

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: October 30, 2018

TEAM MANAGER: Caaren Skrobarczyk

| | |
|---------------------------|--|
| APPLICANT | City of Hillsboro |
| TYPE OF ASSISTANCE | \$3,130,000 Financing |
| LEGAL PLEDGE | Ad Valorem Tax and Surplus Net Revenues of the Water and Wastewater System |

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution a request from the City of Hillsboro (Hill County) for \$3,130,000 in financing from the Drinking Water State Revolving Fund for planning, acquisition, design, and construction of water system improvements and a request for a waiver of the requirement to include funds to mitigation water loss as part of this project.

PROJECT

City of Hillsboro Water System Improvements
Project Number 62799

BACKGROUND

The City of Hillsboro (City) is the county seat and principal commercial center of Hill County. It is located approximately 30 miles north of the City of Waco on Interstate Highway 35. The City provides water and wastewater services to a population of approximately 8,600.

The City needs to make water system improvements to maintain its long-term water supply and improve system performance. The northern and downtown areas of the City have inadequate water service due to low pressure. The proposed project includes construction of a new elevated storage tank, new pump station, modifications of an existing storage tank, and a new water main.

FINANCIAL

Key Issues

A favorable financial, managerial, and technical (FMT) assessment for the City was issued by the Texas Commission on Environmental Quality (TCEQ) on June 27, 2018.

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE OCTOBER 31, 2019

Pledge and Repayment

The City of Hillsboro is pledging ad valorem taxes and surplus net revenues for the repayment of the proposed loan. The City's current combined average monthly water and wastewater rate is \$76.25. The City currently levies an interest and sinking tax rate of \$0.1858 per one hundred dollars of assessed valuation. Based on staff's analysis of financial documentation received, current system revenues are 1.11 times the proposed debt service in the first year of principal repayment. This rate produces system revenues that are sufficient to meet current and proposed debt service requirements. The City is also planning a \$2.29 water and sewer rate increase in October 2018, which is not included in the analysis.

Cost Savings

Based on a 20-year maturity and current interest rates, the City could save approximately \$415,785 over the life of the financing.

Internal Risk Score

Staff assigns a 2B to the City and recommends the proposed project to be funded by the Texas Water Development Board. This means that the City's payment capacity is adequate.

The results of the City's financial sustainability indicators are adequate. These more heavily weighted risk score indicators show the City's short-term and long-term ability to repay the debt. The revenues available for debt service provide an adequate coverage ratio representing 1.11 times the current and proposed debt service in the first year of principal repayment. The City's level of reinvestment in the assets of the utility's infrastructure is adequate with an asset condition ratio of 19 years. An asset condition ratio of 12 to 24 years is considered typical.

The City's socioeconomic indicators are slightly lower than the state overall. The City's population has decreased at an average annual rate of 0.06 percent since 2010, compared to an increase at an annual rate of 1.08 percent for the population of the state overall. The City's median household income is \$34,475, which is 63 percent of the median for the state overall. The average, unadjusted, unemployment rate for City was 3.8 percent in July 2018, compared to 4.0 percent in the state overall, and the national rate of 3.7 percent.

Based on the City's current median household income, the number of connections, and current utility system rates, the current household cost factor of 2.65 percent exceeds the industry benchmark of 2 percent for water and wastewater service.

Most of the City's debt is supported by ad valorem taxes, with additional revenues provided by the water and wastewater systems and hotel occupancy tax. The utility system's self-supporting debt compared to operating revenues, including the proposed loans, is very strong at 1.29. A debt to operating revenues ratio of 4 to 6 is considered typical for utility systems. The system maintains adequate reserves with unrestricted cash and short-term investments of approximately 37 days of the operating expenses of the utility system. Any amount between 30 and 150 days is an adequate level of liquidity.

The financial management of the utility system is adequate. The City has a slightly decreasing population, a median household income that is below the state average, and a water and wastewater household cost factor that is slightly higher than the benchmark. However, the City maintains strong fund balances in both the utility fund and general fund, and the unemployment in the County is below the state average.

While the City's socioeconomic factors are lower than the state benchmarks, there are a few positive factors. The City's sales tax collections have increased by approximately 22 percent over the last 5 years and the City's assessed valuation has also increased by approximately 19 percent since 2012, indicating growth and continued improvements. The top ten taxpayers have shifted from mostly manufacturing businesses in 2010 to a more diverse mix of manufacturing, real estate, and medical facilities in 2017. The mix of socioeconomic factors and the adequate financial sustainability indicators support the assigned risk score of 2B.

