONAL
WATER AUTHORITY
IN THE AMOUNT OF $4,900,000

(17-081)

WHEREAS, at its July 23, 2015 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 15-078, made a multi-year commitment to provide financial assistance to the Central Harris County Regional Water Authority (Authority) from the State Water Implementation Revenue Fund for Texas (SWIRFT) through the purchase of $41,630,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2015 through 2020 for Project Nos. 51023, 51021, and 51009; and

WHEREAS, at its July 21, 2016 meeting, the TWDB, through TWDB Resolution No. 16-081 amended TWDB Resolution No. 15-078 to increase the financial assistance commitment in the amount of $2,905,000 for Project No. 51021 and made a further commitment to finance Project No. 51043 through the purchase of an additional $12,585,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2015 through 2020 through the SWIRFT, all as is more specifically set forth in the TWDB's Resolution Nos. 15-078 and 16-081 (Resolutions) and accompanying documentation, to which documents express reference is made; and

WHEREAS, the Authority seeks an amendment to TWDB Resolution No. 15-078 as amended by TWDB Resolution No. 16-081 for additional financial assistance for Project No. 51023 through the TWDB's proposed purchase of $4,900,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2017; and

WHEREAS, interest rate subsidies are available to the Authority at the following levels: 35.0% for a term of 20 years, 25.0% for a term of 21 to 25 years, and 20.0% 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 Authority, pursuant to this Resolution; and

WHEREAS, these interest rate subsidies given above are based on assumptions necessary to generate an optimum debt service structure for the anticipated TWDB SWIRFT bond issuance, and are subject to modification as necessary to preserve and maintain the integrity of the SWIRFT Program;

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolution No. 15-078, as amended by TWDB Resolution No. 16-081, as requested by the Authority, is reasonable and within the public interest and will serve a public purpose; and
WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law and, in particular whether the request for additional financial assistance meets the criteria provided by Texas Water Code § 15.437 relating to the prioritization of the Project.

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

1. The commitment made through TWDB Resolution No. 15-078 as amended by TWDB Resolution No. 16-081, to the Central Harris County Regional Water Authority for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be evidenced by the TWDB’s proposed purchase of the Central Harris County Regional Water Authority Revenue Bonds, in accordance with the annual loan closing schedule proposed below:

   a. $26,550,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2017;
   b. $5,235,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2018;
   c. $6,600,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2019;
   d. $3,560,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2020.

2. Further, the commitment described above consists of the following Projects:

   a. Project No. 51023 (Northeast Water Purification Plant Expansion) in the amount of $22,045,000;
   b. Project No. 51021 (Second Source Transmission Line Phase I) in the amount of $5,835,000;
   c. Project No. 51009 (Second Source Transmission Line Phase II) in the amount of $5,450,000; and
   d. Project No. 51043 (Internal Transmission and Distribution Line Expansion) in the amount of $8,615,000.

3. All other terms and conditions of TWDB Resolution No. 15-078 shall remain in full force and effect.
APPROVED and ordered of record this the 20th day of July, 2017.

TEXAS WATER DEVELOPMENT BOARD

[Signature]
Bech K. Bruun, Chairman

DATE SIGNED: 7-20-17

ATTEST:

[Signature]
Jeff Walker
Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION 15-078 AS AMENDED BY
RESOLUTION NOS. 16-081 AND 17-081 TO PROVIDE ADDITIONAL FINANCIAL
ASSISTANCE TO THE CENTRAL HARRIS COUNTY REGIONAL WATER AUTHORITY IN THE
AMOUNT OF $7,585,000
AND
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO CENTRAL HARRIS
COUNTY REGIONAL WATER AUTHORITY
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF $1,500,000 CENTRAL HARRIS COUNTY
REGIONAL WATER AUTHORITY REVENUE BONDS,
PROPOSED SERIES 2018

(18-088)

WHEREAS, at its July 23, 2015 meeting, the Texas Water Development Board (TWDB),
by TWDB Resolution No. 15-078, made a multi-year commitment to provide financial
assistance to Central Harris County Regional Water Authority (Authority) from the State
Water Implementation Revenue Fund for Texas (SWIRFT) through the TWDB’s proposed
purchase of $41,630,000 Central Harris County Regional Water Authority Revenue Bonds
Proposed Series 2015 through 2020 for Project Nos. 51023, 51021, and 51009; and

WHEREAS, at its July 21, 2016 meeting, the TWDB, through TWDB Resolution No.
16-081 amended TWDB Resolution No. 15-078 to increase the financial assistance
commitment in the amount of $2,905,000 for Project No. 51021 and made a further
commitment to finance Project No. 51043 through the purchase an additional $12,585,000
Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2015
through 2020 through the SWIRFT;

