



FINANCING AGREEMENT

This FINANCING AGREEMENT (Agreement) is entered into between the TEXAS WATER DEVELOPMENT BOARD (TWDB), an agency of the State of Texas, and the City of Denton (City). The TWDB and the City may be referred to as the "Party" or "Parties" in this Agreement.

RECITALS

WHEREAS, the TWDB adopted Resolution No. 24-048 (Attachment A, referred to as the Resolution) on July 23, 2024, making a commitment to the City for financial assistance in the amount of \$195,845,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) administered by the TWDB; and

WHEREAS, through this Agreement, the City intends to sell to the TWDB the City's \$10,135,000 City of Denton, Texas Utility System Revenue Bonds, Proposed Series 2024 (City's Bonds) for the TWDB's financial assistance from the SWIRFT, as further described in Attachment B; and

WHEREAS, the City shall execute separate financing agreements for the remaining amounts of the commitment made in the Resolution at a date or dates to be determined by the Executive Administrator of the TWDB; and

WHEREAS, the SWIRFT is funded in part with proceeds of the expected issuance of TWDB's revenue bonds (SWIRFT Bonds), issued under authority of Texas Water Code §§ 15.472 and 15.475, and Texas Constitution, Article III, Section 49-d-13; and

WHEREAS, the SWIRFT Bonds are additionally secured by money made available under the terms of a bond enhancement agreement executed under authority of Texas Water Code §§ 15.434 and 15.435, and Texas Constitution, Article III, Section 49-d-12; and

WHEREAS, the SWIRFT is funded, in part, with money received as repayment of financial assistance provided from the SWIRFT, under Texas Water Code § 15.472, which is used to pay the principal and interest on the SWIRFT Bonds, under Texas Water Code § 15.474, and Texas Constitution, Article III, Section 49-d-13(d) and (f); and

WHEREAS, the Resolution provides that funding the commitment is contingent on future sales of SWIRFT Bonds designated by the TWDB; and

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WHEREAS, the TWDB intends to provide financial assistance from the SWIRFT to the City with proceeds of SWIRFT Bonds designated by the TWDB; and

WHEREAS, the TWDB and the City desire to enter into this Agreement to set forth the obligations of the Parties with respect to the TWDB providing financial assistance to the City consistent with the desire of the TWDB to issue SWIRFT Bonds to provide money for the SWIRFT.

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants contained in this Agreement, the TWDB and the City agree as follows:

AGREEMENT

SECTION 1. MUTUAL COMMITMENTS. As further described in the Resolution, the TWDB committed to the City and the City hereby commits to borrow from the TWDB an amount not to exceed \$<<AMOUNT>> from the SWIRFT to be evidenced by the issuance and delivery of City Bonds to the TWDB consistent with the terms and conditions described in this Agreement, Attachment A, Attachment B, and Attachment C.

SECTION 2. TRANSACTION SCHEDULE AND PRICING. By execution of this Agreement, the City acknowledges and represents that it has a current need for financial assistance from the TWDB and shall take all necessary steps to issue and deliver the City Bonds to evidence the commitment described in Section 1. The City further acknowledges and understands that the TWDB is entering into this Agreement for the sole purpose of issuing SWIRFT Bonds to fund the TWDB commitment described in the Resolution and in this Agreement. The City acknowledges that the SWIRFT Bonds, the subject of this Agreement, are being issued for the purpose of funding the City's requested financial assistance.

With respect to the City Bonds and the SWIRFT Bonds, the Parties agree to structure such public securities in a manner that will allow for substantially similar terms, redemption provisions, and related matters to allow the TWDB to timely pay the debt service on the SWIRFT Bonds. The foregoing notwithstanding, the TWDB consents to early redemption, or prepayment of the City Bonds, as provided for in this Agreement and the Resolution. The City Bonds may be prepaid by the City on any date beginning on or after the first scheduled interest payment date that occurs no earlier than 10 years from the dated date of the City Bonds. To confirm the terms of the City Bonds and the SWIRFT Bonds, the City shall execute this Agreement.

