AGENDA ITEM MEMO

BOARD MEETING DATE: July 22, 2021

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel
Jessica Peña, Deputy Executive Administrator

FROM: T. Clay Schultz, Ph.D., Director Regional Water Project Development
Dain Larsen, Manager, Regional Water Project Development

SUBJECT: Amendment to the Alliance Regional Water Authority's Closing Schedule

ACTION REQUESTED
Amend by resolution previously adopted Texas Water Development Board Resolutions No. 17-079 and No. 17-086, as amended by No. 19-077 and further amended by No. 20-067 to modify the Alliance Regional Water Authority's (Hays, Caldwell, Guadalupe, Comal, Bexar Counties) State Water Implementation Revenue Fund for Texas annual loan closing schedule and extend the commitment period.

BACKGROUND
In 2017, the Texas Water Development Board (TWDB), through Resolutions No. 17-079 and No. 17-086, approved a $213,410,000 multi-year commitment to the Alliance Regional Water Authority (Authority) from the State Water Implementation Revenue Fund for Texas (SWIRFT) with anticipated closings through 2021.

On July 22, 2019, the TWDB, through Resolution No. 19-077, approved reallocating existing funds moving $59,070,000 in Low-Interest funds from a 2021 closing to 2020 and moving all Board Participation funding in the amount of $69,015,000 to Low-Interest funds to be closed in 2019 and 2020. This reallocation allowed the Authority's project participants to pay principal payments earlier and resulting higher near-term debt service payments for lower future debt service payments and a reduced total interest cost of the project. On July 23, 2020 the TWDB, through resolution 20-067, approved an additional $65,000,000 commitment from the SWIRFT for higher than originally estimated construction costs. This
commitment resulted in additional anticipated closings of $27,000,000 in 2020 and $38,000,000 in 2021.

The proposed project includes development of a wellfield and construction of a water treatment plant and distribution system to benefit four participants, the cities of San Marcos, Kyle, Buda, and the Canyon Regional Water Authority. The Authority reached an agreement in July 2018 with the Guadalupe Blanco River Authority (GBRA) to cooperatively construct and operate facilities needed for the regional water supply project, including a water treatment plant and shared delivery system.

**KEY ISSUES**

The Authority is requesting to modify its annual loan closing schedule to move its anticipated 2021 closing to 2022. The Authority requests the proposed change to align available financing with requirements and timing of the joint construction project with GBRA.

The requested change to the Annual Loan Closing Schedule is shown below. The attached resolution details each bond series, based on the Authority’s participant’s obligations.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amounts per prior resolutions</th>
<th>Proposed Revised Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$31,935,000</td>
<td>$31,935,000</td>
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<tr>
<td>2019</td>
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<tr>
<td>2020</td>
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<tr>
<td>2021</td>
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<tr>
<td>2022</td>
<td>$0</td>
<td>$38,000,000</td>
</tr>
<tr>
<td>Total</td>
<td>$278,410,000</td>
<td>$278,410,000</td>
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</tbody>
</table>

**RECOMMENDATION**

The requested amendment does not change the total amount of financing to the Authority. In order to meet the Authority’s financing needs, better align available financing with the project schedule, and provide additional financial savings to the Authority and its participants, the Executive Administrator recommends that TWDB Resolution 20-067 be amended to extend the commitment period and reflect the annual loan closing schedule described above.

 Attachments:

1. Proposed TWDB Resolution (21- )
2. TWDB Resolution (20-067)
3. TWDB Resolution (19-077)
4. TWDB Resolution (17-079)
5. TWDB Resolution (17-086)
6. Authority’s 2021 response to annual loan closing schedule
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 17-079,
AS AMENDED BY TEXAS WATER DEVELOPMENT BOARD RESOLUTION 19-077, AND
AMENDED BY TEXAS WATER DEVELOPMENT BOARD RESOLUTION 20-067
PROVIDING FINANCIAL ASSISTANCE TO THE
ALLIANCE REGIONAL WATER AUTHORITY

