

AGENDA ITEM MEMO

BOARD MEETING DATE: July 7, 2022

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel
Jessica Peña, Deputy Executive Administrator, Water Supply and Infrastructure

FROM: T. Clay Schultz, Ph.D., Director Regional Water Project Development
Mireya Loewe, Manager, Regional Water Project Development

SUBJECT: Amendment to the City of Corpus Christi Closing Schedule

ACTION REQUESTED

Amend by resolution previously adopted Texas Water Development Board Resolution No. 20-068, as amended by Resolution No. 21-091, to modify the City of Corpus Christi's State Water Implementation Revenue Fund for Texas annual loan closing schedule.

BACKGROUND

In 2017, the Texas Water Development Board (TWDB) approved a \$2,750,000 commitment to the City of Corpus Christi (City) from the State Water Implementation Revenue Fund for Texas (SWIRFT) for planning costs for two seawater desalinization plants (SDP).

In July 2020, the TWDB approved a \$222,475,000 multi-year commitment to the City from SWIRFT with anticipated closings through 2021 for design and construction costs for the SDP. In November 2020, the City closed on the first multi-year commitment amount of \$11,425,000. In July 2021, the TWDB amended the annual loan closing schedule of the remaining multi-year commitment and extended the commitment expiration to December 31, 2022.

The project includes completion of the permitting process for two SDPs, plus land acquisition, design, and construction of the first SDP: the Inner Harbor Ship Channel SDP (IHSC-SDP). The IHSC-SDP will be located approximately 1.5 miles from the ship channel entrance on the south bank. The IHSC-SDP will have an initial capacity of 20 million gallons

Our Mission

Leading the state's efforts in ensuring a secure water future for Texas and its citizens

Board Members

Brooke T. Paup, Chairwoman | Kathleen Jackson, Board Member

Jeff Walker, Executive Administrator

per day (MGD); however, intake and discharge facilities will be designed to accommodate a future expansion to 30 MGD. The plant will be designed to produce potable water and it will be fully integrated into the City's regional water system.

At this time, the City has not determined the timing for the design, land acquisition, and construction the second SDP.

KEY ISSUES

The City is requesting to modify its annual loan closing schedule to move its anticipated 2022 closing to 2023. The City has filed for all needed permits, and located the site for the IHSC SDP plant. However, completion of the planning phase has taken longer than originally anticipated. The City indicates that this change is needed to better align the timing of the financing with the current project schedule. The requested change to the Annual Loan Closing Schedule is shown below.

Year	Amount per Resolution No. 17-074	Amount per Resolutions Nos. 20-068 and 21-091	Proposed Revised Closing
2017	\$2,750,000		
2018	\$0		
2019	\$0		
2020	\$0	\$11,425,000	Closed
2021	\$0		\$0
2022	\$0	\$211,050,000	\$0
2023		\$0	\$211,050,000
Total	\$2,750,000	\$222,475,000	\$211,050,000

RECOMMENDATION

The requested amendment does not change the total amount of financing to the City. In order to meet the City's financing needs, better align the financing with the project schedule, and provide additional financial savings to the City, the Executive Administrator recommends that TWDB Resolution 20-068, as amended by TWDB Resolution 21-091, be amended to reflect the annual loan closing schedule described above.

Attachments:

1. Proposed Resolution (22-)
2. Resolution (21-091)
3. Resolution (20-068)
4. Resolution (17-074)
5. City's 2022 response to annual loan closing schedule

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TWDB RESOLUTION NO. 20-068, AS AMENDED BY
TWDB RESOLUTION NO. 21-091
PROVIDING FINANCIAL ASSISTANCE TO THE CITY OF CORPUS CHRISTI

(22 -)

WHEREAS, at its meeting on July 23, 2020, the Texas Water Development Board (TWDB), by TWDB Resolution No. 20-068, made a multi-year commitment to provide financial assistance in the amount of \$222,475,000 to the City of Corpus Christi (City) from the State Water Implementation Revenue Fund (SWIRFT) to finance certain water supply project(s) to be secured by the TWDB's purchase of \$222,475,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2020 and 2021, for Project No. 51052; and

WHEREAS, on November 10, 2020, the TWDB and the City closed on the TWDB's purchase of \$11,425,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Series 2020C; and

WHEREAS, pursuant to TWDB Resolution No. 20-068, the commitment period for the City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2021 was set to expire December 31, 2021; and

WHEREAS, at its meeting on July 22, 2021, by TWDB Resolution No. 21-091, the TWDB amended TWDB Resolution No. 20-068 to modify the City's Annual Loan Closing Schedule and to extend the TWDB's commitment to December 31, 2022; and

WHEREAS, the City has submitted a request to modify the City's Annual Loan Closing Schedule and to extend the TWDB's commitment for an additional twelve (12) months to better align the timing of the needed financing with the project schedule, all as is more specifically set forth in the recommendations of the TWDB's staff, to which documents express reference is made; and

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolution No. 20-068, as amended by TWDB Resolution No. 21-091, granting an extension of twelve (12) months is reasonable, within the public interest, and will serve a public purpose; and

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

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

1. The commitment made through TWDB Resolution No. 20-068, as amended by TWDB Resolution No. 21-091, is amended and shall be evidenced by the TWDB's

proposed purchase of \$211,050,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2023. The commitment will expire on December 31, 2023.