In order to mutually assure the performance of the Parties under this Agreement, the Parties agree that the issuance and delivery of the SWIRFT Bonds and the issuance and delivery of the City Bonds to TWDB shall occur not more than fifty-six (56) days apart as reflected in Attachment C. Notwithstanding the foregoing, the Parties intend and expect that the TWDB issue and deliver its SWIRFT Bonds approximately fourteen (14) days after

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execution of the TWDB's Bond Purchase Agreement or such date as may be mutually agreed to in Attachment C.

SECTION 3. BINDING COMMITMENT. The TWDB agrees to take all necessary steps to issue the SWIRFT Bonds for the purposes described in this Agreement and in the Resolution upon receipt of this Agreement, which shall be signed and delivered by the City to the Executive Administrator of the TWDB at least nineteen (19) days before the initiation of the pricing of the SWIRFT Bonds, as set forth in Attachment C. The City acknowledges that the schedule provided in Attachment C is a best estimate by the TWDB and is subject to change by the TWDB. The TWDB expressly reserves the right to modify Attachment C at any time and shall provide the City with an updated Attachment C as soon as practicable upon any modification; provided that, if such modification of Attachment C occurs before the initiation of pricing of the SWIRFT Bonds and such modification results in an earlier scheduled pricing date, no such modification of Attachment C may result in the City having fewer than five (5) days between the receipt of the modified schedule and the TWDB posting the Preliminary Official Statement for the SWIRFT Bonds.

SECTION 4. TERMINATION & BREACH OF AGREEMENT.

- A. The Parties agree that the City may terminate this Agreement in writing with no penalty at any time up to fourteen (14) days before the initiation of the pricing of the SWIRFT Bonds, as set forth in Attachment C.
- B. The City understands and agrees that the City may terminate this Agreement in writing between thirteen (13) days and six (6) days prior to the initiation of the pricing of the SWIRFT Bonds (currently estimated to occur on September 25, 2024) as set forth in Attachment C, provided the City agrees to reimburse the TWDB from lawfully available funds of the City for its proportional share of transaction costs incurred by the TWDB, such as, but not limited to, any fees or costs related to any rating agency, financial advisor, legal counsel, or other similar party or related costs pertaining to the SWIRFT Bonds in an amount not to exceed \$7,430 (Transaction Cost Payment). The City shall be obligated to pay such costs to the TWDB no later than March 5, 2025.
- C. The City understands and agrees that the City may terminate this Agreement in writing within five (5) days prior to the initiation of the pricing of the SWIRFT Bonds as set forth in Attachment C and no later than 9:00 am Central Standard Time on the day before the TWDB Bond Pricing, provided the City agrees to pay to the TWDB from lawfully available funds 1.0 percent of the amount of the commitment authorized in Section 1 of this Agreement (Pre-pricing Termination Payment), and additionally shall reimburse the TWDB from lawfully available funds of the City its Transaction Cost Payment. The City shall be obligated to pay such costs to the TWDB no later than March 5, 2025. The City understands and agrees that termination under this section will result in a total penalty amount of \$108,780.

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- D. The City understands and agrees that TWDB would suffer and incur severe and irreparable damages if the City Bonds are not issued and delivered. Failure to issue the City Bonds by the date specified in Attachment C, as contemplated in this Agreement, shall be a breach of this Agreement and the City shall pay, from lawfully available funds of the City, a "Post-pricing Termination Payment" to the TWDB. The Post-pricing Termination Payment shall be an amount equal to 5.0 percent of the amount of the commitment authorized in Section 1 of this Agreement. The City shall pay the Post-pricing Termination Payment to the TWDB no later than March 5, 2025. The City shall also reimburse the TWDB from lawfully available funds of the City, its Transaction Cost Payment, plus the City's proportional share of the underwriters' discount incurred by the TWDB, no later than March 5, 2025. The City understands and agrees that failure by the City to issue the City Bonds by the date specified in Attachment C, will result in a total penalty amount pursuant to this section not to exceed \$562,335.