WHEREAS, at its meeting on July 20, 2017, the Texas Water Development Board
(TWDB), by TWDB Resolution No. 17-079, made a multi-year commitment to the Hays
Caldwell Public Utility Agency (Agency), and its successors or assigns, for financial
assistance in the amount of $144,395,000 from the State Water Implementation Revenue
Fund for Texas (SWIRFT), through the purchase of $144,395,000 Hays Caldwell Public
Utility Agency Contract Revenue Bonds, Proposed Series 2017A through 2017D; 2019A
through 2019D; and 2021A through 2021D, all as is more specifically set forth in the
TWDB’s Resolution No. 17-079, as amended, and accompanying documentation, to which
documents express reference is made; and

WHEREAS, by Senate Bill No. 1198, Acts of the 85th Texas Legislature, effective June
15, 2017, the Agency formally converted to a conservation and reclamation district known
as the Alliance Regional Water Authority, located in Bexar, Comal, Guadalupe, and Hays
Counties, to accomplish the purposes of Article XVI, Section 59, Texas Constitution, and by
operation of law pursuant to the Acts of the 85th Texas Legislature, the Alliance Regional
Water Authority (Authority) assumed all assets, liabilities, bonds, notes, and other
obligations of the Hays Caldwell Public Utility Agency;

WHEREAS, the Authority has requested that the TWDB amend TWDB Resolution
17-079, as amended by TWDB Resolutions No. 19-077 and No. 20-067, to modify the
Authority’s Annual Loan Closing Schedule for a proposed series of bonds in 2021,
requesting instead to receive a distribution of those proceeds in 2022, and to extend the
TWDB’s commitment an additional 12 months; and

WHEREAS, the Authority indicates that this change is needed in order to align
financing more closely with the requirements and timing of the project; and

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB
Resolution No. 17-079, as amended by TWDB Resolutions No. 19-077 and 20-067, as
requested by the Authority, is reasonable, 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.

NOW, THEREFORE, based on these considerations and findings, the TWDB resolves
as follows:
1. The commitment made through TWDB Resolution No. 17-079, as amended by TWDB Resolution No. 19-077 and No. 20-067, to the Alliance Regional Water Authority, a successor to the Hays Caldwell Public Utility Agency, is amended, and shall be evidenced by the TWDB’s proposed purchase of Alliance Regional Water Authority Contract Revenue Bonds as follows:

   a. The proposed 2021A through 2021D scheduled distribution is amended as follows:

      i. $11,740,000 Alliance Regional Water Authority Contract Revenue Bonds (Canyon Regional Water Authority), Proposed Series 2022A.
      ii. $10,705,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Kyle, Texas), Proposed Series 2022B.
      iii. $13,625,000 Alliance Regional Water Authority Contract Revenue Bonds (City of San Marcos, Texas), Proposed Series 2022C.
      iv. $1,930,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Buda, Texas), Proposed Series 2022D.

   b. The commitments in subsection (a) will expire on December 31, 2022.

2. All other terms and conditions of TWDB Resolution No. 17-079, as amended by TWDB Resolutions No. 19-077 and No. 20-067, shall remain in full force and effect.

APPROVED and ordered of record this the 22nd day of July 2021.

TEXAS WATER DEVELOPMENT BOARD

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Brooke T. Paup, Chairwoman

DATE SIGNED: __________________

ATTEST:

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Jeff Walker, Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 17-079,
AS AMENDED BY TEXAS WATER DEVELOPMENT BOARD RESOLUTION 19-077,
PROVIDING FINANCIAL ASSISTANCE TO THE
ALLIANCE REGIONAL WATER AUTHORITY

(20-067)

WHEREAS, at its July 20, 2017 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 17-079, made a multi-year commitment to the Hays Caldwell Public Utility Agency (Agency), and its successors or assigns, for financial assistance in the amount of $144,395,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of $144,395,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds, Proposed Series 2017A through 2017D; and 2019A through 2019D; and 2021A through 2021D, all as is more specifically set forth in the TWDB's Resolution No. 17-079, as amended, and accompanying documentation, to which documents express reference is made; and