WHEREAS, at its July 20, 2017 meeting, the TWDB, through TWDB Resolution No. 17-
081 amended TWDB Resolution No. 15-078 as amended by TWDB Resolution No. 16-081, to
increase the financial assistance in the amount of $4,900,000 for Project No. 51023, all as is
more specifically set forth in the TWDB’s Resolution Nos. 15-078, and 16-081, and 17-081
(Resolutions) and accompanying documentation, to which documents express reference is
made;

WHEREAS, the Authority seeks an amendment to TWDB Resolution No. 15-078 as
amended by TWDB Resolution Nos. 16-081 and 17-081, for additional financial assistance
for Project No. 51023 through the TWDB’s proposed purchase of $7,585,000 Central Harris
County Regional Water Authority Revenue Bonds Proposed Series 2018 through 2019; and

WHEREAS, the Authority has filed an application for financial assistance in the
amount of $1,500,000 from SWIRFT to finance the construction of Project No. 51008; and
WHEREAS the Authority seeks financial assistance for Project No. 51008 through the TWDB’s proposed purchase of $1,500,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2018 (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 Authority has offered a pledge of 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 § 363.1307; and

WHEREAS, subject to the Authority’s use of an approved debt service structure, interest rate subsidies are available to the Authority at up to the following levels: 35% for financial assistance for a term of 20 years, 25% for financial assistance for a term of 21 to 25 years, and 20% 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 Authority, pursuant to this Resolution; and

WHEREAS, the TWDB hereby finds that the amendment to increase the commitment in the amount of $7,585,000 for Project No. 51023, is reasonable and that the request is in the public interest and will serve a public purpose; and

WHEREAS, the TWDB hereby finds:

1. that TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081 and 17-081, is amended as described above to reflect commitments totaling $35,140,000 for Project No. 51023;

2. that all other terms and conditions of TWDB Resolution No. 15-078 shall remain in full force and effect as related to Project No. 51023;

3. 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;

4. that Project No. 51008 is a recommended water management strategy in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);

5. that the Authority satisfactorily completed any request 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);
6. that the Authority 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); and

7. that the amendment to TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081 and 17-081, to increase the commitment by $7,585,000 is reasonable, is in the public interest and will serve a public purpose and the commitment will be made in accordance with the annual loan closing schedule as proposed below.

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

1. The commitment made through TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081 and 17-081, is amended to include an additional $7,585,000 for Project No. 51023.

2. All other terms and conditions of TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081 and 17-081, shall remain in full force and effect; and

3. The commitment made through TWDB Resolution No. 15-078, as amended by TWDB Resolution Nos. 16-081 and 17-081, is amended to include a commitment made by the TWDB to the Central Harris County Regional Water Authority for financial assistance in the amount of $71,105,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB’s proposed purchase of Central Harris County Regional Water Authority Revenue Bonds as follows:

   a. $7,735,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2018, to expire on December 31, 2018;

   b. $13,185,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2019, to expire on December 31, 2019; and

   c. $3,560,000 Central Harris County Regional Water Authority Revenue Bonds, Proposed Series 2020, to expire on December 31, 2020.

Further, the commitment made through TWDB Resolution No. 15-078 as hereby amended and described above consists of the following Projects:

   a. Project No. 51023 (Northeast Water Purification Plant Expansion) in the amount of $35,140,000;

   b. Project No. 51021 (Second Source Transmission Line Phase I) in the amount of $12,365,000;
c. Project No. 51009 (Second Source Transmission Line Phase II) in the amount of $9,515,000; and

d. Project No. 51043 (Internal Transmission and Distribution Line Expansion) in the amount of $12,585,000

e. Project No. 51008 (Luce Bayou Interbasin Transfer) in the amount of $1,500,000

Such commitment as it relates to Project No. 51008 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 Authority 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 Authority;

3. this commitment is contingent upon the Authority'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 Authority 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 Authority shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrar 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, 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;

8. the Obligations must include a provision wherein the Authority, 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 Authority'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 Authority's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the Authority is an obligated person with respect to such bonds under SEC Rule 15c2-12;

9. the Obligations must contain a provision requiring the Authority 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;

10. the Obligations must include a provision requiring the Authority 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;

11. 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;

12. 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;

13. proceeds shall not be used by the Authority 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 Authority 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 Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project to the extent permitted by law;

14. the Obligations must include a provision stating that the Authority 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;

15. 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);

16. the Obligations must include a provision prohibiting the Authority 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);

17. 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% 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;

18. the Obligations must include a provision requiring the Authority 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 Authority 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 Authority may, however, to the extent permitted by law, commingle Gross Proceeds of its financial assistance with other money of the Authority, provided that the Authority 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 Authority 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;

19. the Obligations must include a provision prohibiting the Authority from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;