LEGAL

Key Issues

The City is requesting a waiver of the requirement that a portion of the funds be used to mitigate the City's system water loss because the City is using U.S. Economic Development Administration funding to remove a leaking ground storage tank from service. The City is also in negotiations with its wholesale supplier to add master meters on all supply lines, which will enable the City to accurately assess its water use and water loss.

Conditions

Standard Drinking Water State Revolving Fund, tax-exempt, tax and surplus net revenue conditions.

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

Project Data Summary

| | |
|--|--|
| Responsible Authority | City of Hillsboro |
| Program | Drinking Water State Revolving Fund |
| Commitment Code | L1000813 |
| Project Number | 62799 |
| Intended Use Plan Year | 2018 |
| Type of Pledge | 3- Combo Tax and Rev |
| Revenue Pledge Level | First |
| Legal Description | \$3,130,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018 |
| Tax-exempt or Taxable | Tax-exempt |
| Refinance | No |
| Outlay Requirement | Yes |
| Disbursement Method | Escrow |
| Outlay Type | Outlay = Escrow |
| Population | 8,600 |
| Rural | Yes |
| Water Connections | 3,262 |
| Wastewater Connections | 3,183 |
| Qualifies as Disadvantaged | Yes |
| Clean Water State Revolving Fund Type | N/A |
| SWIFT Financing Type | N/A |
| SWIFT Characteristic | N/A |
| Financial Managerial & Technical Complete | Yes |
| Funding Phase Code | Planning, Acquisition, Design, and Construction |
| Pre-Design | Yes |
| Project Consistent with Water Plan | Yes |
| Water Conservation Plan | Adopted |
| Water Rights Certification Required | No |
| Internal Risk Score | 2B |
| External Ratings (for SRF rates) | |
| Standard and Poor's | A+ |
| Moody's | A3 |
| Fitch | Non-Rated |
| Special Issues | None |

Project Team

| | |
|------------------------|--------------------|
| Team Manager | Caaren Skrobarczyk |
| Financial Analyst | Lina Linehan |
| Engineering Reviewer | Kevin Smith |
| Environmental Reviewer | Chris Caran |
| Attorney | Joe Reynolds |

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Hillsboro

\$3,130,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018

Dated Date: 12/15/2018
Delivery Date: 12/15/2018
First Interest: 6/15/2019
First Principal: 12/15/2019
Last Principal: 12/15/2038
Fiscal Year End: 09/30
Required Coverage: 1.1

Source: DWSRF
Rate: 1.60%
IUP Year: 2018
Case: Tax & Revenue
Admin.Fee: \$65,879
Admin. Fee Payment Date: 12/15/2018
Total Assessed Valuation: \$479,749,880