SECTION 5. AMORTIZATION STRUCTURE. The City shall provide the TWDB a maturity schedule in the form set forth in Attachment B at the time of execution of this Agreement. A final amortization structure will be required at least fourteen (14) days before the initiation of pricing of the SWIRFT Bonds in accordance with the provisions of this Agreement. The par amount included in Attachment B may be revised, subject to approval by the Executive Administrator of the TWDB, at any time up to the fourteenth (14) day before the initiation of pricing of the SWIRFT Bonds with no penalty.

The final amortization schedule adopted by the City as included in the City's Private Placement Memorandum and Bond Resolution must reflect the final amortization structure set forth in Attachment B. The City must provide the TWDB a final amortization schedule at least seven (7) days prior to adoption of City's Bond Resolution. To the extent the amortization schedule included in Attachment B does not match the amortization schedule included in the finally adopted bonds, the City will be subject to the penalty described above in Section 4D.

SECTION 6. CONTINGENCIES.

- A. The Parties agree that the TWDB's obligation to purchase the City's Bonds with the SWIRFT is contingent upon the TWDB receiving all legally required approvals for the issuance of the SWIRFT Bonds from the Legislative Budget Board, the Bond Review Board, and the Texas Attorney General. The TWDB's obligation to purchase the City's Bonds with the SWIRFT is also contingent upon the purchase and delivery of the SWIRFT Bond proceeds by the underwriters pursuant to the Bond Purchase Agreement relating to the SWIRFT Bonds.

Accordingly, if any contingency described in the preceding paragraph above is unmet, the TWDB, upon delivery of written notice thereof to the City, may extend or terminate this Agreement together with all of its obligations and duties without incurring any cost, fee, or penalty for either the TWDB or the City.

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B. The Parties agree that the City's obligation to issue and deliver the City Bonds is contingent upon approval by the Texas Attorney General of the City Bonds. The City agrees to use its best efforts to obtain approval by the Texas Attorney General of the City Bonds to satisfy the closing requirements set forth in Section 2 of this Agreement. To this end, the City agrees as follows:

- (1) City shall timely file the transcript of proceedings for the City Bonds with the Texas Attorney General in accordance with the schedule contained in Attachment C;
- (2) City shall comply with the requirements and conditions contained in the Resolution;
- (3) City shall provide the TWDB with a copy of the preliminary approval letter from the Texas Attorney General promptly upon receipt;
- (4) City shall provide the TWDB with a copy of its responses to the preliminary approval letter concurrently with the submission of such responses to the Texas Attorney General; and
- (5) City shall allow TWDB to brief the Texas Attorney General on any issues noted in the preliminary approval letter and initiate or participate in conferences with the Texas Attorney General related to the approval of the City Bonds.

Accordingly, if, after the City employs its best efforts to obtain approval by the Texas Attorney General and such approval cannot be obtained by the date specified in Attachment C, the TWDB, as a matter of law, at its sole discretion, may terminate this Agreement and upon termination the City shall pay, from any of its lawfully available funds, the Post-pricing Termination Payment no later than March 5, 2025, as provided in Section 4D. The City shall also reimburse the TWDB from lawfully available funds of the City its Transaction Cost Payment plus the City's proportional share of the underwriters' discount no later than March 5, 2025. The City understands and agrees that if the City does not obtain approval from the Texas Attorney General and issue its City Bonds by the date specified in Attachment C, it will be subject to a total penalty amount pursuant to this section not to exceed \$<<TOTAL PENALTY>>.

SECTION 7. REDEMPTION OF OUTSTANDING DEBT. Proceeds of the City Bonds shall not be used, in whole or in part, to redeem outstanding bonds, commercial paper, or other obligations issued by the City. The City agrees that it will not take or fail to take any action that will cause the SWIRFT Bonds to be considered to be advance refunding bonds under Section 149(d) of the Internal Revenue Code of 1986, as amended.

