

## AGENDA ITEM MEMO

**BOARD MEETING DATE:** April 11, 2022

**TO:** Board Members

**THROUGH:** Jeff Walker, Executive Administrator  
Ashley Harden, General Counsel  
Jessica Peña, Deputy Executive Administrator, Water Supply & Infrastructure  
Marshall Walters, Assistant General Counsel

**FROM:** T. Clay Schultz, Ph.D., Director, Regional Water Project Development  
Dain Larsen, Team Manager, Central Region

**SUBJECT:** City of Dripping Springs Project No. 73819  
Request for Extension of Multi-year Commitment

### **ACTION REQUESTED**

Amend by resolution, the previously adopted Texas Water Development Board (TWDB) Resolution Nos. 19-039, 20-043, and 21-057 to combine the two outstanding loan series and extend the expiration for the City of Dripping Springs.

### **BACKGROUND**

In April 2019, the City of Dripping Springs (City) received a \$44,395,000 multi-year commitment for financing from the Clean Water State Revolving Fund for the planning, design, and construction of a new wastewater treatment plant, reuse water plant, and expanded capacity in its collection system. The City's multi-year commitment included three bond series and loan forgiveness with amounts that expire at the end of April in 2019, 2020, and 2021. In April 2020, the 2020 series was extended by one year. In April 2021, the City received an additional one-year extension to 2022 for both of the outstanding loan series totaling \$19,895,000.

### **KEY ISSUES**

Easements acquisition and permitting have delayed the need for construction funding. The City proposes to combine the two outstanding loan series and extend the entire outstanding commitment of \$19,895,000 to August 2022. The table below summarizes this request and prior amendments:

<a href="#">Our Mission</a>	:	<a href="#">Board Members</a>
Leading the state's efforts in ensuring a secure water future for Texas and its citizens	:	Brooke T. Paup, Chairwoman   Kathleen Jackson, Board Member
	:	Jeff Walker, Executive Administrator

<b>Year</b>	<b>No. 19-039</b>	<b>No. 20-043</b>	<b>No. 21-057</b>	<b>Proposed Revised Amount</b>
2019	\$24,500,000	Closed	Closed	Closed
2020	\$9,500,000	\$0	\$0	\$0
2021	\$10,395,000	\$9,500,000	\$0	\$0
2022	\$0	\$10,395,000	\$19,895,000	\$0
Aug 2022	\$0	\$0	\$0	\$19,895,000
<b>Total</b>	<b>\$44,395,000</b>	<b>\$19,895,000</b>	<b>\$19,895,000</b>	<b>\$19,895,000</b>

Combining the outstanding loan series and extending the commitment period to August 2022 will provide sufficient time for the City to close all outstanding commitments and reduce closing costs.

**RECOMMENDATION**

In order to reduce closing costs and provide sufficient time for the City to close all outstanding commitments, the Executive Administrator recommends amending TWDB Resolution Nos. 19-039, 20-043 and 21-057 to combine the two outstanding loan series and extend the commitment by four months to August 31, 2022.

Attachment(s):

1. Resolution (22- )
2. Resolution (21-057)
3. Resolution (20-043)
4. Resolution (19-039)
5. Extension Request Letter

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
AMENDING TWDB RESOLUTION NO. 19-039,  
AS AMENDED BY TWDB RESOLUTIONS NO. 20-043 AND NO. 21-057,  
TO EXTEND THE COMMITMENT PERIOD FOR THE  
CITY OF DRIPPINGS SPRINGS

(22- )

WHEREAS, at its meeting on April 10, 2019, the Texas Water Development Board (TWDB), by TWDB Resolution No. 19-039, made a commitment to the City of Dripping Springs (City), to provide financial assistance from the Clean Water State Revolving Fund through multi-year purchases of the City's securities in the amount of \$43,395,000 and the execution of a principal forgiveness agreement in the amount of \$1,000,000, for Project No. 73819 (Project), financing certain improvements to the City's proposed wastewater system; and

