

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: June 6, 2023

Team Manager: Nancy Richards

ACTION REQUESTED

Consider making a determination that a nuisance dangerous to the public health and safety exists in the area to be served by the Economically Distressed Areas Program project proposed by Airline Improvement District (Harris County) and approving by resolution a request from the Airline Improvement District for \$3,819,000 in financial assistance consisting of \$1,145,000 in financing and \$2,674,000 in grant from the Economically Distressed Areas Program for planning, acquisition, design, and construction of a water and sewer service project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The Airline Improvement District (District) is located in unincorporated Harris County, east of IH-45, approximately 12 miles north of downtown Houston. This project will provide water and sewer services to approximately 190 residents.

PROJECT NEED AND DESCRIPTION

The Airline Improvement District (District) has been addressing the issue of poor water quality and failing septic systems within its boundaries for several years. The District received Economically Distressed Areas Program (EDAP) commitments in 2010 and 2014 that provided first-time water and sewer service to the north section of the District. Residents of the Lillja area, which is in the north central part of the District, currently obtain water from private wells and treat wastewater with on-site sewage facilities. The residential lots are inadequately sized for private water wells with adjacent on-site sewage facilities, and clay soil in the area prevents septic waste from draining, which can cause septic tanks to overflow. During wet weather, runoff containing septic waste can accumulate around the water wells, which poses a risk to public health.

The proposed project will provide first-time water and sewer service to residents of the Lillja area. The area has approximately 190 people with an estimated 71 connections. The work on the proposed water distribution system includes installation of approximately 6,500 linear feet of 8 to 12-inch diameter water lines, service line connections, tapping sleeves and valves, metering facilities, fire hydrants, and the decommissioning of private water wells. The work on the proposed sanitary sewer collection system includes installation of approximately 5,500 linear feet of 8 to 12-inch gravity mains, service leads, manholes, and the abandonment of the on-site sewage facilities. The new systems will connect to the City of Houston's existing systems. Upon completion of construction, ownership of the assets will be transferred to the City of Houston.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE DECEMBER 31, 2023
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PROJECT SCHEDULE

Task	Schedule Date
Closing	September 1, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	October 25, 2024
Design Phase Completion	January 27, 2025
Start of Construction	April 18, 2025
Construction Completion	December 19, 2025

KEY ISSUES

The Executive Administrator recommends that under Texas Water Code § 17.933(b), the TWDB determine that a condition of nuisance exists in the proposed project area. This qualifies the applicant for a grant exceeding 50 percent of the project costs. Consistent with the Intended Use Plan for the current EDAP funding cycle, the Executive Administrator recommends setting the grant amount at 70 percent of eligible costs for projects that have received a nuisance determination.

LEGAL/SPECIAL CONDITIONS

- Conversion and conveyance
- Executed grant agreement
- Return of excess funds
- Approval from City of Houston to issue bonds

Attachments

1. Financial Review
2. Project Budget
3. Resolution (23-)
4. Water Conservation Review
5. Nuisance Determination
6. Location Map

Financial Review

Airline Improvement District

Risk Score: 2A

Audit Reviewed: FY 2022

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 1.46%	State: 1.49%
Cash Balance Ratio	75%	10-24.99%
Median Household Income as % of State	67%	100%
Days of Cash on Hand (3-year Average)	870 days	30-149 days
Debt Service Coverage Ratio	5.13x	1.0x
Net Direct Debt-to-Operating Revenues	0.89	4.00-5.99x
Unemployment Rate (March, 2023)	City: 4.50%	State: 4.20%
Working Capital Ratio	32.84	> 1.0

Key Risk Score Strengths

- A cash balance ratio of 75 percent shows a significant increase in cash on hand over a five-year period, indicating an upward trend largely due to an increase in sales tax revenues.
- A high working capital ratio and three-year average of 870 days of cash on hand provides the District with ample resources to cover short-term liabilities and shows a strong liquidity position.
- The District does not own or operate a system; therefore, the sales tax revenue is the sole income stream for repayment. In a no growth scenario, the sales tax revenue is sufficient to pay for the existing and proposed obligations.