WHEREAS, by Senate Bill No. 1198, Acts of the 85th Texas Legislature, effective June 15, 2017, the Agency formally converted to a conservation and reclamation district known as the Alliance Regional Water Authority, located in Bexar, Comal, Guadalupe, and Hays Counties, to accomplish the purposes of Article XVI, Section 59, Texas Constitution, and by operation of law pursuant to the Acts of the 85th Texas Legislature, the Alliance Regional Water Authority (Authority) assumed all assets, liabilities, bonds, notes, and other obligations of the Hays Caldwell Public Utility Agency;

WHEREAS, the Authority requests that the TWDB amend TWDB Resolution 17-079, as amended by TWDB Resolution No. 19-077, requesting additional financial assistance from the SWIRFT for funding cycles in 2020 and 2021; and

WHEREAS, the reasons the Authority requests additional financial assistance from the SWIRFT in funding cycles 2020 and 2021 are related to preliminary estimates of increased construction costs, as determined by its engineers; and

WHEREAS, the TWDB hereby finds that the proposed amendment increasing financial assistance to the Authority from the SWIRFT as requested 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;

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

1. The commitment made through TWDB Resolution No. 17-079, as amended by TWDB Resolution No. 19-077, to the Alliance Regional Water Authority, a successor
to the Hays Caldwell Public Utility Agency, for financial assistance from the State Water Implementation Revenue Fund for Texas is further amended to increase the multi-year commitment reflecting a new principal amount not to exceed $278,410,000, and shall be evidenced by the TWDB’s proposed purchase of Alliance Regional Water Authority Contract Revenue Bonds in SWIFT 2020 and 2021 funding cycles as follows:

a. The proposed 2020A through 2020D scheduled distribution is amended as proposed below:
   i. $37,865,000 Alliance Regional Water Authority Contract Revenue Bonds (Canyon Regional Water Authority), Proposed Series 2020A.
   ii. $34,530,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Kyle, Texas), Proposed Series 2020B.
   iii. $43,955,000 Alliance Regional Water Authority Contract Revenue Bonds (City of San Marcos, Texas), Proposed Series 2020C.
   iv. $6,225,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Buda, Texas), Proposed Series 2020D.

b. The commitments in subsection (a) will expire on December 31, 2020.

c. The proposed 2021A through 2021D scheduled distribution is amended as follows:
   i. $11,740,000 Alliance Regional Water Authority Contract Revenue Bonds (Canyon Regional Water Authority), Proposed Series 2021A.
   ii. $10,705,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Kyle, Texas), Proposed Series 2021B.
   iii. $13,625,000 Alliance Regional Water Authority Contract Revenue Bonds (City of San Marcos, Texas), Proposed Series 2021C.
   iv. $1,930,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Buda, Texas), Proposed Series 2021D.

d. The commitments in subsection (c) will expire on December 31, 2021.

2. All other terms and conditions of TWDB Resolution No. 17-079, as amended by TWDB Resolution No. 19-077, shall remain in full force and effect.
APPROVED and ordered of record this the 23rd day of July, 2020.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, Chairman

DATE SIGNED: 7/23/20

ATTEST:

Jeff Walker, Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 17-079
AND RESCINDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 17-086
PROVIDING FINANCIAL ASSISTANCE TO THE
ALLIANCE REGIONAL WATER AUTHORITY

(19-077)

WHEREAS, at its July 20, 2017 meeting, the Texas Water Development Board
(TWDB), by TWDB Resolution No. 17-079, made a multi-year commitment to the Hays
Caldwell Public Utility Agency (Agency), and its successors or assigns, for financial
assistance in the amount of $144,395,000 from the State Water Implementation Revenue
Fund for Texas (SWIRFT), through the purchase of $144,395,000 Hays Caldwell Public
Utility Agency Contract Revenue Bonds, Proposed Series 2017A through 2017D; and
2019A through 2019D; and 2021A through 2021D, all as is more specifically set forth in
the TWDB's Resolution No. 17-079 and accompanying documentation, to which
documents express reference is made; and

WHEREAS, at the same TWDB meeting referenced in the first recital of this
authorizing resolution, the TWDB by Resolution No. 17-086 made a multi-year
commitment to the Agency from the Board Participation Account of the SWIRFT to
acquire an ownership interest in Project No. 51044 in an amount not to exceed
$69,015,000; and