WHEREAS, the TWDB and the City mutually closed on \$24,500,000 of financial assistance for the Project in 2019; and

WHEREAS, pursuant to TWDB Resolution No. 19-039, the commitment periods for certain distributions of TWDB financial assistance were set to expire April 30, 2020, and April 30, 2021; and

WHEREAS, at its meeting on April 9, 2020, by TWDB Resolution No. 20-043, the TWDB amended TWDB Resolution No. 19-039 to extend the commitment periods for certain distributions to April 30, 2021, and April 30, 2022; and

WHEREAS, at its meeting on April 22, 2021, by TWDB Resolution No. 21-057, the TWDB amended TWDB Resolution No. 19-039, as amended by TWDB Resolution No. 20-043, to extend the commitment periods for certain distributions to April 30, 2022; and

WHEREAS, the City has submitted a written request to extend the TWDB's commitment set to expire on April 30, 2022, for an additional four (4) months and to consolidate the remaining commitments into one proposed bond series, 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 granting an extension of four (4) months is in the public interest.

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

1. That the previous commitments of the TWDB to purchase \$9,500,000 City of Dripping Springs, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022 and \$10,395,000 City of Dripping Springs, Texas

Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022, are to be consolidated into one purchase by the TWDB of \$19,895,000 City of Dripping Springs, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022, set to expire August 31, 2022; and

2. All other terms and conditions of TWDB Resolution No. 19-039, as amended by TWDB Resolutions No. 20-043 and 21-057, shall remain in full force and effect.

APPROVED and ordered of record this the 11th day of April 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 TWDB RESOLUTION NO. 19-039,  
AS AMENDED BY TWDB RESOLUTION NO. 20-43,  
TO EXTEND THE COMMITMENT PERIOD FOR THE  
CITY OF DRIPPINGS SPRINGS**

**(21-057)**

WHEREAS, at its April 10, 2019 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 19-039, made a commitment to the City of Dripping Springs (City), to provide financial assistance from the Clean Water State Revolving Fund through multi-year purchases of the City's securities in the amount of \$43,395,000 and the execution of a principal forgiveness agreement in the amount of \$1,000,000, for Project No. 73819 (Project), financing certain improvements to the City's proposed wastewater system; and

WHEREAS, the TWDB and the City mutually closed on a \$23,500,000 distribution of financial assistance for the Project in 2019; and

WHEREAS, pursuant to TWDB Resolution No. 19-039, the commitment periods for certain distributions of TWDB financial assistance were set to expire April 30, 2020 and April 30, 2021; and

WHEREAS, at its April 9, 2020 meeting, the TWDB amended TWDB Resolution No. 19-039 to extend the commitment periods for certain distributions to April 30, 2021 and April 30, 2022; and

WHEREAS, the City has submitted a written request to extend the TWDB's commitment set to expire on April 30, 2022, for an additional twelve (12) months to complete the restructuring of the City's project components and budget, 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 granting an extension of twelve (12) months is in the public interest.

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

1. the commitment of the TWDB to provide financial assistance in the amount of \$9,500,000, as authorized in TWDB Resolution No. 19-039, as amended by TWDB Resolution No. 20-043, is amended to extend the commitment to April 30, 2022; and
2. all other terms and conditions of TWDB Resolution No. 19-039, as amended by TWDB Resolution No. 20-043, shall remain in full force and effect.

APPROVED and ordered of record this the 22<sup>nd</sup> day of April 2021.



