



PROJECT FUNDING REQUEST

BOARD DATE: December 15, 2022

Team Manager: Dain Larsen

ACTION REQUESTED

Approve by resolution a request from the City of San Marcos (Hays County) for \$5,800,000 in financial assistance consisting of \$4,060,000 in financing and \$1,740,000 in grant from the Flood Infrastructure Fund for design and construction of a drainage improvements project.

STAFF RECOMMENDATION

Approve No Action

PROJECT NAME AND NUMBER

Wallace Addition Offsite Drainage Improvements (40204)

BACKGROUND

Passed by the 86th Texas Legislature and approved by voters through a constitutional amendment, the Flood Infrastructure Fund (FIF) was created to provide funding for flood mitigation projects. The purpose of the FIF, as outlined in Senate Bill 7, is to assist in financing drainage, flood mitigation, and flood control projects. FIF projects presented for consideration have been scored and ranked using prioritization criteria outlined in 31 Texas Administrative Code § 363.404 and further specified in the Flood Intended Use Plan. The prioritized list of projects was approved on September 17, 2020.

The City of San Marcos (City) is located 20 miles south of Austin with an estimated population of 63,220 in a total area of 35.71 square miles. The population directly benefitting from the proposed project is 400.

PROJECT NEED AND DESCRIPTION

The City's Wallace Addition neighborhood located in southeast San Marcos is east of the intersection of Interstate 35 and State Highway 123 (SH 123). The San Marcos River is on the northern edge of the neighborhood and the State of Texas A.E. Wood Fish Hatchery (Hatchery) bounds it to the east. The area has approximately 200 structures, including 183 homes. Due to undersized drainage infrastructure the neighborhood floods during 25- and 100-year storm events. Runoff from SH 123 to the south drains to the north towards the San Marcos River and overwhelms a ditch and culvert system along Staples Road that buffers the neighborhood from SH 123 and the

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE JUNE 30, 2023.

Cape Road channel on the eastern boundary of the neighborhood. Prior flooding along Staples Road has resulted in damage occurring multiple times to the Bonham Elementary School.

The City plans to construct drainage improvements along Staples Road, Cape Road, Flores Street, and Laredo Street. Stormwater flows from these streets will be conveyed into a new natural channel segment located between the neighborhood and San Marcos River. This buffer area includes a wetland feature that will treat the runoff before it is discharged into the San Marcos River. The City also plans to construct a new 2,100 linear feet culvert system in an easement behind houses along Durango Street to convey offsite flows along the eastern boundary of the neighborhood that borders the Hatchery.

Task	Schedule Date
Closing	March 15, 2023
Engineering Feasibility Report Completion(End of Planning Phase)	December 5, 2022
Design Phase	May 22, 2024
Start of Construction	January 24, 2025
Construction Completion	June 7, 2026

KEY ISSUES

The City’s project is eligible under Category 2 of the 2020 Flood Intended Use Plan. This category of funding was designed for planning, acquisition, design, and construction activities to implement flood mitigation projects. Category 2 projects are eligible to receive up to 70 percent in grant funding. Recipients of financial assistance may either use their own available funds or borrow FIF funds at zero percent for any portion of the required local share not provided through FIF grant funds.

The City qualified for a \$1,740,000 grant under the FIF equal to 30 percent of the TWDB-eligible project cost of \$5,800,000. The City is also eligible to receive \$4,060,000 in FIF financing.

The City is also requesting funding from the FIF program for drainage improvements in a separate project area. The financial analysis includes both requests.