Key Risk Score Concerns

- The population growth of the District is slightly below the state's benchmark. However, the 2022 State Water Plan projects the County's population to increase by 11.7 percent by 2050.
- The unemployment rate, taken from the City of Houston, is slightly higher than the state's average for the month of March; however, this is negatively correlated with the District's pledge of sales tax revenues.

PLEDGE

Legal Pledge Name	Sales Tax Revenues
Type of Pledge	<input type="checkbox"/> Tax <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input checked="" type="checkbox"/> First <input type="checkbox"/> Second <input type="checkbox"/> Third <input type="checkbox"/> N/A

TAXES

	2022 Tax Year Rate	Max Projected Tax Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Sales Tax	1.00%	1.00%	N/A	N/A

Cost Savings

Based on a 20-year maturity schedule and current interest rates, the District could save approximately \$100,355 over the life of the financing. The District is also saving \$2,674,000 in grant funding.

Responsible Authority	Airline ID
Program	EDAP
Commitment Number	G1001634, L1001633
Project Number	10459
List Year	2022
Type of Pledge	Sales Tax Revenue Pledge
Pledge Level (if applicable)	First Lien
Legal Description	\$2,674,000 Grant Agreement, \$1,145,000 Airline Improvement District, Sales Tax Revenue Bonds, Series 2023
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
Financial Managerial & Technical Complete	N/A
Phases Funded	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	Yes
Water Conservation Plan	Exempt
Overall Risk Score	2A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Nancy Richards	Chelsea Duran	Lucia Loera	Britt Paredes	Annette Mass

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Airline Improvement District

\$ 1,145,000 Airline Improvement District Sales Tax Revenue Bonds, Series 2023

Dated Date:	9/1/2023	Source:	EDAP
Delivery Date:	9/1/2023	Rate:	3.53%
First Interest:	3/1/2024	IUP Year:	2022
First Principal:	3/1/2025	Case:	Sales Tax Revenues
Last Principal:	3/1/2044	Admin.Fee:	\$0
Fiscal Year End:	06/30	Admin. Fee Payment Date:	N/A
Required Coverage:	1.0		

FISCAL YEAR	CURRENT NET SALES TAX REVENUES	CURRENT DEBT SERVICE	\$1,145,000 ISSUE				TOTAL DEBT SERVICE	TOTAL DEBT COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2024	\$578,993	\$30,871	\$0	-	\$18,388	\$18,388	\$49,258	11.75
2025	578,993	31,158	45,000	2.55%	36,775	81,775	112,933	5.13
2026	578,993	30,392	45,000	2.45%	35,628	80,628	111,019	5.22
2027	578,993	-	45,000	2.41%	34,525	79,525	79,525	7.28
2028	578,993	-	45,000	2.41%	33,441	78,441	78,441	7.38
2029	578,993	-	50,000	2.39%	32,356	82,356	82,356	7.03
2030	578,993	-	50,000	2.39%	31,161	81,161	81,161	7.13
2031	578,993	-	50,000	2.40%	29,966	79,966	79,966	7.24
2032	578,993	-	50,000	2.45%	28,766	78,766	78,766	7.35
2033	578,993	-	55,000	2.49%	27,541	82,541	82,541	7.01
2034	578,993	-	55,000	2.75%	26,172	81,172	81,172	7.13
2035	578,993	-	55,000	3.03%	24,659	79,659	79,659	7.27
2036	578,993	-	60,000	3.30%	22,993	82,993	82,993	6.98
2037	578,993	-	60,000	3.51%	21,013	81,013	81,013	7.15
2038	578,993	-	60,000	3.66%	18,907	78,907	78,907	7.34
2039	578,993	-	65,000	3.76%	16,711	81,711	81,711	7.09
2040	578,993	-	65,000	3.88%	14,267	79,267	79,267	7.30
2041	578,993	-	70,000	3.95%	11,745	81,745	81,745	7.08
2042	578,993	-	70,000	4.01%	8,980	78,980	78,980	7.33
2043	578,993	-	75,000	4.08%	6,173	81,173	81,173	7.13
2044	578,993	-	75,000	4.15%	3,113	78,113	78,113	7.41
		\$92,420	\$1,145,000		\$483,274	\$1,628,274	\$1,720,694	