SECTION 8. NOTICES. All notices, agreements or other communications required hereunder shall be given, and shall be deemed given, when delivered in writing to the address, facsimile or email of the identified Party or Parties set forth below:

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Texas Water Development Board Development Fund Manager P.O. Box 13231 Austin, Texas 78711-3231 Telephone: (512) 475-4584 Facsimile: (512) 475-2053 E-mail	City of Denton Attn: City Manager 601 East Hickory Street Denton, Texas 76205 Telephone: (940) 349-8200 Facsimile E-mail
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SECTION 9. SEVERABILITY. In the event any provision of this Agreement shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect any of its other provisions.

SECTION 10. AMENDMENTS, SUPPLEMENTS, AND MODIFICATIONS. Other than the changes allowed under Section 3 and Section 5, this Agreement may be amended, supplemented, or modified only in a writing executed by duly authorized representatives of the Parties.

SECTION 11. APPLICABLE LAW. This Agreement and any amendments shall be governed by and construed in accordance with the laws of the State of Texas.

SECTION 12. STATE AUDIT. By executing this Agreement and delivering the City Bonds, the City accepts the authority of the Texas State Auditor's Office to conduct audits and investigations in connection with all state funds received pursuant to this Agreement. The City shall comply with any directive from the Texas State Auditor and shall cooperate in any such investigation or audit. The City agrees to provide the Texas State Auditor with access to any information the Texas State Auditor considers relevant to the investigation or audit.

SECTION 13. FORCE MAJEURE. Either Party to this Agreement may be excused from performance under this Agreement for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, or epidemic, provided that the Party experiencing the event of Force Majeure has prudently and promptly acted to take any and all steps that are within the Party's control to ensure performance and to shorten the duration of the event of Force Majeure. The Party suffering an event of Force Majeure shall provide notice of the event to the other Party as soon as practicable but not later than five business days after the event. Subject to this provision, such nonperformance shall not be deemed a breach or a ground for termination.

SECTION 14. EFFECTIVE DATE. This Agreement shall be effective as of the date of the last signature below.

SECTION 15. BINDING AGREEMENT. The execution of this Agreement has been authorized by the governing boards of both Parties. The individuals executing this Agreement have the legal authority to bind each respective Party to the terms and conditions of this Agreement.

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The respective commitments of the TWDB and the City set forth above shall be binding upon the TWDB and the City upon both Parties' execution of this Agreement.

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EXECUTED in multiple counterparts, each of which shall be deemed to be an original.

CITY OF DENTON

By: _____

Name: <<RESPONSIBLE OFFICIAL>>

Title: <<TITLE>>

Date: _____

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TEXAS WATER DEVELOPMENT BOARD

By: _____

Name: Bryan McMath

Title: Interim Executive Administrator

Date: _____

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ATTACHMENT A

TWDB RESOLUTION NO. 24-048

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A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO
THE CITY OF DENTON
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF
\$195,845,000 CITY OF DENTON, TEXAS UTILITY SYSTEM REVENUE BONDS,
PROPOSED SERIES 2024 THROUGH PROPOSED SERIES 2028

(24-048)

Recitals:

The City of Denton (City), located in Denton County, has filed an application for financial assistance in the amount of \$195,845,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, design, and construction of a water supply project identified as Project No. 51083 (Project).

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 \$195,845,000 City of Denton, Texas Utility System Revenue Bonds, Proposed Series 2024 through Proposed Series 2028, (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.

The City has offered a pledge of utility system revenue as sufficient security for the repayment of the Obligations.

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.

Subject to the City's use of an approved debt service structure, interest rate subsidies are available to the City for State Fiscal Year 2024 at up to the following levels: 25% for financial assistance for a term of 20 years, 18% for financial assistance for a term of 21 to 25 years, and 14% for financial assistance for a term of 26 to 30 years. The interest rate subsidy applicable to each subsequent proposed series may be different than the interest rate subsidy available for State Fiscal Year 2024 and will be set through each financing agreement executed between the TWDB and the City.

The interest rate subsidies provided 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.

The City requests a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss because of a current project of the City that is addressing water loss.