WHEREAS, by Senate Bill No. 1198, Acts of the 85th Texas Legislature, effective June
15, 2017, the Agency formally converted to a conservation and reclamation district known
as the Alliance Regional Water Authority, located in Bexar, Comal, Guadalupe, and Hays
Counties, to accomplish the purposes of Article XVI, Section 59, Texas Constitution, and by
operation of law pursuant to the Acts of the 85th Texas Legislature, the Alliance Regional
Water Authority (Authority) assumed all assets, liabilities, bonds, notes, and other
obligations of the Hays Caldwell Public Utility Agency;

WHEREAS, the TWDB and the Authority mutually closed on a distribution of
financial assistance from the SWIRFT for a 2017 series of bonds in the amount of
$31,935,000; and

WHEREAS, by letter received by the TWDB in February 2019, the Authority requests
that the TWDB amend TWDB Resolution 17-079 to modify the Authority's Annual Loan
Closing Schedule for a proposed series of bonds in 2021, requesting instead to receive a
distribution of those proceeds in 2020; and

WHEREAS, by subsequent letter dated June 5, 2019, the Authority stated its
intention to no longer seek any financing by the TWDB from the Board Participation
Account of the SWIRFT and instead to shift those commitment of funds to low-interest
financing from the SWIRFT; and
WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolutions No. 17-079 and No. 17-086, as requested by the Authority, are 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;

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

1. The commitment made through TWDB Resolution No. 17-079 to the Alliance Regional Water Authority, a successor to the Hays Caldwell Public Utility Agency, 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 Alliance Regional Water Authority Contract Revenue Bonds as follows:

   a. The proposed 2019 loan closing schedule for Series 2019A through 2019D is amended as proposed below:

      i. $26,530,000 Alliance Regional Water Authority Contract Revenue Bonds (Canyon Regional Water Authority), Proposed Series 2019A, set to expire December 31, 2019.

      ii. $24,200,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Kyle, Texas), Proposed Series 2019B, set to expire December 31, 2019.

      iii. $30,800,000 Alliance Regional Water Authority Contract Revenue Bonds (City of San Marcos, Texas), Proposed Series 2019C, set to expire December 31, 2019.

      iv. $4,370,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Buda, Texas), Proposed Series 2019D, set to expire December 31, 2019.

   b. The proposed 2021A through 2021D scheduled distribution is amended in accordance with an annual loan closing schedule in 2020 as proposed below:

      i. $29,520,000 Alliance Regional Water Authority Contract Revenue Bonds (Canyon Regional Water Authority), Proposed Series 2020A, set to expire December 31, 2020.

      ii. $26,925,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Kyle, Texas), Proposed Series 2020B, set to expire December 31, 2020.

      iii. $34,270,000 Alliance Regional Water Authority Contract Revenue Bonds (City of San Marcos, Texas), Proposed Series 2020C, set to expire December 31, 2020.

      iv. $4,860,000 Alliance Regional Water Authority Contract Revenue Bonds (City of Buda, Texas), Proposed Series 2020D, set to expire December 31, 2020.
2. The commitment made through TWDB Resolution No. 17-086 to the Alliance Regional Water Authority for financial assistance from Board Participation Account of the State Water Implementation Revenue Fund for Texas is rescinded, and financing committed in TWDB Resolution No. 17-086 will be provided to the Authority pursuant to the terms of Resolution No. 17-079, as requested by the Authority on June 5, 2019.

3. All other terms and conditions of TWDB Resolution No. 17-079 shall remain in full force and effect.

APPROVED and ordered of record this the 22nd day of July, 2019.

