

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 30, 2021

Mr. James Maglothin, President  
Bay Colony West MUD  
% Paul A. Philbin & Assoc, P.C.  
6363 Woodway, Suite 725  
Houston, Texas 77057-1799

Re: Issuance of bonds by Bay Colony West Municipal Utility District (District) of Galveston County in the amount of \$4,800,000 at a maximum net effective interest rate of 4.09% and use of \$216,258 in surplus funds.

Dear Mr. Maglothin:

Enclosed are certified copies of an Order of the Texas Commission on Environmental Quality (TCEQ) approving your district's project and the issuance of bonds in the amount of \$4,800,000 at a maximum net effective interest rate of 4.09% and use of \$216,258 in surplus funds to finance the District's project, all being more fully set out in the Order.

Your attention is directed to Texas Water Code Section 54.601, which reads as follows:

"At the time bonds payable in whole or in part from taxes are issued, the board shall levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the District in sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting the taxes."

Based on the projected taxable assessed valuation discussed in the TCEQ memorandum associated with the District's application, we have concluded that initially a tax of at most \$0.87 per \$100 assessed valuation should be levied to pay interest, principal, and the cost of assessing and collecting such taxes. Application of the recommended tax rate should provide sufficient funds to satisfy the average annual debt service requirement of \$1,978,262.

You should read the enclosed Order carefully. This action is taken under authority delegated by the Executive Director of the TCEQ. Please take particular note of the provision that no substantial alterations in the approved plans and specifications shall be made without prior TCEQ approval. This is a requirement of Texas Water Code Section 49.182.

Mr. James Maglothin, President  
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A copy of the TCEQ's Order and this letter are being sent to the Attorney General's Office, Public Finance Division, Austin, Texas. Additional copies are being provided to your attorney, engineer, and fiscal agent of record.

Sincerely,



Cari-Michel La Caille, Deputy Director  
Water Supply Division  
Texas Commission on Environmental Quality

CML/avp

Enclosures

cc: Mr. Paul A. Philbin  
Paul A. Philbin & Assoc, P.C.  
6363 Woodway, Suite 725  
Houston, Texas 77057-1799

Mr. Alan D. Hirshman, P.E.  
Dannenbaum Engineering Corporation  
3100 West Alabama  
Houston, Texas 77098-2004

Mr. Greg Lentz  
Masterson Advisors LLC  
3 Greenway Plaza, Suite 1100  
Houston, Texas 77046

Attorney General's Office  
Public Finance Division  
PO Box 12548  
Austin, Texas 78711

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

MAR 30 2021



OF THE COMMISSION, GIVEN UNDER MY HAND AND THE  
SEAL OF OFFICE ON  
*Laurie Charis*  
LAURIE CHARIS, CHIEF CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER APPROVING (1) AN ENGINEERING PROJECT  
AND THE ISSUANCE OF \$4,800,000 IN UNLIMITED TAX BONDS AND  
(2) USE OF \$216,258 IN SURPLUS FUNDS FOR  
BAY COLONY WEST MUNICIPAL UTILITY DISTRICT

An application by Bay Colony West Municipal Utility District (the "District") of Galveston County was presented to the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for consideration of approval pursuant to TEX. WATER CODE §§ 5.122 and 49.181. The District requested approval of an engineering project and issuance of \$4,800,000 in bonds to finance: remaining costs for water, wastewater, and drainage facilities to serve Bay Colony Pointe West Section 3 Phase III, Bay Colony Meadows West Section 3 Phase II, and Bay Colony Meadows West Section 3 Phase III; remaining costs for Bay Colony Pointe West and Bay Colony Meadows West detention; impact fees; and water, wastewater, and drainage facilities to serve single-family development within Sedona Section 6 Phases I and II. The TCEQ has jurisdiction to consider this matter, and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation.