Findings:

1. 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. 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. The City has submitted and implemented a water conservation plan in accordance with Texas Water Code § 16.4021 and 31 TAC § 363.1309(b)(1).
4. The City has completed its current water audit and filed it with the TWDB in accordance with Texas Water Code § 16.0121 and 31 TAC § 358.6.
5. Based on the conditions described above, the City is satisfactorily addressing the City's system water loss, supporting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss in accordance with Texas Water Code § 16.0121(g).
6. The City acknowledges its legal obligation to comply with any applicable requirements of federal law related to contracting with disadvantaged business enterprises and any applicable state law related 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 commits to the following:

1. For the reasons stated above, the TWDB waives the requirements of Texas Water Code § 16.0121(g).
2. The TWDB will provide financial assistance to City of Denton in the amount of \$195,845,000 from the State Water Implementation Revenue Fund for Texas to be evidenced by the TWDB's proposed purchase of City of Denton, Texas Utility System Revenue Bonds as follows:
 - a. \$10,135,000 Proposed Series 2024, to expire on December 31, 2024;
 - b. \$11,235,000 Proposed Series 2025, to expire on December 31, 2025;
 - c. \$57,240,000 Proposed Series 2026, to expire on December 31, 2026;
 - d. \$87,690,000 Proposed Series 2027, to expire on December 31, 2027; and
 - e. \$29,545,000 Proposed Series 2028, to expire on December 31, 2028.

The commitment is subject to the following:

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 the Obligations were issued, that the Obligations were issued in conformity with the Constitution and laws of the State of Texas, and that the 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 the executed agreement to the TWDB consistent with the terms and conditions described in it.
5. Interest rate subsidies for non-level debt service structure are subject to adjustment by the Executive Administrator.
6. 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.

Required Obligation Conditions:

7. 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.
8. The Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
9. The Obligations must provide that the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources.

10. The Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
11. 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 the 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 SEC rule 15c2-12, the 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 the Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to the bonds under SEC Rule 15c2-12.
12. The Obligations must contain a provision requiring the City to levy a tax 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.
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 or media at the Project site. The Obligations shall include a provision that states the City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge,

contaminated sediments 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-only 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 City must immediately notify TWDB in writing of any suit against it by the Attorney General of Texas under Texas Government Code § 2.103 and Texas Penal Code § 1.10(f), related to federal laws regulating firearms, firearm accessories, and firearm ammunition.
21. The Obligations must provide that the City will submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.
22. The Obligations must include a provision that if the collateral or credit pledged by the City securing the Obligations is rated by a nationally-recognized statistical rating agency, the City, or other obligated person, will not discontinue the rating issued by a nationally-recognized statistical rating agency until the underlying Obligations are retired or no longer held by TWDB.

Tax-Exempt Conditions:

23. 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 section 141 of the Internal Revenue Code as amended (Code) and the Treasury Regulations promulgated under it (Regulations).
24. 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 section 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 issued to provide 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 the proceeds are needed for the facilities to be financed;
 - b. amounts invested in a bona fide debt service fund within the meaning of section 1.148-1(b) of the Regulations; and
 - c. amounts deposited in any reasonably required reserve or replacement fund to the extent the amounts do not exceed the lesser 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.
25. The Obligations must include a provision that the City must take all necessary steps to comply with the requirement that amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of section 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 the 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 the Gross Proceeds and the obligations acquired with the Gross Proceeds;
 - 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 section 148(f) of the Code, section 1.148-3 of the Regulations, and the associated rulings. The City shall maintain a copy of the calculations for at least six years after the final Computation Date;
 - c. pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date 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 of TWDB's Bonds for federal income tax purposes;
- d. exercise reasonable diligence to ensure that no errors are made in the calculations required by paragraph (b) and, if an error is made, to discover and promptly correct the error within a reasonable amount of time, including payment to the United States of any interest and any penalty required by the Regulations.
26. 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.
 27. 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 section 149(b) of the Code.
 28. 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 the borrower's obligations in contravention of section 149(d) of the Code (related to "advance refundings").
 29. The Obligations must provide that neither the City nor a party related to it 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:

30. The Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations.
31. 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 financial assistance provided 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 the outstanding obligations.
32. The Obligations must contain a provision providing that additional revenue obligations may only be incurred if:
 1. Net system revenues are equal to the lesser of (A) at least 1.25 times the average annual debt service requirements, or (B) at least 1.10 times the maximum annual debt service requirements, of, in either case, the parity senior lien obligations to be outstanding at the time of issuance of the then

proposed additional senior lien obligations, but excluding the additional senior lien obligations then being issued; and

2. An independent accountant or qualified independent engineer provides its opinion that projected net system revenues will be, for each of the five fiscal years subsequent to the date the capital improvement project that is being financed becomes commercially operative equal to the lesser of (A) at least 1.25 times the average annual debt service requirements, or (B) at least 1.10 the maximum annual debt service requirements, of, in either case, senior lien obligations then outstanding and all additional senior lien obligations then estimated to be issued, if any, for all improvements to the utility system and for all additional improvements then in progress or then being initiated during the period from the date the first series of obligations for the improvements is to be delivered through the fifth fiscal year subsequent to the date the improvements are estimated to become commercially operative.

Conditions To Close or For Release of Funds:

33. Before 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.
34. Before 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.
35. Before 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.
36. Before closing, the City shall provide certification that the average weighted maturity of the Obligations purchased by the TWDB does not exceed 120% of the average reasonably expected economic life of the Project.
37. Before 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.

38. Before 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.
39. 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.
40. The transcript must include evidence that the information reporting requirements of section 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 section 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.

APPROVED and ordered of record this the 23rd day of July 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Bryan McMath, Interim Executive Administrator

ATTACHMENT C
FINANCING SCHEDULE*

DATE	ACTION
07/23/2024	TWDB approval of commitments
09/2/2024	<i>Labor Day Holiday**</i>
09/6/2024	<i>Financing agreement – last day to execute (19 days prior to initiation of pricing)</i>
09/11/2024	Financing agreement (Sec. 4A) -last day political subdivisions can terminate without penalty (14 days prior to initiation of pricing)
09/11/2024	Financing agreement (Sec. 5) -last day political subdivisions can modify maturity schedule (14 days prior to initiation of pricing)
09/20/2024	Financing agreement (Sec. 4B) -last day political subdivisions can terminate with costs of issuance (5 days prior to initiation of pricing)
09/25/2024	Financing agreement (Sec. 4C) -before 9:00 a.m. political subdivisions can terminate with costs of issuance and 1% penalty (1 day prior to pricing).
09/25/2024	TWDB bond pricing initiation (pre-pricing begins)
09/26/2024	TWDB bond pricing
10/10/2024	TWDB bond closing (political subdivisions must close within 56 days)
10/11 to 12/5/2024	Closings on political subdivision obligations
10/14/2024	Columbus Day Holiday (TWDB open)**
10/17/2024	TWDB approves interest rates available to political subdivisions
Various	Political subdivisions adopt bond resolutions and/or master agreements
Various	Political subdivisions submit transcripts to Texas Attorney General in preparation of closing
11/11/2024	<i>Veteran's Day Holiday**</i>
11/28/2024	<i>Thanksgiving Holiday**</i>
11/29/2024	<i>Thanksgiving Holiday**</i>
12/5/2024	Last day to close on political subdivision obligations
12/6/2024	Financing agreement (Sec. 4D) -penalty applied to any political subdivision failing to issue debt Start of post-pricing termination payment period (includes costs of issuance, underwriters' discount and 5% penalty)
03/5/2025	Last due date for payment of penalties

**Preliminary, subject to change*

***State agency holidays are reflected to show when TWDB is closed; they are counted towards deadlines.*

ATTACHMENT B

DESCRIPTION OF BORROWER BONDS

Title of Borrower Bonds:

Project Name:

Project Number:

Aggregate Principal Amount of Borrower Bonds:

Anticipated Closing Date:

Dated Date:

First Principal Payment Date:

First Interest Payment Date:

Maturity Schedule:

Maturity

Principal Amount

DRAFT