AGENDA ITEM MEMO

BOARD MEETING DATE: July 22, 2021

TO: Board Members

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

FROM: T. Clay Schultz, Ph.D., Director Regional Water Project Development
      Joe Koen, Manager, Regional Water Project Development

SUBJECT: Amendment to the City of Justin’s Closing Schedule

ACTION REQUESTED
Amend by resolution the previously adopted Texas Water Development Board Resolution No. 17-075, as amended by Resolution No. 20-062, to modify the City of Justin’s (Denton County) State Water Implementation Revenue Fund for Texas annual loan closing schedule and to extend a portion of the commitment.

BACKGROUND
In 2017, the Texas Water Development Board (TWDB), through Resolution No. 17-075 approved a $12,000,000 multi-year commitment to the City of Justin (City) from the State Water Implementation Revenue Fund for Texas (SWIRFT) for a water main replacement project, as part of the City’s water loss control and conservation efforts, with anticipated closings through 2021. In 2019, the commitment was amended by Resolution No. 19-072, to modify the closing schedule and extend its multi-year commitment from 2021 to 2022. In 2020, the commitment was amended, by Resolution No. 20-062, to modify the closing schedule and extend its multi-year commitment from 2022 to 2024. This allowed the City to utilize remaining funds prior to closing on the next commitment. The City has completed construction of Phase 1 of the Water System Improvements, and Phase 2 of the Water System Improvements will begin construction later this year.
KEY ISSUES
The City's construction contracts have been completed under budget. This schedule change will allow the City to complete the next phase of construction before closing on funds required for the final phase of the project, and also better align the closings with remaining construction phases.

The requested changes to the Annual Loan Closing Schedule are shown below.

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<th>Year</th>
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RECOMMENDATION
The Executive Administrator recommends that TWDB Resolution No. 17-075, as amended by Resolution Nos. 19-072 and 20-062, be amended to extend the commitment to reflect the Annual Loan Closing Schedule described above and as attached. The requested amendment does not change the total amount of funding and does not extend the final expiration date, but only one of the interim dates to better align the available financing with the City’s needs.

Attachment(s):
1. Proposed TWDB Resolution (21- )
2. TWDB Resolution (20-062)
3. TWDB Resolution (19-072)
4. TWDB Resolution (17-075)
5. City’s 2019 response to Annual Loan Closing Schedule
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 17-075, AS AMENDED BY TEXAS WATER DEVELOPMENT BOARD RESOLUTION NOS. 19-072 AND 20-062 TO PROVIDE FINANCIAL ASSISTANCE TO THE CITY OF JUSTIN IN THE AMOUNT OF $12,000,000

WHEREAS, at its July 20, 2017 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 17-075, made a multi-year commitment to the City of Justin (City) for financial assistance in the amount of $12,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of $12,000,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation, all as is more specifically set forth in the TWDB’s Resolution Nos. 17-075, 19-072, and 20-062 and accompanying documentation, to which documents express reference is made; and

WHEREAS, the City closed on the 2017 portion of the commitment in the amount of $2,400,00; and

WHEREAS, at its July 22, 2019, meeting the TWDB, through Resolution No. 19-072, amended TWDB Resolution 17-075, as amended by TWDB Resolution No. 20-062, to extend the City’s Annual Loan Closing Schedule for the 2019 commitment and 2021 commitment;

WHEREAS, at its July 23, 2020, meeting the TWDB, through Resolution No. 20-062, amended TWDB Resolution 17-075, as amended by TWDB Resolution No. 19-072, to extend the City’s Annual Loan Closing Schedule for the 2022 commitment;

WHEREAS, the City seeks an amendment to TWDB Resolution No. 17-075, as amended by TWDB Resolution Nos. 19-072 and 20-062, to modify Annual Loan Closing Schedule to combine and redistribute the closing amounts for its multi-year commitments from 2021 to 2024. This will allow the City to better align the closings with the remaining construction phases; and

WHEREAS, the TWDB hereby finds that the proposed amendments to TWDB Resolution No. 17-075, as amended by TWDB Resolution Nos. 19-072 and 20-062, as requested by the City, are reasonable and within the public interest and will serve a public purpose; and

WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law;
NOW, THEREFORE, based on these considerations and findings, the TWDB resolves as follows:

1. The commitment made through TWDB Resolution No. 17-075, as amended by TWDB Resolution Nos. 19-072 and 20-062, to the City of Justin for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be evidenced by the TWDB’s proposed purchase of City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation, in accordance with the annual loan closing schedule:
   
a. $2,400,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation Proposed Series 2021, to expire on December 31, 2021;
   
b. $4,800,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation Proposed Series 2024, to expire on December 31, 2024; and

2. All other terms and conditions of TWDB Resolution No. 17-075, as amended by TWDB Resolution Nos. 19-072 and 20-062, shall remain in full force and effect.