| FISCAL YEAR | CURRENT TAX RATE | TAX REVENUES WITH COLL. @ 90% | PROJECTED NET SYSTEM REVENUES | PROJECTED TOTAL REVENUES | CURRENT DEBT SERVICE | \$3,130,000 ISSUE | | | | TOTAL DEBT SERVICE | COVERAGE |
|-------------|------------------|-------------------------------|-------------------------------|--------------------------|----------------------|-------------------|---------------|------------------|---------------|--------------------|----------|
| | | | | | | PRINCIPAL PAYMENT | INTEREST RATE | INTEREST PAYMENT | TOTAL PAYMENT | | |
| 2019 | \$0.1858 | \$802,238 | \$803,276 | \$1,605,514 | \$1,277,346 | \$0 | - | \$25,040 | \$25,040 | \$1,302,386 | 1.23 |
| 2020 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 1,261,096 | 135,000 | 1.60% | 49,000 | 184,000 | 1,445,096 | 1.11 |
| 2021 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 1,274,546 | 135,000 | 1.60% | 46,840 | 181,840 | 1,456,386 | 1.10 |
| 2022 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 1,285,881 | 135,000 | 1.60% | 44,680 | 179,680 | 1,465,561 | 1.10 |
| 2023 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 756,101 | 140,000 | 1.60% | 42,480 | 182,480 | 938,581 | 1.71 |
| 2024 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 756,001 | 145,000 | 1.60% | 40,200 | 185,200 | 941,201 | 1.71 |
| 2025 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 765,536 | 145,000 | 1.60% | 37,880 | 182,880 | 948,416 | 1.69 |
| 2026 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 719,406 | 150,000 | 1.60% | 35,520 | 185,520 | 904,926 | 1.77 |
| 2027 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 409,126 | 150,000 | 1.60% | 33,120 | 183,120 | 592,246 | 2.71 |
| 2028 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 408,360 | 150,000 | 1.60% | 30,720 | 180,720 | 589,080 | 2.73 |
| 2029 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 287,238 | 155,000 | 1.60% | 28,280 | 183,280 | 470,518 | 3.41 |
| 2030 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 287,625 | 155,000 | 1.60% | 25,800 | 180,800 | 468,425 | 3.43 |
| 2031 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 132,650 | 160,000 | 1.60% | 23,280 | 183,280 | 315,930 | 5.08 |
| 2032 | 0.1858 | 802,238 | 803,276 | 1,605,514 | 133,900 | 160,000 | 1.60% | 20,720 | 180,720 | 314,620 | 5.10 |
| 2033 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 165,000 | 1.60% | 18,120 | 183,120 | 183,120 | 8.77 |
| 2034 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 165,000 | 1.60% | 15,480 | 180,480 | 180,480 | 8.90 |
| 2035 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 170,000 | 1.60% | 12,800 | 182,800 | 182,800 | 8.78 |
| 2036 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 175,000 | 1.60% | 10,040 | 185,040 | 185,040 | 8.68 |
| 2037 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 175,000 | 1.60% | 7,240 | 182,240 | 182,240 | 8.81 |
| 2038 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 180,000 | 1.60% | 4,400 | 184,400 | 184,400 | 8.71 |
| 2039 | 0.1858 | 802,238 | 803,276 | 1,605,514 | - | 185,000 | 1.60% | 1,480 | 186,480 | 186,480 | 8.61 |
| | | | | \$34,787,509 | \$9,754,812 | \$3,130,000 | | \$553,120 | \$3,683,120 | \$13,437,932 | |

| | |
|-----------------------------------|--------------------|
| AVERAGE (MATURITY) LIFE | 11.04 YEARS |
| NET INTEREST RATE | 1.600% |
| COST SAVINGS | \$415,785 |
| AVERAGE ANNUAL REQUIREMENT | \$639,902 |

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.

**Hillsboro
62799 City of Hillsboro Water System
Improvements
Engineering and Environmental Review**

Engineering:

Key Issues:

None known at this time.

Project Need/Description

Project Need: The City of Hillsboro (City) needs to make water system improvements to maintain its long-term water supply and improve system performance. The northern and downtown areas of the City have inadequate water service due to low pressure.

Project Description: The proposed project will construct a composite elevated storage tank and modify an existing elevated storage tank and ground storage tank, construct a new pump station and modify an existing pump station. The project also includes site piping with valve modifications, new system controls, and new 12-inch water main to connect to the existing distribution system. The project also includes land acquisition for elevated storage tank site.

Project Schedule:

| Project Task | Schedule Date |
|---|----------------------|
| Closing | 12/15/2018 |
| Engineering Feasibility Report Completion (End of Planning Phase) | 1/1/2019 |
| Design Phase Complete | 2/1/2019 |
| Start of Construction | 6/1/2019 |
| Construction Completion | 8/1/2020 |

Environmental Section:

Key Issues:

None known at this time.

Environmental Summary:

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude completion of the project. Based on this initial review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect implementation of the project.

Pursuant to the requirements of 31 Texas Administrative Code Chapter 371, Subchapter E, all financial assistance shall be conditioned that funding for acquisition, design, and construction of specific project elements will not be released until an environmental review has been completed and a favorable environmental determination has been issued.



Project Budget Summary
 Hillsboro
 62799 - City of Hillsboro Water System
 Improvements