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Peter M. Lake, Chairman

DATE SIGNED: 7/22/19

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Jeff Walker, Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE
HAYS CALDWELL PUBLIC UTILITY AGENCY
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
$144,395,000 HAYS CALDWELL PUBLIC UTILITY AGENCY CONTRACT REVENUE BONDS,

(17-079)

WHEREAS, the Hays Caldwell Public Utility Agency, and its successors and assigns (Public Utility Agency), located in Hays County, Texas, has filed an application for financial assistance in the amount of $144,395,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, design, and construction of certain water supply project(s) through low interest financing identified as Project No. 51044 (Project); and

WHEREAS, the Public Utility Agency 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 $144,395,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds, Proposed Series 2017A through 2017D; 2019A through 2019D; and 2021A through 2021D (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 Public Utility Agency has offered a pledge of wholesale water supply contract revenues from the sponsoring public entities of Canyon Regional Water Authority and the Cities of Buda, Kyle, and San Marcos, Texas 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;

WHEREAS, interest rate subsidies are available to the Public Utility Agency at the following levels: 35% for a term of 20 years, 25% for a term of 21 to 25 years, and 20% 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 Public Utility Agency, 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; 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 the Public Utility Agency is exempt from requirements to adopt a water conservation program because the Public Utility Agency is not a holder of a water right under Texas Water Code § 11.1271;

4. that the Public Utility Agency 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); and

5. that the Public Utility Agency 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 Hays Caldwell Public Utility Agency, and its successors and assigns, for financial assistance in the amount of $144,395,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of Hays Caldwell Public Utility Agency Contract Revenue Bonds in one or more series as follows:

The Proposed Series 2017

a) $9,865,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Canyon Regional Water Authority) Proposed Series 2017A, to expire on December 31, 2017;
b) $8,995,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of Kyle, Texas) Proposed Series 2017B, to expire on December 31, 2017;
c) $11,450,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of San Marcos, Texas) Proposed Series 2017C to expire on December 31, 2017;
d) $1,625,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of Buda, Texas) Proposed Series 2017D, to expire on December 31, 2017;

The Proposed Series 2019
e) $16,490,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Canyon Regional Water Authority) Proposed Series 2019A, to expire on December 31, 2019;
f) $15,040,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of Kyle, Texas) Proposed Series 2019B, to expire on December 31, 2019;
g) $19,145,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of San Marcos, Texas) Proposed Series 2019C to expire on December 31, 2019;
h) $2,715,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of Buda, Texas) Proposed Series 2019D, to expire on December 31, 2019;

The Proposed Series 2021

i) $18,245,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Canyon Regional Water Authority) Proposed Series 2021A, to expire on December 31, 2021;
j) $16,640,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of Kyle, Texas) Proposed Series 2021B, to expire on December 31, 2021;
k) $21,180,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (City of San Marcos, Texas) Proposed Series 2021C to expire on December 31, 2021;

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 Public Utility Agency 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 Public Utility Agency;

3. this commitment is contingent upon the Public Utility Agency'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 Public Utility Agency 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 Public Utility Agency 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:

6. 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;

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

8. the Obligations must include a provision requiring the Public Utility Agency 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;

9. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;

10. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
11. loan proceeds shall not be used by the Public Utility Agency 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 Public Utility Agency 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 Public Utility Agency, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project to the extent permitted by law;

12. the Obligations must include a provision stating that the Public Utility Agency 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;

13. 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);

14. the Obligations must include a provision prohibiting the Public Utility Agency 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);

15. 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 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 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
16. the Obligations must include a provision requiring the Public Utility Agency 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 Public Utility Agency 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 Public Utility Agency may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the Public Utility Agency, provided that the Public Utility Agency 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 Public Utility Agency 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;

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

18. the Obligations must provide that the Public Utility Agency will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;
19. the Obligations must provide that neither the Public Utility Agency 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 Public Utility Agency by the TWDB;

**Pledge Conditions:**

20. the Obligations must contain a provision requiring that, upon request by the Executive Administrator, the Public Utility Agency shall submit annual audits of contracting parties for the Executive Administrator’s review;

21. the Obligations must contain a provision requiring the Public Utility Agency to establish, fix, and maintain rates and charges to its customers to produce contract revenues paid to the Public Utility Agency sufficient to meet the debt service requirements of the Public Utility Agency’s Obligations, including the existing Hays Caldwell Public Utility Agency Contract Revenue Bonds, (Regional Water Supply Contract Project, Canyon Regional Water Authority) Series 2015A and (Regional Water Supply Contract Project, City of Kyle, Texas) Series 2015B (collectively, “the Hays Caldwell Public Utility Agency Contract Revenue Bonds, Series 2015”);