FINDINGS OF FACT

1. The District filed an application with the TCEQ on November 19, 2020, for approval of a proposed engineering project and the issuance of \$4,800,000 in bonds.
2. The Executive Director has investigated the District.
3. The application and accompanying documents have been examined. The project site was investigated by a member of the TCEQ's Districts Section on February 3, 2021. A memorandum was prepared on the project dated March 12, 2021, a copy of which is attached and made a part hereof.
4. The District's project and issuance of \$4,800,000 in bonds at a maximum net effective interest rate of 4.09% to finance the project should be approved. Further, direct the District that the bonds are to be sold only upon the District receiving an acceptable credit rating on the bonds as defined in 30 TEX. ADMIN. CODE § 293.47(b).
5. The request for a waiver of the 30% developer contribution requirement should be granted in accordance with 30 TEX. ADMIN. CODE § 293.47(a)(2) if the District obtains an acceptable credit rating on the bonds as defined in 30 TEX. ADMIN. CODE § 293.47(b).
6. The request for approval to use \$216,258 in surplus funds as shown in the summary of costs to reduce the bond issue requirement should be granted.

7. The District should be directed not to purchase facilities or assume facility contracts from the developer until either (a) the TCEQ's region office has inspected the project, and the District has received a region office report with no deficiencies noted, for which approval is valid for 120 days from the date of this Order; or, if a region office report indicates deficiencies, (b) the TCEQ's Districts Section has received a request from the District and a region office report, reviewed the contract administration, and given written authorization to finalize the purchase or assumption; either one in accordance with 30 TEX. ADMIN. CODE § 293.69.

8. The District's Board of Directors should be directed to review to its satisfaction the detailed calculations of the developer's interest to ensure that the costs are authorized District expenditures and in accordance with 30 TEX. ADMIN. CODE § 293.50 before reimbursement to the developer is made.

9. The District should be advised that the legal, fiscal agent, and engineering fees have not been evaluated to determine whether these fees are reasonable or competitive. These fees are included as presented in the engineering report.

10. The District should be directed that any surplus bond proceeds resulting from the sale of bonds at a lower interest rate than that proposed shall be shown as a contingency line item in the Official Statement and the use of such funds shall be subject to approval pursuant to TCEQ rules on surplus funds.

#### CONCLUSIONS OF LAW

1. The TCEQ has jurisdiction to consider the engineering report and bond application pursuant to TEX. WATER CODE § 49.181.

2. The Executive Director of the TCEQ has investigated the District, and the TCEQ has found it legally organized and feasible.

3. The Districts Section's memorandum dated March 12, 2021, on this engineering project and bond issue should be adopted as the written TCEQ project report in compliance with TEX. WATER CODE § 49.181(d).

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the Districts Section's memorandum dated March 12, 2021, on this engineering project and bond issue is adopted as the written TCEQ project report. Pursuant to TEX. WATER CODE § 49.181, the engineering project for Bay Colony West Municipal Utility District of Galveston County is hereby approved together with the issuance of \$4,800,000 in bonds at a maximum net effective interest rate of 4.09%. Further, the District is directed that the bonds are to be sold only upon the District receiving an acceptable credit rating on the bonds as defined in 30 TEX. ADMIN. CODE § 293.47(b). The request for a waiver of the 30% developer contribution requirement associated with the bond issue is granted in accordance with 30 TEX. ADMIN. CODE § 293.47(a)(2) if the District obtains an acceptable credit rating on the bonds as defined in 30 TEX. ADMIN. CODE § 293.47(b). The request to use \$216,258 in surplus funds as shown in the summary of costs to reduce the bond issue requirement is granted. The District is directed not to purchase facilities or assume facility contracts from the developer until either (1) the TCEQ's region office has inspected the project, and the District has received a region office report with no deficiencies noted, for which approval is valid for 120 days from the date of this Order; or, if a region office report indicates deficiencies, (2) the TCEQ's Districts Section has received a request from the District and a region office report, reviewed the contract administration, and given written authorization to finalize the purchase or assumption; either one in accordance with 30 TEX. ADMIN. CODE § 293.69. The District's Board of Directors is directed to review to its satisfaction the detailed calculations of the developer's interest to

ensure that the costs are authorized District expenditures and in accordance with 30 TEX. ADMIN. CODE § 293.50 before reimbursement to the developer is made. The District is advised that the legal, fiscal agent, and engineering fees have not been evaluated to determine whether these fees are reasonable or competitive. These fees are included as presented in the engineering report. The District is directed that any surplus bond proceeds resulting from the sale of bonds at a lower interest rate than that proposed shall be shown as a contingency line item in the Official Statement and the use of such funds shall be subject to approval pursuant to TCEQ rules on surplus funds. The approval of the sale of these bonds herein shall be valid for one year from the date of this Order unless extended by written authorization of the TCEQ.