| Budget Items | TWDB Funds | Total |
|--|-----------------------|-----------------------|
| Construction | | |
| Construction | \$2,605,000.00 | \$2,605,000.00 |
| Subtotal for Construction | \$2,605,000.00 | \$2,605,000.00 |
| Basic Engineering Services | | |
| Construction Engineering | \$123,500.00 | \$123,500.00 |
| Design | \$176,925.00 | \$176,925.00 |
| Subtotal for Basic Engineering Services | \$300,425.00 | \$300,425.00 |
| Special Services | | |
| Environmental | \$5,700.00 | \$5,700.00 |
| Geotechnical | \$5,575.00 | \$5,575.00 |
| Inspection | \$25,000.00 | \$25,000.00 |
| Surveying | \$4,000.00 | \$4,000.00 |
| Subtotal for Special Services | \$40,275.00 | \$40,275.00 |
| Fiscal Services | | |
| Bond Counsel | \$25,000.00 | \$25,000.00 |
| Financial Advisor | \$22,000.00 | \$22,000.00 |
| Issuance Costs | \$10,865.00 | \$10,865.00 |
| Loan Origination Fee | \$65,879.00 | \$65,879.00 |
| Subtotal for Fiscal Services | \$123,744.00 | \$123,744.00 |
| Other | | |
| Land/Easements Acquisition | \$40,000.00 | \$40,000.00 |
| Project Legal Expenses | \$5,000.00 | \$5,000.00 |
| Subtotal for Other | \$45,000.00 | \$45,000.00 |
| Contingency | | |
| Contingency | \$15,556.00 | \$15,556.00 |
| Subtotal for Contingency | \$15,556.00 | \$15,556.00 |
| Total | \$3,130,000.00 | \$3,130,000.00 |

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$3,130,000 TO CITY OF HILLSBORO
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$3,130,000 CITY OF HILLSBORO, TEXAS, COMBINATION TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2018

(18 -)

WHEREAS, the City of Hillsboro (City), located in Hill, has filed an application for financial assistance in the amount of \$3,130,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design and construction of certain water system improvements identified as Project No. 62799; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$3,130,000 City of Hillsboro, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018 (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of ad valorem taxes and a lien on the surplus revenue of the City's water and wastewater system 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 § 371.13; and

WHEREAS, the City is requesting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss because the City is using non-TWDB funding to remove a leaking ground storage tank that accounts for some of its water loss. Further, the City is in the process of installing or replacing meters to provide a more accurate measurement of usage and loss; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has adopted and implemented 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's rules;

4. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and 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, as required by Texas Water Code § 16.053(j);
5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. that based on the conditions, as described above, that the City is satisfactorily addressing the City's system water loss which supports a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss in accordance with Texas Water Code § 16.0121(g);

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

1. For the reasons stated above, the TWDB hereby waives the requirements of Texas Water Code § 16.0121(g); and
2. A commitment is made by the TWDB to the City of Hillsboro for financial assistance in the amount of \$3,130,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$3,130,000 Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018. This commitment will expire on October 31, 2019.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 371;

4. 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;
5. 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;
6. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
7. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;
8. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) 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 (3) deposit into a reserve fund;
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 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 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;
12. 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;
13. prior to closing, and if not previously provided with the application, the City shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;
14. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
15. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
16. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;

Conditions Related To Tax-Exempt Status

17. the City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion;

18. the City'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 City when rendering this opinion;
19. the Obligations must include a provision prohibiting the City 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);
20. 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;
21. the Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 148 of the Code. The Obligations must provide that the City will:
 - a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its Loan with other money of the City, provided that the City separately accounts for each receipt

and expenditure of such Gross Proceeds and the obligations acquired therewith;

- b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its 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 City 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;
- 22. the Obligations must include a provision prohibiting the City from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
 - 23. 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;
 - 24. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the City's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
 - 25. 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;
 - 26. the Obligations must provide that neither the City nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the City by the TWDB;

State Revolving Fund Conditions

27. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
28. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
29. the Obligations must include a provision stating that the City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;
30. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;
31. The Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

32. prior to or at closing, the City shall pay a 2.15% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371 and the applicable Intended Use Plan;
33. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the City has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;

34. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

Pledge Conditions for the Loan

35. 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;

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

- ii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, 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 which 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 which 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;

APPROVED and ordered of record this 30th day of October, 2018.

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, Chairman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

WATER CONSERVATION REVIEW

Entity: _____

Review date: _____

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

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

WATER LOSS AUDIT YEAR:

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

WATER LOSS THRESHOLDS:

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

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

ADDITIONAL INFORMATION:

STAFF NOTES AND RECOMMENDATIONS:

DEFINITIONS

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

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

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

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

GPCD means gallons per capita per day.

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

NA means not applicable.

Produced water is the total amount of water purchased or produced by the utility.

Real loss comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

Residential GPCD is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

Total baseline GPCD is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

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

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

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



City of Hillsboro Hill County