TEXAS WATER DEVELOPMENT BOARD

Brooke J. Paup  
Brooke T. Paup, Chairwoman

DATE SIGNED: 4/22/21

ATTEST:

Jeff Walker  
Jeff Walker, Executive Administrator

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
AMENDING TWDB RESOLUTION NO. 19-039,  
EXTENDING THE COMMITMENT PERIOD FOR THE  
CITY OF DRIPPINGS SPRINGS

(20-043)

WHEREAS, at its April 10, 2019 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 19-039, made a commitment to the City of Dripping Springs (City), providing financial assistance through multi-year purchases of the City's securities and the execution of a principal forgiveness agreement, in the total amount of \$44,395,000 from the Clean Water State Revolving Fund, for Project No. 73819 (Project), financing certain improvements to the City's proposed wastewater system; and

WHEREAS, the TWDB and the City mutually closed on a distribution of financial assistance for the Project in 2019; and

WHEREAS, pursuant to TWDB Resolution No. 19-039, the commitment periods for certain distributions of TWDB financial assistance are set to expire in 2020 and 2021;

WHEREAS, the City has submitted a written request to extend the TWDB's commitment period on the remaining distributions of financial assistance allocated for the Project to fiscal years 2020 and 2021, 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 granting an extension of the City's commitment is in the public interest.

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

1. the commitment periods of the TWDB to provide financial assistance to the City of Dripping Springs as a multi-year commitment, as authorized in TWDB Resolution No. 19-039, is amended to extend the expiration dates of each bond series to be purchased by the TWDB as follows:
  - a. \$9,500,000 City of Dripping Springs, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2021, set to expire April 30, 2021; and
  - b. \$10,395,000 City of Dripping Springs, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022, set to expire April 30, 2022.

2. all other terms and conditions of TWDB Resolution No. 19-039 shall remain in full force and effect.

APPROVED and ordered of record this the 9th day of April, 2020.



TEXAS WATER DEVELOPMENT BOARD

A handwritten signature in blue ink, appearing to read "P. Lake", is written over a horizontal line.

Peter M. Lake, Chairman

DATE SIGNED: 4/10/20

ATTEST:

A handwritten signature in blue ink, appearing to read "Jeff Walker", is written over a horizontal line.

Jeff Walker, Executive Administrator



**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE  
IN THE TOTAL AMOUNT OF \$44,395,000  
TO THE CITY OF DRIPPING SPRINGS  
IN THE FORM OF A MULTI-YEAR COMMITMENT  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$43,395,000 CITY OF DRIPPINGS SPRINGS, TEXAS  
COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION,  
PROPOSED SERIES 2019 THROUGH PROPOSED SERIES 2021  
AND \$1,000,000 IN PRINCIPAL FORGIVENESS**

(19 - 039)

WHEREAS, the City of Dripping Springs (City), located in Hays County has filed an application for financial assistance in the amount of \$44,395,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, acquisition, design and construction of certain wastewater system improvements identified as Project No. 73819; 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 \$43,395,000 City of Dripping Springs, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2019 (together with all authorizing documents, (Obligations)), through Proposed Series 2021 and the execution of a Principal Forgiveness Agreement in an amount of \$1,000,000, 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 surplus revenues of the City's proposed 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 § 375.14; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and 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 Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *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 City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;
5. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects, and is eligible for principal forgiveness in the amount of \$1,000,000.

NOW THEREFORE, based on these findings, the TWDB resolves as follows:  
A commitment is made by the TWDB to the City of Dripping Springs, Texas for financial assistance in the amount of \$44,395,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$43,395,000 City of Dripping Springs, Texas Combination Tax and Surplus Certificates of Obligation as follows:

- a. \$23,500,000 City of Dripping Springs, Texas, Combination Tax and Surplus Revenue Certificates of Obligation Proposed Series 2019, to expire on October 31, 2019;
- b. \$9,500,000 City of Dripping Springs, Texas, Combination Tax and Surplus Revenue Certificates of Obligation Proposed Series 2020, to expire on April 30, 2020;
- c. \$10,395,000 City of Dripping Springs, Texas, Combination Tax and Surplus Revenue Certificates of Obligation Proposed Series 2021, to expire on April 30, 2021;
- d. and the execution of a Principal Forgiveness Agreement in the amount of \$1,000,000 set to expire on October 31, 2019.

The Executive Administrator is delegated the authority to adjust the schedule of proposed installments to the purchase of the City's Obligations as approved through this commitment.