BE IT FURTHER ORDERED that pursuant to TEX. WATER CODE § 5.701, the District shall pay to the TCEQ 0.25% of the principal amount of bonds actually issued not later than the seventh (7th) business day after receipt of the bond proceeds. The fees shall be paid by check payable to the Texas Commission on Environmental Quality.

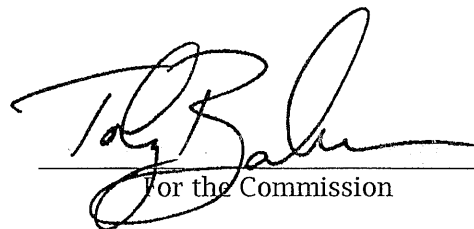
BE IT FURTHER ORDERED that to enable the TCEQ to carry out the responsibilities imposed by TEX. WATER CODE §§49.181-182, the District shall (1) furnish the TCEQ copies of all bond issue project construction documentation outlined under 30 TEX. ADMIN. CODE § 293.62, including detailed progress reports and as-built plans required by TEX. WATER CODE § 49.277(b), that has not already been submitted; (2) notify the TCEQ and obtain approval of the TCEQ for any substantial alterations in the engineering project approved herein before making such alterations; and (3) ensure, as required by TEX. WATER CODE § 49.277(b), that all construction financed with the proceeds from the sale of bonds is completed by the construction contractor according to the plans and specifications contracted.

BE IT FURTHER ORDERED that failure of said District to comply with all applicable laws and with provisions of this Order shall subject the District and its directors to all penalties that are provided by law and shall further be considered by the TCEQ as grounds for refusal to approve other bonds of the District.

The Chief Clerk of the TCEQ is directed to forward the District a copy of this Order.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: March 23, 2021



For the Commission

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

To: Chris S. Ulmann, P.E., Manager  
Districts Section

Date: March 12, 2021

CSU 3/15/21

From: Anand Patel  
Districts Creation Review Team

Subject: Bay Colony West Municipal Utility District of Galveston County; Application for Approval of \$4,800,000 Unlimited Tax Bonds, Seventh Issue, 4.09% Net Effective Interest Rate, Series 2021; Pursuant to Texas Water Code Section 49.181; and Use of \$216,258 in Surplus Funds.  
TCEQ Internal Control No. D-11192020-030 (TC)  
CN: 602693152 RN: 104154042

### A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received an application from Bay Colony West Municipal Utility District (MUD) of Galveston County (District) requesting approval for the issuance of \$4,800,000 in unlimited tax bonds and use of \$216,258 in surplus funds to finance the District's share of the following projects:

1. Remaining costs for water, wastewater, and drainage facilities to serve Bay Colony Pointe West Section 3 Phase III;
2. Remaining costs for water, wastewater, and drainage facilities to serve Bay Colony Meadows West Section 3 Phase II;
3. Remaining costs for water, wastewater, and drainage facilities to serve Bay Colony Meadows West Section 3 Phase III;
4. Remaining costs for Bay Colony Pointe West and Bay Colony Meadows West detention;
5. Impact fees; and
6. Water, wastewater, and drainage facilities to serve the following developments:

<u>Development</u>	<u>Type of Development</u>	<u>Acreage</u>	<u>Active ESFCs<sup>(1)</sup></u>	<u>Ultimate ESFCs</u>
Sedona Section 6 Phase I	Single-Family	20.91	61	62
Sedona Section 6 Phase II	Single-Family	<u>48.61</u>	<u>5</u>	<u>85</u>
Totals		69.52	66	147

Note: (1) Equivalent single-family connections (ESFCs) as of August 6, 2020, as stated in the engineering report.

The District's previous bond issues and use of surplus funds funded utilities to serve 1,168 ESFCs on 298.13 acres. Including this bond issue, the District will have funded utilities to serve 1,315 ESFCs on 367.65 acres. The District is projected to serve 1,752 ESFCs on 379.71 developable (537.23 total) acres.