LEGAL/SPECIAL CONDITIONS

- Executed Grant Agreement

Attachments

1. Financial Review
2. Project Budget
3. Resolution (22-)
4. Location Map

Financial Review City of San Marcos

Risk Score: 2A

Audit Reviewed: FY 2021

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 4.17%	State: 1.49%
Top 10 Customers % of Total Revenue	13%	10-15%
Median Household Income as % of State	84%	100%
Days of Cash on Hand (3-year Average)	3,224 days	30-149 days
Net Fixed Assets/ Annual Depreciation	32 years	12-24 years
Debt Service Coverage Ratio	0.95x	1.10x
Debt-to-Operating Revenues	6.53x	4.00-5.99x
Unemployment Rate (September, 2022)	City: 3.20%	State: 3.80%
Working Capital Ratio	5.2	> 1.0

Key Risk Score Strengths

- A high working capital ratio provides the City with ample resources to cover short-term liabilities and shows a strong liquidity position.
- The City's days of cash on hand exceed the benchmark, indicating it has the liquidity needed to meet any unexpected increases in expenses.
- The City's net fixed assets are above the State benchmark demonstrating the City manages its fixed assets efficiently to generate long term income.
- The population growth of the City is above the benchmark and connections have been steadily increasing over the previous five years

Key Risk Score Concerns

- The City has pledged ad valorem taxes and surplus drainage revenues as security for the proposed debt with the tax revenue as the primary source of repayment. The City is projected to need an interest and sinking tax rate increase of approximately five cents by fiscal year 2027.

PLEDGE

Legal Pledge Name	Ad valorem tax and surplus drainage revenues
Type of Pledge	<input type="checkbox"/> Tax <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input type="checkbox"/> First <input type="checkbox"/> Second <input checked="" type="checkbox"/> Third <input type="checkbox"/> N/A

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates	Current Household Cost Factor	Projected Household Cost Factor
DRAINAGE	N/A	\$13.12	\$13.12	1.39	1.39

TAXES

	2021 Tax Year Rate	Max Projected Tax Rate (Year 2026)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.4076	\$0.4076	\$1.50	99%	\$6,712,763,951
Interest & Sinking	\$0.1954	\$0.2448			
Total Tax Rate	\$0.6030	\$0.6524			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$3,672,585 over the life of the financing. The City is also saving \$1,740,000 in grant funding.

Responsible Authority	San Marcos
Program	FLOOD
Commitment Number	G1001578, L1001577
Project Number	40204
List Year	2020
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$1,740,000 Grant Agreement, \$4,060,000 City of San Marcos, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	No
Financial Managerial & Technical Complete	N/A
Phases Funded	Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	2A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Dain Larsen	Arnoldo Rubio	Claudia Corsetti	Kristin Miller	Marshall Walters

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of San Marcos

\$4,060,000 City of San Marcos, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2023

\$1,120,000 City of San Marcos, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2023

Dated Date: 3/15/2023	Source: FIF	Dated Date: 3/15/2023	Source: FIF
Delivery Date: 3/15/2023	Rate: 0.00%	Delivery Date: 3/15/2023	Rate: 0.00%
First Interest: 8/15/2023	IUP Year: 2021	First Interest: 8/15/2023	IUP Year: 2021
First Principal: 8/15/2023	Case: Tax and Revenue	First Principal: 8/15/2023	Case: Tax and Revenue
Last Principal: 8/15/2052	Admin.Fee: \$0	Last Principal: 8/15/2052	Admin.Fee: \$0
Fiscal Year End: 09/30	Admin. Fee Payment Date: N/A	Fiscal Year End: 9/30	Admin. Fee Payment Date: N/A
Required Coverage: 1.1	Total Assessed Valuation: \$6,712,763,951	Required Coverage: 1.1	