20. the Obligations must provide that the Authority will not cause or permit the Obligations to be treated as “federally guaranteed” obligations within the meaning of § 149(b) of the Code;

21. the Obligations must contain a covenant that the Authority 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);
22. the Obligations must provide that neither the Authority 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 Authority by the TWDB;

23. 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;

24. if the Authority 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;

25. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if:

   a. The Net Revenues of the Authority for the most recently completed Fiscal Year, or during any period of twelve (12) consecutive calendar months ending no more than ninety (90) days preceding the adoption of the resolution or order authorizing the issuance of such Additional Bonds, together with any funds then available on deposit in or to the credit of the Surplus Revenue Fund, were not less than 1.25 times the annual average of the principal and interest payments scheduled to become due on the Bonds and any Additional Bonds then outstanding and estimated to become due on such proposed Additional Bonds; or

   b. The Authority has duly adopted revisions to its Service Fees and/or Pumpage Fees, effective at least sixty (60) days prior to the close of its most recent Fiscal Year or any other period of twelve (12) consecutive calendar months ending no more than ninety (90) days prior to the proposed date of issuance of such Additional Bonds, and the Authority has received a certificate executed by a certified public accountant or firm of certified public accounts to the effect that the Net Revenues of the Authority during such Fiscal Year or twelve-month period, if recalculated on the assumption that such revised Service Fees and/or Pumpage Fees had been in effect for the entirety of such Fiscal Year or twelve-month period, together with any funds then available on deposit in or to the credit of the Surplus Revenue Fund and any interest to be capitalized out of the proceeds of such proposed Additional Bonds, would have been no less than 1.25 times the annual average of the principal and interest payments scheduled to become due on the Bonds and any Additional Bonds then outstanding and estimated to become due on such proposed Additional Bonds; or
c. The Authority has received the written consent and approval to the issuance of such Additional Bonds from the Holders or beneficial owners of not less than two-thirds (2/3) in aggregate principal amount of the Bonds then outstanding.

Conditions to Close or for Release of Funds:

26. prior to closing, and if not previously provided with the application, the Authority 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;

27. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Authority 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;

28. prior to closing, the Authority’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 Authority when rendering this opinion;

29. prior to closing, the Authority’s bond counsel must prepare a written opinion that also states that the Obligations are not “private activity bonds.” Bond counsel may rely on covenants and representations of the Authority when rendering this opinion;

30. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the Authority’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations; and

31. 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.
PROVIDED, however, the commitment is subject to the following special condition:

Special Condition:

32. prior to closing, the Authority shall adopt a plan, acceptable to the Executive Administrator, ensuring that the Authority will address all material weaknesses and significant deficiency findings that may be issued during any annual or special financial audit while the Obligations are outstanding;

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

TEXAS WATER DEVELOPMENT BOARD

[Signature]

Peter M. Lake, Chairman

DATE SIGNED: 7/24/18

ATTEST:

[Signature]

Jeff Walker, Executive Administrator
Texas Water Development Board
Regional Water Planning & Development
Attn: Ms. Nancy Richards
1700 North Congress Avenue
Austin, Texas 78711

RE: Request to Transfer Funds between Projects

Dear Ms. Richards:

On July 23, 2015, the Central Harris County Regional Water Authority (“Authority”), pursuant to Texas Water Development Board (TWDB) Resolution No. 15-078, received a multiyear commitment from the TWDB State Water Implementation Revenue Fund for Texas (SWIRFT) in the amount of $41,630,000. TWDB Resolution No. 15-078 was subsequently amended by TWDB Resolution Nos. 16-081, 17-081 and 18-088, which brought the Authority’s total commitment to $71,105,000.

These commitments were designated to be used to fund SWIFT Project No. 51023 – Northeast Water Purification Plant Expansion (NEWPP), Project No. 51021 – Second Source Line Phase I (SS Phase I) and Project No. 51009 – Second Source Line Phase II (SS Phase II), Project 51043 – CHCRWA Transmission and Distribution Expansion (Internal Distribution), and Project 51008 – Luce Bayou Interbasin Transfer.

The Authority requests TWDB permission to transfer committed funds between projects. This will allow the Authority the flexibility to manage the funds as project budgets and schedules evolve over time. This request does not affect the ability to sufficiently fund the Authority’s share of each of the listed projects.

Should you have any questions or require any additional information from the Authority regarding the above, please don’t hesitate to contact me at (832)590-7293 or email me at MKhouw@idseg.com.

Very truly yours,

By:

Marcel Khouw, P.E.
Authority Representative

cc: Mr. Abraham Rubinsky, Schwartz, Page & Harding, L.L.P.
Ms. Christina Cole, Schwartz, Page & Harding, L.L.P.