## B. ECONOMIC ANALYSIS

### Tax Rate Analysis

The feasibility of this bond issue is based on no-growth to a January 1, 2020, certified taxable assessed valuation (AV) of \$250,400,398. A market study has not been provided, and is not required since the feasibility of the bond issue is based on no-growth.

According to a Galveston Central Appraisal District certificate, the District's January 1, 2020 certified taxable AV is \$250,400,398. The annual debt service requirement for a \$4,800,000 bond and existing debt averages \$1,978,262 for the 16-year life of the District's bond debt. According to the engineering report, the District levied a maintenance tax of \$0.11 in 2020 and is projecting to levy a maintenance tax of \$0.08 in the future.

The District's financial advisor submitted a cash flow schedule considering the requested \$4,800,000 bond issue, no-growth to a January 1, 2020 certified taxable AV of \$250,400,398, with no capitalized interest, a bond interest rate of 3.75%, a 2% bond discount, a 97% collection rate, and a projected tax rate of \$0.87 per \$100 AV.

A TCEQ Districts Section financial analyst has reviewed the financial information submitted and concluded that the following level debt service tax rate would be sufficient.

<u>Taxing Jurisdiction</u>	<u>Projected Tax Rate</u>
District	
Debt Service	\$0.87 <sup>(1)(2)</sup>
Maintenance Tax	<u>\$0.08</u>
Subtotal District Taxes	\$0.95
City of League City	<u>\$0.52</u> <sup>(3)</sup>
Total District Taxes	\$1.47 <sup>(4)</sup>

- Notes: (1) Based on existing debt, a proposed bond amount of \$4,800,000, a net effective interest rate of 4.09%, a 97% tax collection rate, no-growth to a January 1, 2020 certified taxable AV of \$250,400,398, and at least a 25% ending debt service fund balance.
- (2) The term "commission-approved tax rate" in 30 Texas Administrative Code (TAC) Section 293.85 refers to an initial ad valorem debt service tax of at most \$0.87 per \$100 AV.
- (3) Based on the total combined tax rate being less than \$1.50, no allocation has been provided by the City of League City (City), according to the material provided.
- (4) Represents the combined projected tax rate as defined by 30 TAC Section 293.59(f).

### Additional Financial Comments

The District is exempt from the 75% and 25% build-out requirements of 30 TAC Sections 293.59(l)(4) and 293.59(k)(7), respectively, based on its combined no-growth tax rate of \$1.47 being less than \$1.50 pursuant to 30 TAC Sections 293.59(l) and 293.59(k)(11)(C).

## C. ENGINEERING ANALYSIS

### Water Supply

Water supply for the District is provided by the City pursuant to the "Utility Agreement By and Between Bay Colony West Municipal Utility District and the City of League City, Texas" dated June 24, 2003. Per the agreement, the City has agreed provide the District with sufficient water

supply capacity to serve the ultimate build-out of the District. The District is required to pay impact fees to the City for each connection. According to the information provided, the District is responsible for constructing its water distribution system; however, upon completion and acceptance, the facilities are conveyed to the City for operation and maintenance. The District previously funded impact fees for 1,275 ESFCs. Including the 60 ESFCs to be funded in this application, the District will have funded impact fees for a total of 1,335 ESFCs.

The City's existing water supply capacity appears adequate to serve the existing 1,230 ESFCs upon which the engineering feasibility of this bond issue is based.

#### Wastewater Treatment

Wastewater treatment for the District is provided by the City pursuant to the "Utility Agreement By and Between Bay Colony West Municipal Utility District and The City of League City, Texas" dated June 24, 2003. Per the agreement, the City has agreed provide the District with sufficient wastewater treatment capacity to serve the ultimate build-out of the District. The District is required to pay impact fees to the City for each connection. According to the information provided, the District is responsible for constructing its wastewater collection system; however, upon completion and acceptance, the facilities are conveyed to the City for operation and maintenance. The District previously funded impact fees for 1,275 ESFCs. Including the 60 ESFCs to be funded in this application, the District will have funded impact fees for a total of 1,335 ESFCs.

The City's existing wastewater treatment capacity appears adequate to serve the existing 1,230 ESFCs upon which the engineering feasibility of this bond issue is based.