22. the Obligations shall be on parity with existing the Hays Caldwell Public Utility Agency Contract Revenue Bonds, Series 2015, and must contain a provision that the pledged contract revenues from the Public Utility Agency may not be pledged to the payment of any additional parity obligations of the Public Utility Agency secured by a pledge of the same contract revenues unless: (1) the Public Utility Agency is not in default; (2) the sponsoring entities in the contract for pledge revenues approve the resolution(s) authorizing the issuance of additional bonds; (3) said resolution(s) provide for deposits to be made to the debt service fund in amounts sufficient to pay the principal of and interest on such additional parity obligations, and; (4) the legal counsel of the Public Utility Agency delivers an opinion that valid contracts are then in effect on the participating entities to the contract for pledged revenues in such amounts that will be sufficient to provide to the Public Utility Agency the necessary funds to pay all principal and interest due on all bonds and additional parity obligations then outstanding after the issuance of proposed additional parity obligations;

**Conditions to Close or for Release of Funds:**

23. prior to closing, if not previously provided with the application, the Public Utility Agency shall submit executed contracts for engineering, and, if applicable, financial advisor and bond counsel, 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;
24. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Public Utility Agency 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;

25. prior to closing, the Public Utility Agency must submit executed contracts between the Public Utility Agency and the contracting parties regarding the contract revenues pledged to the payment of the Public Utility Agency's Obligations, in form and substance acceptable to the Executive Administrator. Such contracts shall include provisions consistent with the provisions of this Resolution regarding the contracting parties' annual audits, the setting of rates and charges and collection of revenues sufficient to meet the Public Utility Agency's debt service obligations and additional parity obligations;

26. prior to closing, the Public Utility Agency'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 Public Utility Agency when rendering this opinion;

27. prior to closing, the Public Utility Agency'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 Public Utility Agency when rendering this opinion;

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

29. 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 conditions:

**Special Conditions:**

30. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, economic investigation, studies, surveys, or designs for that portion of the Project that proposes surface water or groundwater development, the Executive Administrator must have either issued a written finding that the Public Utility Agency has the right to use the water that the Project financed by the TWDB
will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction; and

31. prior to the release of construction funds for that portion of a Project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the Public Utility Agency has the right to use the water that the Project financed by the TWDB will provide.

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
APPROVING AN APPLICATION FROM THE
HAYS CALDWELL PUBLIC UTILITY AGENCY
FOR THE TEXAS WATER DEVELOPMENT BOARD’S
ACQUISITION AND SALE OF AN INTEREST IN
HAYS CALDWELL PUBLIC UTILITY AGENCY PHASE 1B PROJECT
WITH FUNDS FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS

(17-086)

WHEREAS, the Texas Water Development Board (TWDB), under the authority of Chapter 15, Subchapter H of the Texas Water Code, is authorized to use the Board Participation Account of the State Water Implementation Revenue Fund for Texas (SWIRFT) to encourage optimum regional development of projects through the acquisition of an interest in new water supply project facilities and the sale, transfer, or lease of its interest in those facilities; and

WHEREAS, the Hays Caldwell Public Utility Agency, and its successors and assigns (Public Utility Agency), has filed an application with the TWDB requesting that the TWDB acquire an interest in the Hays Caldwell Public Utility Agency Phase 1B Project, Project No. 51044 (Project), not to exceed eighty percent (80%) of the total Project cost, in order to enable the acquisition of excess capacity for the optimum regional development of the Project, using the Board Participation Account of the SWIRFT; and

WHEREAS, the Public Utility Agency will finance at least twenty percent (20%) of the total Project costs from sources other than the Board Participation Account of the SWIRFT, pursuant to 31 TAC § 363.1308; and

WHEREAS, the Public Utility Agency is financing $144,395,000 in low interest financing from the TWDB, which is sufficient to satisfy the Public Utility Agency's equity percentage on the TWDB's Board Participation Account Loan; and