AVERAGE (MATURITY) LIFE	11.97 YEARS
NET INTEREST RATE	3.527%
COST SAVINGS	\$100,355
AVERAGE ANNUAL REQUIREMENT	\$77,537

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
 Airline ID
 10459 - Water & Sanitary Sewer Extensions to Lillja
 Area

Budget Items	TWDB Funds	Local and Other Funds	Total
Construction			
Construction	\$2,894,622	\$0	\$2,894,622
Subtotal for Construction	\$2,894,622	\$0	\$2,894,622
Basic Engineering Services			
Construction Engineering	\$35,610	\$0	\$35,610
Design	\$213,661	\$0	\$213,661
Planning	\$106,830	\$0	\$106,830
Subtotal for Basic Engineering Services	\$356,101	\$0	\$356,101
Special Services			
Application	\$9,170	\$0	\$9,170
Environmental	\$34,300	\$0	\$34,300
Geotechnical	\$28,556	\$0	\$28,556
Inspection	\$89,026	\$0	\$89,026
Surveying	\$55,000	\$0	\$55,000
Subtotal for Special Services	\$216,052	\$0	\$216,052
Fiscal Services			
Bond Counsel	\$20,000	\$0	\$20,000
Bond Reserve Fund	\$85,500	\$0	\$85,500
Financial Advisor	\$25,000	\$0	\$25,000
Fiscal/Legal	\$9,500	\$0	\$9,500
Subtotal for Fiscal Services	\$140,000	\$0	\$140,000
Other			
Land/Easements Acquisition	\$14,000	\$0	\$14,000
Subtotal for Other	\$14,000	\$0	\$14,000
Contingency			
Contingency	\$198,225	\$1,000	\$199,225
Subtotal for Contingency	\$198,225	\$1,000	\$199,225
Total	\$3,819,000	\$1,000	\$3,820,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$3,819,000 TO THE
AIRLINE IMPROVEMENT DISTRICT
FROM THE ECONOMICALLY DISTRESSED AREAS PROGRAM ACCOUNT OF
THE TEXAS WATER DEVELOPMENT FUND II
THROUGH THE PROPOSED PURCHASE OF \$1,145,000
AIRLINE IMPROVEMENT DISTRICT SALES TAX REVENUE BONDS
PROPOSED SERIES 2023
AND THE EXECUTION OF A GRANT AGREEMENT
IN THE AMOUNT OF \$2,674,000

(23 -)

WHEREAS, Airline Improvement District (District), located in Harris County, has filed an application seeking financial assistance in the amount of \$3,819,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, to finance certain water and wastewater system improvements, identified as Project No. 10459; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (the TWDB) through the TWDB's proposed purchase of \$1,145,000 Airline Improvement District Sales Tax Revenue Bonds (together with all authorizing documents, "Obligations") and a grant in the amount of \$2,674,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, all as is more specifically set forth in the application and in recommendations of TWDB's staff; and

WHEREAS, the District has offered a pledge of sales tax revenue as sufficient security for the repayment of the Obligations;

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 § 363.16 and § 363.43; and

WHEREAS, the TWDB has carefully considered all matters required by law and in particular the following:

1. the feasibility of creating a conservation and reclamation district to provide and finance the water supply or sewer services, in accordance with Texas Water Code § 16.346;
2. the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring economically distressed areas financing, and the relative costs and benefits of all applications, in accordance with Texas Water Code § 17.929(a)(1);

3. the availability to the political subdivision of revenue from alternative sources for the payment of the cost of the proposed project, in accordance with Texas Water Code § 17.929 (a)(2);
4. financing of the proposed water supply or sewer project, in accordance with Texas Water Code § 17.929(a)(3);
5. the feasibility of achieving cost savings by providing a regional facility for water supply and wastewater service and the feasibility of financing the facilities by using funds from the economically distressed areas account or any other financial assistance, in accordance with Texas Water Code § 17.929(a)(5);
6. the rates, fees and charges that the average customer to be served by the project will be able to pay, sources of funding available to the District, and any local funds of the District, in accordance with Texas Water Code § 17.933(d)(1);
7. sources of funding available to the District from federal and private funds and from other state funds, in accordance with Texas Water Code § 17.933(d)(2);
8. any local funds of the District to be served by the project if the economically distressed area to be served is within the boundary of the District, in accordance with Texas Water Code § 17.933(d)(3);
9. the just, fair, and reasonable charges for water and wastewater service as provided in the Texas Water Code, in accordance with Texas Water Code § 17.933(d)(4);