FISCAL YEAR	CURRENT TAX REVENUES WITH COLL. @ 99%		PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$4,060,000 ISSUE				\$1,120,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
	CURRENT TAX RATE	TAX REVENUES				PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2023	\$0.2335	\$15,536,900	\$3,335,012	\$18,871,912	\$17,006,284	\$120,000	-	-	\$120,000	\$30,000	-	-	\$30,000	\$17,156,284	1.10
2024	0.2370	15,768,304	3,335,012	19,103,316	17,216,650	120,000	-	-	120,000	30,000	-	-	30,000	17,366,650	1.10
2025	0.2438	16,217,625	3,335,012	19,552,637	17,620,124	120,000	-	-	120,000	35,000	-	-	35,000	17,775,124	1.10
2026	0.2448	16,284,483	3,335,012	19,619,495	17,680,904	120,000	-	-	120,000	35,000	-	-	35,000	17,835,904	1.10
2027	0.2426	16,136,952	3,335,012	19,471,964	17,546,785	120,000	-	-	120,000	35,000	-	-	35,000	17,701,785	1.10
2028	0.2243	14,919,738	3,335,012	18,254,750	16,440,227	120,000	-	-	120,000	35,000	-	-	35,000	16,595,227	1.10
2029	0.2139	14,231,906	3,335,012	17,566,918	15,814,926	120,000	-	-	120,000	35,000	-	-	35,000	15,969,926	1.10
2030	0.2015	13,402,842	3,335,012	16,737,854	15,061,231	120,000	-	-	120,000	35,000	-	-	35,000	15,216,231	1.10
2031	0.1741	11,580,762	3,335,012	14,915,774	13,384,795	140,000	-	-	140,000	35,000	-	-	35,000	13,559,795	1.10
2032	0.1598	10,633,002	3,335,012	13,968,014	12,523,194	140,000	-	-	140,000	35,000	-	-	35,000	12,698,194	1.10
2033	0.1539	10,241,166	3,335,012	13,576,178	12,166,980	140,000	-	-	140,000	35,000	-	-	35,000	12,341,980	1.10
2034	0.1500	9,978,946	3,335,012	13,313,958	11,928,598	140,000	-	-	140,000	35,000	-	-	35,000	12,103,598	1.10
2035	0.1453	9,664,715	3,335,012	12,999,727	11,642,934	140,000	-	-	140,000	35,000	-	-	35,000	11,817,934	1.10
2036	0.1398	9,298,080	3,335,012	12,633,092	11,309,629	140,000	-	-	140,000	35,000	-	-	35,000	11,484,629	1.10
2037	0.1237	8,228,787	3,335,012	11,563,799	10,332,545	140,000	-	-	140,000	40,000	-	-	40,000	10,512,545	1.10
2038	0.1099	7,309,558	3,335,012	10,644,570	9,496,882	140,000	-	-	140,000	40,000	-	-	40,000	9,676,882	1.10
2039	0.0521	3,466,419	3,335,012	6,801,431	6,003,119	140,000	-	-	140,000	40,000	-	-	40,000	6,183,119	1.10
2040	0.0346	2,299,996	3,335,012	5,635,008	4,942,735	140,000	-	-	140,000	40,000	-	-	40,000	5,122,735	1.10
2041	0.0176	1,172,150	3,335,012	4,507,162	3,917,420	140,000	-	-	140,000	40,000	-	-	40,000	4,097,420	1.10
2042	-	-	3,335,012	3,335,012	2,004,800	140,000	-	-	140,000	40,000	-	-	40,000	2,184,800	1.53
2043	-	-	3,335,012	3,335,012	-	140,000	-	-	140,000	40,000	-	-	40,000	180,000	18.53
2044	-	-	3,335,012	3,335,012	-	140,000	-	-	140,000	40,000	-	-	40,000	180,000	18.53
2045	-	-	3,335,012	3,335,012	-	140,000	-	-	140,000	40,000	-	-	40,000	180,000	18.53
2046	-	-	3,335,012	3,335,012	-	140,000	-	-	140,000	40,000	-	-	40,000	180,000	18.53
2047	-	-	3,335,012	3,335,012	-	140,000	-	-	140,000	40,000	-	-	40,000	180,000	18.53
2048	-	-	3,335,012	3,335,012	-	140,000	-	-	140,000	40,000	-	-	40,000	180,000	18.53
2049	-	-	3,335,012	3,335,012	-	145,000	-	-	145,000	40,000	-	-	40,000	185,000	18.03
2050	-	-	3,335,012	3,335,012	-	145,000	-	-	145,000	40,000	-	-	40,000	185,000	18.03
2051	-	-	3,335,012	3,335,012	-	145,000	-	-	145,000	40,000	-	-	40,000	185,000	18.03
2052	-	-	3,335,012	3,335,012	-	145,000	-	-	145,000	40,000	-	-	40,000	185,000	18.03
				\$306,422,691	\$244,040,762	\$4,060,000			\$0	\$4,060,000	\$1,120,000		\$0	\$1,120,000	\$249,220,762