2. All other terms and conditions of TWDB Resolution No. 20-068, as amended by TWDB Resolution 21-091, shall remain in full force and effect.

APPROVED and ordered of record this, the 7th day of July, 2022.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 20-068
PROVIDING FINANCIAL ASSISTANCE TO THE
CITY OF CORPUS CHRISTI**

(21-091)

WHEREAS, at its meeting on July 23, 2020, the Texas Water Development Board (TWDB), by TWDB Resolution No. 20-068, made a multi-year commitment to provide financial assistance in the amount of \$222,475,000 to the City of Corpus Christi (City) from the State Water Implementation Revenue Fund (SWIRFT) to finance certain water supply project(s) to be secured by the TWDB's purchase of \$222,475,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2020 and 2021, for Project No. 51052; and

WHEREAS, on November 10, 2020, the TWDB and the City closed on the TWDB's purchase of \$11,425,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Series 2020C; and

WHEREAS, pursuant to TWDB Resolution No. 20-068, the commitment period for the City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2021 is set to expire December 31, 2021; and

WHEREAS, the City has submitted a request to modify the City's Annual Loan Closing Schedule and to extend the TWDB's commitment for an additional twelve (12) months in order to more closely match the available financing with the City's project schedule, all as is more specifically set forth in the recommendations of the TWDB's staff, to which documents express reference is made; and

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolution No. 20-068 granting an extension of twelve (12) months is reasonable, within the public interest, and will serve a public purpose; and

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

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

1. The commitment made through TWDB Resolution No. 20-068, is amended, and shall be evidenced by the TWDB's proposed purchase of City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds as follows:
 - a. The Proposed Series 2021 scheduled distribution is amended as follows:
 - i. \$211,050,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2022; and

- ii. The commitment will expire on December 31, 2022.
2. all other terms and conditions of TWDB Resolution No. 20-068 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
Brooke T. Paup, Chairwoman

DATE SIGNED: July 22, 2021

ATTEST:

Jeff Walker
Jeff Walker, Executive Administrator

**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO CITY OF CORPUS CHRISTI
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF \$222,475,000 CITY OF CORPUS CHRISTI,
TEXAS UTILITY SYSTEM JUNIOR LIEN REVENUE IMPROVEMENT BONDS,
PROPOSED SERIES 2020 AND PROPOSED SERIES 2021**

(20-068)

WHEREAS, the City of Corpus Christi (City) has filed an application for financial assistance in the amount of \$222,475,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, design, and construction of certain water supply project(s) identified as Project No. 51052 (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 \$222,475,000 City of Corpus Christi , Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2020 and 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 a junior lien on the net revenues of the City's utility 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;

WHEREAS, subject to the City's use of an approved debt service structure, interest rate subsidies are available to the City for State Fiscal Year 2020 at up to the following levels: 35% for financial assistance for a term of 20 years, 25% for financial assistance for a term of 21 to 25 years, and 20% for financial assistance 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; 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 a water conservation plan has been submitted and implemented in accordance with Texas Water Code § 16.4021 and 31 TAC § 363.1309(b)(1); and
4. 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).

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

A commitment is made by the TWDB to City of Corpus Christi for financial assistance in the amount of \$222,475,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds in one or more series as follows:

- a) \$11,425,000 Proposed Series 2020, to expire on December 31, 2020; and
- b) \$211,050,000 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. this commitment is contingent upon the City providing a current proforma of the City's proposed revenue to the Executive Administrator each year prior to closing;
6. interest rate subsidies for non-level debt service structure are subject to adjustment by the Executive Administrator;
7. the City shall use a paying agent/registrars in accordance with 31 TAC § 363.42(c)(2), and shall require the paying agent/registrars 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:

8. the Obligations must provide that the Obligations can be called for early redemption 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;
9. The Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
10. The Obligations must provide that the City will comply with the conditions included in the TWDB environmental finding, when issued;
11. The Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
12. 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;

13. the Obligations must include a provision requiring the City to use any proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project and completion of a final accounting in a manner approved by the Executive Administrator;
14. 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;
15. financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
16. financial assistance proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the Project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, recycling and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project to the extent permitted by law;
17. 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;
18. 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);
19. the Obligations must contain a provision stating that the City shall abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter G and Texas Water Code § 17.183;
20. the Obligations must include a provision prohibiting the City from using the proceeds of this financial assistance 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);

21. the Obligations must provide that no portion of the proceeds of the financial assistance 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 financial assistance (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;

22. 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 financial assistance 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 financial assistance, 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 providing financial assistance, and in order to induce providing financial assistance 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;
23. 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;
 24. 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;
 25. the Obligations must contain a covenant that the City will refrain from using the proceeds of the Obligations to pay debt service on another issue of obligations of the borrower in contravention of section 149(d) of the Code (related to "advance refundings");
 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;
 27. The Obligations shall be on parity with any existing obligations that are secured with the same pledge of security as the proposed Obligations; and
 28. the Obligations shall be governed by the additional debt test and reserve requirement as provided in the outstanding \$2,750,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Series 2017 held by the TWDB.