WHEREAS, the TWDB hereby finds:

1. that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project, in accordance with Texas Water Code § 17.933(b);
2. that the District is located inside the City of Houston (City) and the system that is constructed with funds provided through this financial assistance will connect to and be operated and maintained by the City's water and wastewater services, and the City has adopted and is implementing a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques, or technology prescribed by the Texas Water Code and TWDB rules;
3. that the area to be served by the proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, in accordance with Texas Water Code § 17.929(b);

4. that the County and City have adopted model subdivision rules as promulgated by the TWDB pursuant to Texas Water Code § 16.343 and the manner of enforcement, in accordance with Texas Water Code § 17.929(a) (4);
5. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and that the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, in accordance with Texas Water Code § 16.053(j);
6. that a current water audit is not required by Texas Water Code § 16.0121 and 31 TAC § 358.6 because the District is not a retail water provider;
7. that the District has considered cost-effective innovative, nonconventional methods of treatment and will evaluate alternatives in greater detail through the planning phase of the project, in accordance with Texas Water Code § 17.189(b);
8. that the public interest will benefit from state assistance in the financing of the treatment works, in accordance with Texas Water Code § 17.277; and

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

1. Based on the finding stated above, the TWDB determines that a nuisance dangerous to the public health and safety exists in the area to be served by the proposed project, pursuant to Texas Water Code § 17.933.
2. A commitment is made by the TWDB to the Airline Improvement District for financial assistance in the amount of \$3,819,000 from the Economically Distressed Areas Account of the Texas Water Development Funds through the TWDB's proposed purchase of \$1,145,000 Airline Improvement District Sales Tax Revenue Bonds, Proposed Series 2023 and execution of a grant agreement in the amount of \$2,674,000. This commitment will expire on December 31, 2023.

This 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 District's compliance with all applicable requirements contained in 31 TAC Chapter 363;
3. 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;

4. the loan proceeds and grant funds are public funds and, as such, the Obligations and Grant 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;
5. loan proceeds and grant funds shall not be used by the District when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations and Grant Agreement shall include an environmental indemnification provision wherein the District agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the District, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;
6. prior to closing, and if not previously provided with the application, the District 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, under the contract, and acceptable to the Executive Administrator;
7. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the District 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;
8. the Executive Administrator may require that the District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
9. 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 District;
10. 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;

11. the District, 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 District'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 District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;
12. the Obligations must contain a provision requiring the District to cause the District's sales and use tax, at its current rate or at a higher rate if legally permitted, to be levied and collected continuously throughout the boundaries of the District to the maximum extent legally permitted until all the Obligations have been paid in full or until they are lawfully defeased, necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
13. the Obligations must include a provision requiring the District to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project and after completion of a final accounting in a manner approved by the Executive Administrator;
14. prior to closing, the District shall submit documentation evidencing the continuing levy and collection of a sales tax rate sufficient for the repayment of all system debt service requirements;
15. the District 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);
16. the Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
17. the Obligations must provide that the District 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;
18. the Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project;

19. the Obligations must provide that the District will submit annually, an audit prepared by a certified public accountant in accordance with generally accepted auditing standards;
20. the Obligations must contain a covenant that the District will abide by all applicable construction contract requirements related to the use of iron and steel products and manufactured goods produced in the United States, as required by Texas Water Code § 17.183;

Conditions Related to Tax-exempt Status:

20. the District'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 District when rendering this opinion;
21. the District's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the District when rendering this opinion;
22. the Obligations must include a provision prohibiting the District from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code), and the Treasury Regulations promulgated thereunder (Regulations);
23. 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;

24. the Obligations must include a provision requiring the District 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 District 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 District may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the District, provided that the District 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 District 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;
25. the Obligations must include a provision prohibiting the District from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
26. the Obligations must provide that the District will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;

27. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the District's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
28. the District's Federal Tax Certificate shall provide that the weighted average maturity of the Obligations purchased by the TWDB does not exceed 120% of the weighted average reasonably expected economic life of the Project;
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;
30. the Obligations must provide that neither the District 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 District by the TWDB;