\$4,060,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	15.41 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$2,851,619
AVERAGE ANNUAL REQUIREMENT	\$135,333

\$1,120,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	15.54 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$820,966
AVERAGE ANNUAL REQUIREMENT	\$37,333

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$8,307,359

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.



Project Budget Summary

San Marcos

40204 - Wallace Addition Offsite Drainage
Improvements

Budget Items	TWDB Funds	Local and Other Funds	Total
Construction			
Construction	\$5,191,000.00	\$3,220,384.00	\$8,411,384.00
Subtotal for Construction	\$5,191,000.00	\$3,220,384.00	\$8,411,384.00
Basic Engineering Services			
Design	\$0.00	\$1,053,185.00	\$1,053,185.00
Planning	\$0.00	\$299,872.00	\$299,872.00
Subtotal for Basic Engineering Services	\$0.00	\$1,353,057.00	\$1,353,057.00
Fiscal Services			
Bond Insurance/Surety	\$0.00	\$15,000.00	\$15,000.00
Financial Advisor	\$0.00	\$25,000.00	\$25,000.00
Subtotal for Fiscal Services	\$0.00	\$40,000.00	\$40,000.00
Contingency			
Contingency	\$609,000.00	\$0.00	\$609,000.00
Subtotal for Contingency	\$609,000.00	\$0.00	\$609,000.00
Total	\$5,800,000.00	\$4,613,441.00	\$10,413,441.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$5,800,000 TO THE CITY OF SAN MARCOS FROM THE FLOOD INFRASTRUCTURE FUND
THROUGH THE PROPOSED PURCHASE OF
\$4,060,000 CITY OF SAN MARCOS, TEXAS COMBINATION TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2023
AND
THE EXECUTION OF A GRANT AGREEMENT
IN THE AMOUNT OF \$1,740,000

(22 -)

WHEREAS, the City of San Marcos (City), located in Hays County, Texas, has filed an application for financial assistance from the Flood Infrastructure Fund (FIF) in accordance with Texas Water Code Chapter 15, Subchapter I, to finance the construction for a flood project, identified as Project No. 40204; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$5,800,000 through the TWDB's proposed purchase of \$4,060,000 City of San Marcos, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023, and \$1,740,000 through the execution of a Grant Agreement (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

WHEREAS, the City has offered a pledge of ad valorem taxes and surplus revenues of the City's stormwater utility system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the application and financial assistance requested meet the requirements of Texas Water Code, Chapter 15, Subchapter I; 31 TAC Chapter 363, Subchapters A and D; and the State Fiscal Year 2020 Flood Intended Use Plan (FIUP);
2. the City has demonstrated a sufficient level of cooperation among eligible political subdivisions and has included all of the eligible political subdivisions substantially affected by the flood project in accordance with Texas Water Code § 15.536(2);
3. that the City has submitted a written memorandum of understanding relating to the management of the project watershed executed by all governing bodies of eligible political subdivisions located in the project watershed; and
4. that in its opinion the taxes or revenues pledged by the City will be sufficient to meet all Obligations assumed by the City in accordance with Texas Water Code § 15.536(3); and

5. that the City is eligible to receive grant funding in accordance with Texas Water Code § 15.534 and the FIUP; and
6. that the City has demonstrated that the benefit-cost ratio of the Project meets the requirements of the FIUP; and
7. that the request for financial assistance does not include redundant funding for activities already performed and/or funded through another source, in accordance with the FIUP; and
8. that the City has demonstrated that the application meets the requirements of the FIUP related to the National Flood Insurance Program in the area to be served by the Project; and
9. that the Project was developed using the best and most recent available data, in accordance with the FIUP; and
10. that the City has documented that it has planned for operations and maintenance costs associated with the Project, in accordance with the FIUP; and
11. that the City has considered possible floodwater capture techniques that could be associated with the Project for water supply purposes, in accordance with the FIUP; and
12. that the current water audit has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.0121.