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 375;
4. the Obligations must provide that the City agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;
5. 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 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;
6. 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;
7. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges, as applicable, to produce system funds 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;
8. 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;

9. 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 in a manner as approved 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 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. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges and/or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements;
14. 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;
15. 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;

16. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to 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 Obligations must contain a provision that the City will refrain from using from using the proceeds provided by this TWDB commitment or the proceeds

of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Obligations in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);

26. 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;
27. 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

28. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
29. 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 subcontractors 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;
30. 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;
31. 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;

32. the Obligations and/or Principal Forgiveness Agreement] 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 § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;
33. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
34. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average projected useful life of the project, as determined by the schedule;

#### Clean Water State Revolving Fund Conditions

35. for each proposed bond series as described in the commitment of this Resolution, the City shall pay at closing an origination fee approved by the Executive Administrator to the TWDB pursuant 31 TAC Chapter 375;
36. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;
37. 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;
38. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq* and 33 U.S.C. § 1382(b)(14).



## Pledge Conditions for the Loan

39. 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 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.

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

Special Conditions:

- 40. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
- 41. the Principal Forgiveness Agreement must include a provision stating that the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 10th day of April, 2019.



TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Peter M. Lake, Chairman

DATE SIGNED: 4/10/19

ATTEST:

\_\_\_\_\_  
Jeff Walker, Executive Administrator



## DRIPPING SPRINGS

Texas

March 1, 2022

Dain Larsen  
Manager  
Texas Water Development Board  
Regional Water Project Development | Central Region  
1700 N. Congress Ave.  
P.O. Box.13231 Austin, Texas 78711-3231

Re: City of Dripping Springs Project No. 73819  
Expansion Multi-Year Commitment Annual Closing Schedule  
South Regional Wastewater Facilities  
Resolution No. 19-039

Dear Mr. Larsen:

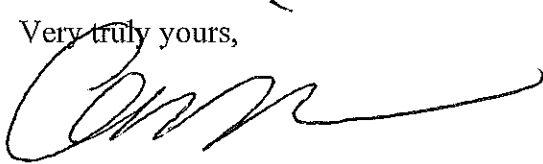
The City of Drippings Springs (City) is requesting to extend the commitment for the Series 2 \$9,500,000 closing be moved to August 2022 and reallocate the Series 3 \$10,395,000 to Series 2 (combining Series 2 and 3 into one issue) totaling \$19,895,000. The project has been delayed for the reasons listed below:

1. Easement Acquisition is taking much longer than anticipated, pushing the original schedule out more than two years. A lot of this is attributed to COVID and difficulty participating in planning meetings with property owners, other consultants, and regulatory agencies.
2. There are two property owners that are really pushing back on the project and delaying easement acquisition along the east interceptor. The City has begun the condemnation process for these easements.
3. The Finding of No Significant Impact (FNSI) for EID No. 1 submitted in May 2020 was issued on March 11, 2021. The FNSI for EID No. 2 submitted in February 2021 was issued on February 2, 2022. Design funds would not be released until the FNSIs were issued.
4. The City's discharge permit application was protested and heard at the State Office of Administrative Hearings (SOAH) as a contested case hearing. The City prevailed and the permit was issued by the Texas Commission on Environmental Quality (TCEQ). However, SOS sued the TCEQ and won the in Travis County District Court. The City is appealing the case to the Circuit Court in El Paso (Virtual Oral Arguments were heard on February 10, 2022) and is expected to eventually be tried at the Texas Supreme Court. These court hearings have delayed bidding, awarding, and construction of the WWTP. The City is very confident that the permit will be issued, but final resolution is not expected until the end of 2022.

*Open spaces, friendly faces.*

Please contact me should you have any questions or need anything further to process this request.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ginger Faught', written in a cursive style.

Ginger Faught  
City of Drippings  
Deputy City Administrator

cc: Chris Lane, Samco Capital  
Robert P. Callegari, P.E, Burgess & Niple, Inc.