EDAP Conditions:

31. the Obligations must include a provision that requires compliance with Texas Water Code § 16.356 that no revenues received from rates or fees collected from the water supply or wastewater system constructed in whole or in part from this commitment shall be used for any purposes other than utility purposes and that the annual financial statement prepared by the District under Texas Water Code § 49.191 shall include a specific report on compliance with this condition;
32. prior to the release of funds provided for construction, the District must provide the TWDB with evidence satisfactory to the Executive Administrator that the District has received and will maintain a designation as an authorized agent of the Texas Commission on Environmental Quality, in compliance with Texas Health and Safety Code § 366.035;
33. the Obligations must include a provision that requires the District adequately enforce the authority granted to the District by Texas Water Code § 17.934(a)(2) to require and ensure that all property owners capable of receiving service from the system constructed with the funds provided by this resolution are actually connected to the sewer system constructed by these funds within a reasonable period of time not to exceed 90 days from the date the District notifies the property owner that service is available; provided, however, that the Executive Administrator may extend this time upon written request for good cause shown;

Pledge Conditions for the Loan:

34. 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;
35. if the District has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;
36. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if net system revenues are at least 1.25 times the average annual debt service requirements after giving effect to the additional obligations when net revenues are determined from the last completed fiscal year or a 12 consecutive calendar month period ending not more than ninety (90) days preceding the adoption of the additional obligations as certified by a certified public accountant;

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

38. the District must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility;
39. the Obligations must include a provision requiring that, prior to any action by the District to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB.
40. prior to closing, the District and the Executive Administrator shall execute a Grant Agreement that sets forth the terms and uses of the grant funds;
41. the Grant Agreement must include a provision stating that the District shall return any grant funds that are determined to be Surplus Funds in a manner determined by the Executive Administrator; and
42. prior to closing the District must receive approval to issue the Obligations from the City in accordance with Special District Local Laws Code § 3847.105.

APPROVED and ordered of record this 6th day of June 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

Review Date:

Project ID:

Water

Wastewater

Other

WATER CONSERVATION REVIEW

Entity:

Other entity:

WATER CONSERVATION PLAN DATE:**Approvable****Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD
Baseline			
5-year Goal			
10-year Goal			

WATER LOSS AUDIT YEAR:

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:

ILI¹:

1 – Infrastructure Leakage Index only applicable if > 16 connections per mile and > 3,000 service connections

WATER LOSS THRESHOLDS

Water Loss Project:

Wholesale Adjusted:

Threshold Type:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day

Does the applicant meet Water Loss Threshold Requirements?

Yes**No****NA****ADDITIONAL INFORMATION****STAFF NOTES AND RECOMMENDATIONS**

DEFINITIONS

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

Apparent losses are paper losses that occur when the water reaches a customer, but the volume is not accurately measured and/or recorded due to unauthorized consumption, customer meter inaccuracy, or billing system and collection data errors.

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

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

GPCD means gallons per capita per day.

GCD means gallons per connection per day.

Infrastructure Leakage Index (ILI) is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 3,000 connections and a connection density of more than 16 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a bench marking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

NA means not applicable.

Real losses are the physical losses, largely leakage, from the infrastructure: mains, valves, and storage tank overflows. Real loss constitutes background leakage (unreported and difficult to detect), unreported leakage (leaks that do not surface but could be detected), and reported leakage (leaks that often surface and those that are detected by the utility through leak detection).

Residential GPCD is the amount of residential water use (single and multi-family customer use) divided by the residential population divided by 365.

Total GPCD is the amount of total system input volume divided by the retail population divided by 365.

Total water loss is the sum of the apparent and real water losses.

Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

Water Loss GPCD is the amount of water loss divided by the retail population divided by 365.

Water Loss per Connection per Day Calculated as the water loss volume divided by the number service connections divided by 365. This indicator allows for reliable performance tracking in the water utility's efforts to reduce water losses. It replaces water loss percentage.

Water Loss Thresholds are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

Wholesale Adjusted represents that some utilities provide large volumes of wholesale water to other providers that travel through the general distribution system, so a calculation has been established to adjust for that volume of wholesale water. These adjustments are only applicable for use in determining whether a utility meets or exceeds water loss thresholds in review of their application for financial assistance. These adjustments should not be used for performance tracking or benchmarking.