WHEREAS, by separate request, the TWDB is considering an application from the Public Utility Agency for the TWDB to provide financial assistance, in the form of a multi-year, low interest commitment, through the TWDB's proposed purchase of $144,395,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds, Proposed Series 2017, 2019, and 2021, in one or more series; and

WHEREAS, the Project is expected to cost $213,410,000 of which the TWDB's share pursuant to this commitment, will not exceed $69,015,000; and

WHEREAS, the Public Utility Agency will purchase the TWDB's interest in the Project from the proceeds of a future bond issue, other revenues, or other lawful sources of funds in accordance with a Master Agreement to be executed between the Public Utility Agency, or its successors and assigns, and the TWDB; and
WHEREAS, the Public Utility Agency has offered a pledge of wholesale water supply contract revenues from the sponsoring public entities of Canyon Regional Water Authority and the Cities of Buda, Kyle, and San Marcos as sufficient security for its obligation to purchase the TWDB's interest in the Project; and

WHEREAS, the TWDB has considered the long-term needs of the area, the costs of the Project, and the feasibility of the Project; and

WHEREAS, the Project will aid in addressing the long-term needs of up to 35,690 acre-feet per year in the service areas of the sponsoring public entities; 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. it is reasonable to expect that the TWDB will recover its investment in the Project because the revenue to be generated by the projected number of customers served by the Project will be sufficient to purchase the excess capacity owned by the TWDB in accordance with 31 TAC § 363.1308(c)(1);

3. the cost of the Project exceeds the current financing capabilities of the area to be served by the Project, in accordance with 31 TAC § 363.1308(c)(2);

4. the optimum regional development cannot be reasonably financed by local interest based on an assessment of the estimated cost to construct the Project and the revenue to be generated by the projected number of customers of the facility, in accordance with 31 TAC § 363.1308(c)(3);

5. the public interest will be served by the TWDB's acquisition of an interest in the Project because the cost of the Project to the public will be reduced by the Board's participation in the Project, in accordance with 31 TAC § 363.1308(c)(4);

6. the Project contemplates the optimum regional development that is reasonably required under all existing circumstances of the site because the design capacity of the components of the Project are sufficient to meet the foreseeable needs of the area, in accordance with 31 TAC § 363.1308(c)(5);

7. 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);

8. the Public Utility Agency 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 Texas Water Code § 15.435(g)(2) and 31 TAC § 363.1309(b)(2); and

9. that the Public Utility Agency 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 the Hays Caldwell Public Utility Agency, and its successors and assigns, to acquire and sell an ownership interest in the Hays Caldwell Public Utility Agency Phase 1B Project, not to exceed eighty percent (80%) of the total Project cost based on an application filed by Hays Caldwell Public Utility Agency, in an amount not to exceed the projected schedule of $69,015,000 from the Board Participation Account of the State Water Implementation Revenue Fund for Texas, to be evidenced as follows:

a) $32,510,000, to expire on December 31, 2019; and

b) $36,505,000 to expire on December 31, 2021.

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 Public Utility Agency'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 circumstance, or any other legal requirement;

3. this commitment is contingent upon the Public Utility Agency 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;

**Pledge Conditions:**

4. the Master Agreement must contain a provision requiring that, upon request by the Executive Administrator, the Public Utility Agency shall submit annual audits of contracting parties to the Project for the Executive Administrator's review;
5. the Master Agreement must contain a provision requiring the Public Utility Agency to maintain that the pledged contract revenues from the Public Utility Agency may not be pledged to the payment of any additional parity obligations of the Public Utility Agency secured by a pledge of the same contract revenues unless: (1) the Public Utility Agency is not in default; (2) the sponsoring entities in the contract for pledge revenues approve the resolution(s) authorizing the issuance of additional bonds; (3) said resolution(s) provide for deposits to be made to the debt service fund in amounts sufficient to pay the principal of and interest on such additional parity obligations, and; (4) the legal counsel of the Public Utility Agency delivers an opinion that valid contracts are then in effect on the participating entities to the contract for pledged revenues in such amounts that will be sufficient to provide to the Public Utility Agency the necessary funds to pay all principal and interest due on all bonds and additional parity obligations then outstanding after the issuance of proposed additional parity obligations;