#### Storm Water Drainage

Storm water drainage for the District is provided by a network of internal collection facilities which outfall into detention facilities and ultimately empties into Borden's Gully or Magnolia Bayou, which outfall into Dickinson Bayou, and ultimately Galveston Bay.

#### Purchase of Existing Facilities/Assumption of Contracts

<u>Project</u>	<u>Contractor</u>	<u>% Complete (Date)</u>	<u>Contract Amount</u>	<u>Amt. Subj. to Distr. Contrib.</u>
Bay Colony Pointe West Section 3 Phase III - W, WW, D	Jaho, Inc.	100% (01/2018)	\$3,557,900 <sup>(1)</sup> \$626,678 <sup>(2)</sup>	\$622,054 <sup>(3)</sup> \$203,747 <sup>(4)</sup>
Bay Colony Meadows West Section 3 Phase II - W, WW, D	Jaho, Inc.	100% (01/2018)	\$3,557,900 <sup>(1)</sup> \$337,609 <sup>(5)</sup>	\$337,609 \$112,255 <sup>(6)</sup>
Bay Colony Meadows West Section 3 Phase III - W, WW, D	Jaho, Inc.	100% (01/2018)	\$3,557,900 <sup>(1)</sup> \$719,037 <sup>(7)</sup>	\$719,037 \$239,080 <sup>(8)</sup>
Bay Colony Pointe West and Bay Colony Meadows West Detention	Jaho, Inc.	100% (01/2018)	\$3,557,900 <sup>(1)</sup> \$429,493 <sup>(9)</sup>	\$429,493 \$142,806 <sup>(10)</sup>
Sedona Section 6 Phase I - W, WW, D	Angel Brothers Enterprises, Ltd.	100% (08/2020)	\$5,284,040 <sup>(11)</sup> \$1,836,013 <sup>(12)</sup>	\$1,836,013 \$1,175,048 <sup>(13)</sup>



Sedona Section 6 Phase II - W, WW, D	Angel Brothers Enterprises, Ltd.	100% (08/2020)	\$5,284,040 <sup>(11)</sup> \$2,951,231 <sup>(14)</sup>	\$2,951,231 \$1,888,788 <sup>(15)</sup>
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- Notes:
- (1) Represents a total multi-project contract amount of Bay Colony Pointe West Section 3 Phase III, Bay Colony Meadows West Section 3 Phase II, Bay Colony Meadows West Section 3 Phase III, and Bay Colony Pointe West and Bay Colony Meadows West Detention.
  - (2) Represents the original contract amount, plus or minus any change orders, plus or minus final quantity adjustments for the Bay Colony Pointe West Section 3 Phase III project.
  - (3) Excludes ineligible \$4,624 for irrigation sleeves, according to the material provided.
  - (4) The District is requesting \$203,747 of the total costs in this bond issue, and the remaining \$418,307 has been reimbursed in the District's previous bond application.
  - (5) Represents the original contract amount, plus or minus any change orders, plus or minus final quantity adjustments for the Bay Colony Meadows West Section 3 Phase II project.
  - (6) The District is requesting \$112,255 of the total costs in this bond issue, and the remaining \$225,354 has been reimbursed in the District's previous bond application.
  - (7) Represents the original contract amount, plus or minus any change orders, plus or minus final quantity adjustments for the Bay Colony Meadows West Section 3 Phase III project.
  - (8) The District is requesting \$239,080 of the total costs in this bond issue, and the remaining \$479,957 has been reimbursed in the District's previous bond application.
  - (9) Represents the original contract amount, plus or minus any change orders, plus or minus final quantity adjustments for the Bay Colony Pointe West and Bay Colony Meadows West Detention project.
  - (10) The District is requesting \$142,806 of the total costs in this bond issue, and the remaining \$286,687 has been reimbursed in the District's previous bond application.
  - (11) Represents a total multi-project contract amount of Sedona Section 1 Phase I and Sedona Section 1 Phase II.
  - (12) Represents the original contract amount, plus or minus any change orders, plus or minus final quantity adjustments for Sedona Section 6 Phase I project reduced to maximum agreed reimbursement for project identified in letter of engineer's recommendation.
  - (13) The District is requesting \$1,175,048 of the total costs in this bond issue, and the remaining \$660,965 may be requested to be reimbursed in a future application.
  - (14) Represents the original contract amount, plus or minus any change orders, plus or minus final quantity adjustments for Sedona Section 6 Phase II project reduced to maximum agreed reimbursement for project identified in letter of engineer's recommendation.
  - (15) The District is requesting \$1,888,788 of the total costs in this bond issue, and the remaining \$1,062,443 may be requested to be reimbursed in a future application.