May 12, 2023

RECOMMENDATION FOR NUISANCE DETERMINATION

Under the Economically Distressed Areas Program (EDAP) the eligible grant percentage for an applicant cannot exceed 50 percent unless a public health and safety nuisance exists, as determined by either the Texas Water Development Board (TWDB) or the Texas Department of State Health Services (DSHS).

The TWDB has received a request to review the following project for issuance of a Nuisance Determination:

Airline Improvement District, Harris County, Texas
TWDB EDAP Project No. **10459**
Water and Sanitary Sewer Extensions to Lillja Area
Total Anticipated Financial Assistance: \$3,819,000

The Airline Improvement District (District) is proposing to use \$3,819,000 in financial assistance from EDAP to design and construct water lines and sanitary sewer lines in the Lillja area. The proposed project will provide the area with first time water and sanitary sewer service. The District has implemented similar projects funded by the TWDB in areas adjacent to the proposed project location that have received a nuisance determination from the DSHS.

EDAP ELIGIBILITY AND PROJECT PRIORITIZATION

The TWDB performed an eligibility and prioritization review based on the criteria outlined in the 2022 EDAP Intended Use Plan (IUP). The review confirmed absence of potable water, deteriorating and compromised water wells, and failing wastewater service in the proposed project area.

GRANT CALCULATION

The District received a 50 percent preliminary grant calculation determined during the eligibility review based on documentation provided within the Abridged Application. On January 27, 2023, the TWDB invited the District to request a TWDB review for issuance of a Nuisance Determination. The invitation included the EDAP Nuisance Determination

Recommendation for Nuisance Determination
Airline Improvement District, Harris County, Texas
TWDB EDAP Project No. 10459
May 12, 2023

Request Form and Supporting Documentation Checklist. Under the 2022 EDAP IUP, projects may be eligible for a maximum grant amount of 70 percent if a public health nuisance exists.

NUISANCE DETERMINATION REQUEST

On March 1, 2023, the TWDB received the District's Nuisance Determination review request. The request includes a summary of the problem, detailed maps of the proposed project areas, a public health nuisance determination made by Texas Environmental Design, LLC, an attestation by the Harris County Commissioner-Precinct 2, and other supporting documentation.

PROJECT AREA AND PROJECT SCOPE VERIFICATION

The TWDB performed a technical review of the Abridged Application, including review of the proposed project scope and area, evaluated and scored during the eligibility review, and compared it to the proposed project scope and area identified in the Nuisance Determination request and in the complete application for financial assistance received on February 3, 2023.

The TWDB concludes that the project scope and area identified in the Abridged Application, Nuisance Determination request, and completed application for financial assistance are consistent, and the issues identified in the Nuisance Determination request will be addressed by the proposed project.

EXECUTIVE ADMINISTRATOR'S RECOMMENDATION

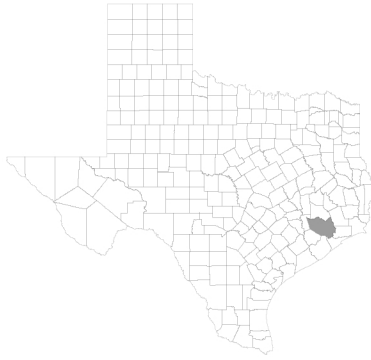
After technical review of the District's Nuisance Determination request and supporting documentation, the Executive Administrator (EA) concurs with the determination that a nuisance, dangerous to the public health and safety, exists in the proposed project area and that the proposed project will contribute to resolving the issues identified in the request.

The EA recommends that the TWDB determine a condition of nuisance exists for the area of the proposed project. The recommendation is based on staff's desk review of the supporting documentation provided by the District and verification that a public health nuisance, as defined in Section 341.011 of the Health and Safety Code and 30 Texas Administrative Code Chapter 290 exists in the proposed project area.

Sincerely,

Jessica N Pena  Digitally signed by Jessica N Pena
Date: 2023.05.23 07:41:26 -05'00'

Jessica Peña
Deputy Executive Administrator
Texas Water Development Board



Airline Improvement District Harris County