The Following Conditions Must Be Included in the Master Agreement:

6. the Master Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Master Agreement that restricts or limits the TWDB’s full exercise of these remedies shall be of no force and effect;

7. loan proceeds are public funds and, as such, the Master Agreement 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;

8. loan proceeds shall not be used by the Public Utility Agency when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. The Master Agreement shall include an environmental indemnification provision wherein the Public Utility Agency 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 sewer sludge, contaminated sediments, and/or contaminated media that may be generated by the Public Utility Agency, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project to the extent permitted by law;

9. the Master Agreement must include a provision stating that the Public Utility Agency 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;

10. the Public Utility Agency agrees to take such actions as are necessary to assure, or to refrain from such actions as would materially adversely affect, the excludability
from gross income for Federal income tax purposes of interest payable on such obligations as are issued by the TWDB to finance its acquisition of an interest in the Project;

11. the Master Agreement must include a provision stating that the Public Utility Agency shall have the right to make an early purchase of all or a portion of the TWDB's ownership interest in the Project, on or after the specified Call Date that is on or after the first interest payment date 10 years from the dated date by making principal payments in excess of the scheduled principal payments. Such early purchases may be made no more than once a year, unless otherwise allowed by the Executive Administrator;

**Conditions to Close or for Release of Funds:**

12. prior to closing, the Board must approve the terms of the TWDB's ownership interest in the Project, incorporated into a proposed Master Agreement setting forth the responsibilities, duties, and liabilities of each party in accordance with 31 TAC § 363.1308;

13. prior to closing, the Board must delegate authority to the Executive Administrator, authorizing him or his successors to negotiate and execute a Master Agreement that will set forth the duties, responsibilities, and liabilities of the TWDB and the Public Utility Agency.

14. prior to closing, the Public Utility Agency and the TWDB will execute a Master Agreement that will set forth the responsibilities, duties, and liabilities of each party;

15. prior to closing, the Public Utility Agency will provide an attorney's opinion that is satisfactory and acceptable to the Executive Administrator as to any impact of the Project on the tax-exempt status of any bonds issued by the TWDB to fund its acquisition of an interest in the Project;

16. prior to closing, the Public Utility Agency must submit executed contracts between the Public Utility Agency and the contracting parties to the Project regarding the contract revenues pledged to the payment of the Public Utility Agency's obligation to purchase the TWDB's interest in the Project, in form and substance acceptable to the Executive Administrator. Such contracts shall include provisions consistent with the provisions of this Resolution regarding the contracting parties' annual audits, the setting of rates and charges, and maintenance of revenues sufficient to meet the Public Utility Agency's obligations arising from the Project;

17. prior to closing, if not previously provided with the application, the Public Utility Agency shall submit executed contracts for engineering, and, if applicable, financial advisor and legal counsel, 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;

18. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the Public Utility Agency 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;

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

Special Conditions:

19. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have either issued a written finding that the Public Utility Agency has the right to use the water that the Project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;

20. prior to the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the Public Utility Agency has the right to use the water that the Project financed by the TWDB will provide; and

21. the Public Utility Agency shall provide the TWDB with (a) monthly financial statement, to be submitted within ten (10) days after the close of each month, unless or until such requirement is waived in writing by the Executive Administrator or paid in full, whichever comes first, and (b) annual reports, to be submitted without charge within 120 days of the close of each fiscal year.

APPROVED and ordered of record this the 20th day of July, 2017.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, Chairman

DATE SIGNED: 7-20-17

ATTEST:

Jeff Walker
Executive Administrator
## Annual Loan Closing Schedule

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**NOTE:** The overall structure and approach are intended to allow applicants to achieve savings while maintaining the integrity of the SWIFT program and includes subsidies based on level-debt service schedules for all low-interest obligations. Interest rate subsidies for non-level debt service are subject to modification.

### Contact Information

Please provide the best point of contact for TWDB staff to discuss your anticipated closing schedule.

**Graham Moore, Executive Director**

Contact Name and Title

Phone Number: 512-294-3214  
Email Address: gmoore@alliancetxwater.org