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

TEXAS WATER DEVELOPMENT BOARD

__________________________
Brooke T. Paup, Chairwoman

DATE SIGNED: ________________

ATTEST:

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Jeff Walker, Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 17-075, AS AMENDED BY TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 19-072, TO PROVIDE FINANCIAL ASSISTANCE TO THE CITY OF JUSTIN IN THE AMOUNT OF $12,000,000

(20-062)

WHEREAS, at its July 20, 2017 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 17-075, made a multi-year commitment to the City of Justin (City) for financial assistance in the amount of $12,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of $12,000,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation, all as is more specifically set forth in the TWDB’s Resolution Nos. 17-075 and 19-072 and accompanying documentation, to which documents express reference is made; and

WHEREAS, the City closed on the 2017 portion of the commitment in the amount of $2,400,000; and

WHEREAS, at its July 22, 2019, meeting the TWDB, through Resolution No. 19-072, amended TWDB Resolution 17-075 to extend the City’s Annual Loan Closing Schedule for the 2019 commitment and 2021 commitment;

WHEREAS, the City seeks an amendment to TWDB Resolution No. 17-075, as amended by TWDB Resolution No. 19-072, to modify the City’s Annual Loan Closing Schedule to extend its multi-year commitments from 2022 to 2024. The City’s request will divide the amended proposed 2022 commitment into three commitments and extend the commitment from 2022 to 2024. This will allow the City to better align the closings with the remaining construction phases; and

WHEREAS, the TWDB hereby finds that the proposed amendments to TWDB Resolution No. 17-075, as amended by TWDB Resolution No. 19-072, as requested by the City, are reasonable and within the public interest and will serve a public purpose; and

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

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

1. The commitment made through TWDB Resolution No. 17-075, as amended by TWDB Resolution No. 19-072, to the City of Justin for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be
evidenced by the TWDB's proposed purchase of the $9,600,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation, in accordance with the annual loan closing schedule proposed below:

a. $2,400,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation Proposed Series 2020, to expire on December 31, 2020;

b. $1,200,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation Proposed Series 2021, to expire on December 31, 2021;

c. $2,000,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation Proposed Series 2022, to expire on December 31, 2022;

d. $4,000,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation Proposed Series 2024, to expire on December 31, 2024; and

2. All other terms and conditions of TWDB Resolution No. 17-075, as amended by TWDB Resolution No. 19-072, shall remain in full force and effect.

APPROVED and ordered of record this the 23rd day of July, 2020.

TEXAS WATER DEVELOPMENT BOARD

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Peter M. Lake, Chairman

DATE SIGNED: 7/23/20

ATTEST:

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Jeff Walker, Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD
RESOLUTION NO. 17-075
TO PROVIDE FINANCIAL ASSISTANCE TO THE CITY OF JUSTIN
IN THE AMOUNT OF $12,000,000

(19-072)

WHEREAS, at its July 20, 2019 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 17-075, made a multi-year commitment to the City of Justin (City) for financial assistance in the amount of $12,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of $12,000,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation, all as is more specifically set forth in the TWDB's Resolution No. 17-075 (Resolution) and accompanying documentation, to which documents express reference is made; and

WHEREAS, the City closed on the 2017 portion of the commitment in the amount of $2,400,000; and

WHEREAS, by correspondence dated February 8, 2019, the City requests that the TWDB amend the Resolution to modify the City's Annual Loan Closing Schedule to reflect extending the 2019 commitment to 2020, and extending the 2021 commitment to 2022; and

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolution No. 17-075 as requested by the City, are reasonable and within the public interest and will serve a public purpose; and

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

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

1. The commitment made through the Resolution to the City of Justin for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be evidenced by the TWDB's proposed purchase of the City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation in accordance with the annual loan closing schedule proposed below:

   a. $2,400,000 Proposed Series 2020, to expire on December 31, 2020;
   b. $7,200,000 Proposed Series 2022, to expire on December 31, 2022.

2. All other terms and conditions of TWDB Resolution No. 17-075 shall remain in full force and effect.
APPROVED and ordered of record this the 22nd day of July, 2019.