Conditions to Close or for Release of Funds:

29. 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;

30. 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;
31. 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;
32. 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;
33. 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;
34. 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;
35. 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;

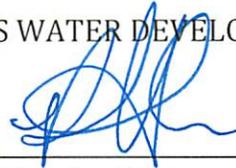
PROVIDED, however, the commitment is subject to the following special conditions:

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

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

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

TEXAS WATER DEVELOPMENT BOARD



Peter M. Lake, Chairman

DATE SIGNED: 7/23/20

ATTEST:



Jeff Walker, Executive Administrator

**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF \$2,750,000 TO
THE CITY OF CORPUS CHRISTI
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
\$2,750,000 CITY OF CORPUS CHRISTI, TEXAS UTILITY SYSTEM JUNIOR LIEN REVENUE
IMPROVEMENT BONDS, PROPOSED SERIES 2017**

(17-074)

WHEREAS, the City of Corpus Christi (City) has filed an application for financial assistance in the amount of \$2,750,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning of certain water supply project(s) identified as Project No. 51052 (Project); and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$2,750,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2017 (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 a junior lien on revenues of the utility system as sufficient security for the repayment of the Obligations; and

WHEREAS, interest rate subsidies are available to the City at the following levels: 35% for a term of 20 years, 25% for a term of 21 to 25 years, and 20% for a term of 26 to 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the 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 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 a water conservation plan has been submitted and implemented in accordance with Texas Water Code § 11.1271 and 31 TAC § 363.1309(b)(1);

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; and
6. 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).

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

A commitment is made by the TWDB to the City of Corpus Christi for financial assistance in the amount of \$2,750,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of \$2,750,000 City of Corpus Christi, Texas Utility System Junior Lien Revenue Improvement Bonds, Proposed Series 2017. This commitment will expire on December 31, 2017.

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% 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 financing 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;

21. 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 twenty-four (24) months following the expiration of the deferral period;
22. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after the term of any loan(s) made by the TWDB pursuant to this commitment, the Obligations must contain a provision providing that 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;
23. the Obligations must contain a provision providing that additional Junior Lien Obligations may be incurred only if the City has secured a certification of the City Manager to the effect that, according to the books and records of the City, the Net Earnings for the preceding Fiscal Year or for 12 consecutive months out of the 15 months immediately preceding the month the ordinance authorizing the additional junior lien obligations is adopted are at least equal to 1.15 times the Average Annual debt service requirements for all then-outstanding priority bonds and junior lien obligations after giving effect to the additional junior lien obligations then proposed;

Conditions to Close or for Release of Funds:

24. 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;
25. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the City shall execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
26. prior to closing, the City's bond counsel must prepare a written 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;
27. 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;
28. 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;

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

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

30. the Obligations must contain a provision requiring the City to submit quarterly status reports on the progress of the Project that detail information requested by the Executive Administrator. The Executive Administrator may withhold authorization to release funds from escrow or adjust the amount of funds to be released from escrow based on the receipt of the quarterly status reports and the projected quarterly needs for the Project.

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

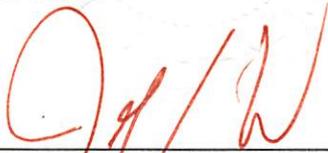
TEXAS WATER DEVELOPMENT BOARD



Bech K. Bruun, Chairman

DATE SIGNED: 7-20-17

ATTEST:



Jeff Walker
Executive Administrator



Multi-Year Commitment Annual Loan Closing Schedule

City of Corpus Christi
Project# 51052
Seawater Desalination

Annual Loan Closing Schedule

Year	Amount per Resolution No. 17-074, 20-068, and 21-091	Proposed Revised Amount (If Applicable)
Prior Years Total	\$14,175,000	
2022	\$211,050,000	
2023	\$	\$211,050,000
2024	\$	
2025	\$	
2026	\$	
2027	\$	
2028	\$	
2029	\$	
2030	\$	
TOTAL	\$225,225,000	

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.

Esteban Ramos, Water Resource Manager City of Corpus Christi Water Utilities

Contact Name and Title

361-826-3294

estebanr2@cctexas.com

Phone Number

Email Address