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

A commitment is made by the TWDB to City of San Marcos for financial assistance in the amount of \$5,800,000 from the Flood Infrastructure Fund, to be evidenced by the TWDB's proposed purchase of \$4,060,000 City of San Marcos, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023, and the execution of a Grant Agreement in the amount of \$1,740,000. This commitment will expire on June 30, 2023; however, the Executive Administrator may, at his discretion, grant up to one extension for a maximum of three months.

Such commitment is conditioned as follows:

Standard Conditions:

1. this commitment is contingent on availability of TWDB funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that the City has complied

with all of the requirements of the laws under which said Obligations were issued, that said Obligations were issued in conformity with the Constitution and laws of the State of Texas, and that said Obligations are valid and binding obligations of the City;

3. this commitment is contingent upon the City's continued compliance with all applicable laws, rules, policies, and guidance (as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement), including but not limited to 31 TAC Chapter 363;
4. the City shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2);
5. the City must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition);

The Following Conditions Must Be Included in the Obligations:

6. the Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
7. the Obligations must provide that the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources;
8. the Obligations must provide that the City will not begin construction for a portion of the Project until the environmental finding has been issued for that portion of the Project;
9. the Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
10. the Obligations must include a provision wherein the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's

bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;

11. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce 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;
12. the Obligations must include a provision requiring a final accounting to be made of the total sources and authorized use of Project funds within 60 days of the completion of the Project;
13. the Obligations must include a provision requiring the City to deposit any bond proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project and completion of a final accounting, including any interest earned on the bond proceeds, into the Interest and Sinking Fund;
14. the Grant Agreement must include a provision stating that the City shall either return or deposit into the Interest and Sinking Fund any grant funds that are determined to be surplus funds remaining after completion of the Project and completion of a final accounting, including any interest earned on the grant funds;
15. 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;
16. financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256 and the Public Funds Collateral Act, Government Code, Chapter 2257;
17. financial assistance proceeds shall not be used by the City when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments, and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials, and employees as a result of activities relating to the Project to the extent permitted by law;
18. the Obligations must contain a provision stating that the City shall abide by all applicable construction contract requirements related to the use of iron and steel

products produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter G;

19. the Obligations must provide that the City will not cause or permit the Obligations to be treated as “federally guaranteed” obligations within the meaning of § 149(b) of the Code;
20. the Obligations must contain a covenant that the City will refrain from using the proceeds of the Obligations to pay debt service on another issue of obligations of the borrower in contravention of section 149(d) of the Code (related to “advance refundings”);
21. the Obligations must contain a provision requiring the City to submit quarterly status reports on the progress of the project that details information requested by the Executive Administrator. The Executive Administrator may withhold authorization to release funds from escrow or adjust the amount of funds to be released from escrow based on the receipt of the quarterly status reports and the projected quarterly needs for the project;

Pledge Conditions for the Loan:

22. the Obligations must contain a provision that provides as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City’s pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;
 - ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be

levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and

- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges so that after payment of the costs of operating and maintaining the project, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City that are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation that evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements;

Conditions to Close or for Release of Funds:

23. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;
24. prior to release of funds for the relevant services, and if required under the TWDB's financial assistance program and if not previously provided with the application, the City 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;
25. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the City shall execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
26. prior to closing, the City's bond counsel must prepare a written, unqualified approving opinion acceptable to the executive administrator. Bond counsel may rely on covenants and representations of the City when rendering this opinion; and

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

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

Special Condition:

28. prior to closing, the City shall execute a Grant Agreement in a form and substance acceptable to the Executive Administrator.

APPROVED and ordered of record this, the 15th day of December 2022.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator



City of San Marcos Hays County