TEXAS WATER DEVELOPMENT BOARD

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Peter M. Lake, Chairman

DATE SIGNED: 7/22/19

ATTEST:

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Jeff Walker, Executive Administrator
A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE CITY OF JUSTIN
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF $12,000,000 CITY OF JUSTIN, TEXAS TAX
AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2017 THROUGH PROPOSED SERIES 2021

(17-075)

WHEREAS, the City of Justin (City) has filed an application for financial assistance in the amount of $12,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the design and construction of certain water supply project(s) identified as Project No. 51045 (Project); and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the form of a multi-year commitment through the TWDB's proposed purchase of $12,000,000 City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2017 through proposed series 2021, (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 net revenues of the City's combined waterworks and sewer 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 § 363.1307; and

WHEREAS, as a rural political subdivision, the City qualifies for additional interest rate subsidization of up to 50 percent at the following levels: 50 percent for a term of 20 years, 33.50 percent for a term of 21 to 25 years, and 26.15 percent for a term of 26 to 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the City, pursuant to this Resolution; and

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

WHEREAS, the TWDB has carefully considered all matters required by law and in particular, whether the Project as set forth in the application meets the criteria
provided by Texas Water Code § 15.434(b) relating to a project for a rural political subdivision as defined by Texas Water Code § 15.992; and

WHEREAS, the TWDB hereby finds:

1. that the application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M;

2. that the Project is a recommended water management strategy project in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);

3. that the City is exempt from requirements to adopt a water conservation program because the City’s appropriation of surface water for municipal, industrial, and other uses is less than 1,000 acre-feet a year as required by Texas Water Code § 11.1271;

4. that the City satisfactorily completed all requests by the Executive Administrator or a regional planning group for information relevant to the Project, including a water infrastructure financing survey under Texas Water Code § 16.053(q), in accordance with 31 TAC § 363.1309(b)(2);

5. that the current water audit has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.0121 and 31 TAC § 358.6;

6. that the City is a rural political subdivision as defined by Texas Water Code § 15.992;

7. that the City has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises and any applicable state law relating to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3); and

8. that the Executive Administrator issued a Categorical Exclusion on June 15, 2017, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the City of Justin for financial assistance in the amount of $12,000,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB’s proposed purchase of
City of Justin, Texas Tax and Surplus Revenue Certificates of Obligation as follows:

a) $2,400,000 Proposed Series 2017, to expire on December 31, 2017;
b) $2,400,000 Proposed Series 2019, to expire on December 31, 2019; and
c) $7,200,000 Proposed Series 2021, to expire on December 31, 2021.

Such commitment is conditioned as follows:

**Standard Conditions:**

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;

2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that the 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;

4. this commitment is contingent upon the City executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;

5. the City shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrar to provide a copy of all receipts documenting debt service payments to the TWDB and to the TWDB’s designated Trustee;

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

6. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, on any date beginning on or after the first interest payment date that is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
7. the Obligations must include a provision wherein the 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;

8. 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;

9. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project for the following purposes as approved by the Executive Administrator: (1) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (2) eligible costs for the Project as authorized by the Executive Administrator;

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

11. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

12. loan proceeds shall not be used by the 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;

13. the Obligations must include a provision stating that the City shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312;

14. the Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB’s designated Trustee, and the Obligations shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC § 363.42(c)(1);

**Tax-exempt Conditions:**

15. 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 as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

16. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be “arbitrage bonds” within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds that were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) that produce a yield materially higher than the yield on the TWDB’s bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:

a. proceeds of the TWDB’s Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;

b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and

c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125 percent of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
17. the Obligations must include a provision requiring the 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;

18. 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;

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 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;

**Pledge Conditions:**

21. 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 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 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:

22. 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;

23. prior to closing, 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;

24. 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;

25. prior to closing, 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;

26. prior to closing, the City's bond counsel must prepare a written opinion that states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;

27. 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;

28. the transcript must include evidence that the information reporting requirements of § 149(e) of the Internal Revenue Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have
been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;

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

Special Conditions:

29. prior to execution of the financing agreement for the Obligations, the City must submit its 2016 audited financials, in form and substance acceptable to the Executive Administrator; and

30. the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator, including the standard emergency discovery conditions for threatened and endangered species and cultural resources.

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

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, Chairman

DATE SIGNED: 7-20-17

ATTEST:

Jeff Walker
Executive Administrator
### Annual Loan Closing Schedule

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

### Contact Information

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

**Josh Armstrong**

Josh Armstrong, Finance Director

Contact Name and Title

<table>
<thead>
<tr>
<th>Phone Number</th>
<th>Email Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>940-648-2541 x101</td>
<td><a href="mailto:jarmstrong@cityofjustin.com">jarmstrong@cityofjustin.com</a></td>
</tr>
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