Approved plans and specifications, preconstruction agreements, and various construction contract documents have been provided.

#### Facilities to be Constructed

None.

#### Inspection

The District was inspected by a member of the TCEQ's Districts Section staff on February 3, 2021. Streets and utilities appeared to be complete within the projects included in the funding and feasibility of this bond issue. District name signs were properly posted.

**D. SUMMARY OF COSTS**

<u>Construction Costs</u>	<u>District Share</u> <sup>(1)</sup>
A. Developer Contribution Items	
1. Bay Colony Pointe West Section 3 Phase III – W, WW, D	\$ 203,747
2. Bay Colony Meadows West Section 3 Phase II – W, WW, D	112,255
3. Bay Colony Meadows West Section 3 Phase III – W, WW, D	239,080
4. Bay Colony Pointe West and Bay Colony Meadows West Detention	142,806
5. Sedona Section 6 Phase I – W, WW, D	1,175,048
6. Sedona Section 6 Phase II – W, WW, D	1,888,788
7. Engineering and Material Testing Costs	<u>169,812</u>
Total Developer Contribution Items	\$ 3,931,536
B. District Items	
1. Water and Wastewater Impact Fees	\$ <u>369,148</u> <sup>(2)</sup>
Total District Items	\$ <u>369,148</u>
SUBTOTAL CONSTRUCTION COSTS	\$ 4,300,684
Less Surplus Funds	\$ <u>(216,258)</u> <sup>(3)</sup>
TOTAL CONSTRUCTION COSTS (86.26% of BIR)	\$ 4,084,426
<u>Non-Construction Costs</u>	
A. Legal Fees	\$ 150,000 <sup>(4)</sup>
B. Fiscal Agent Fees (2.0%)	96,000 <sup>(5)</sup>
C. Developer Interest	220,652 <sup>(6)</sup>
D. Bond Discount (2%)	96,000
E. Bond Issuance Expenses	71,122
F. Bond Application Report Costs	65,000
G. Attorney General Fee (0.1%)	4,800
H. TCEQ Bond Issuance Fee (0.25%)	<u>12,000</u>
TOTAL NONCONSTRUCTION COSTS	<u>715,574</u>
<b>TOTAL BOND ISSUE REQUIREMENT</b>	<b>\$ 4,800,000</b>

- Notes: (1) The District has requested a waiver of the 30% developer contribution requirement of 30 TAC Section 293.47. See Special Considerations section.  
(2) Represents the impact fees for a total of 60 ESFCs with 16 at \$5,634 per ESFC and 44 at \$6,341 per ESFC.  
(3) See Special Considerations section.  
(4) Pursuant to the contract provided, legal fees are \$36,000 for first \$1,000,000 of bonds issued, plus 3% of bonds issued over \$1,000,000.  
(5) Pursuant to the contract provided, fiscal agent fees are 2.0% of bonds issued.  
(6) Estimated at 3.75% with a reimbursement date of March 30, 2021, or a maximum of two years in accordance with 30 TAC Section 293.50(a).

**E. SPECIAL CONSIDERATION**

**1. Waiver of the 30% Developer Contribution Requirement**

The District has requested a waiver of the 30% developer contribution requirement pursuant to 30 TAC Section 293.47(a)(2) based on obtaining an acceptable credit rating on the bonds. By letter dated August 17, 2020, the District's financial advisor has indicated that the District anticipates obtaining an acceptable credit rating on the proposed bond issue, thereby qualifying for the requested waiver. Accordingly, a waiver of the 30% developer contribution requirement can be granted pursuant to 30 TAC Section 293.47(a)(2).

**2. Use of Surplus Funds**

The District's board resolution requesting approval of the \$4,800,000 bond issue also includes a request for TCEQ approval to use surplus funds to finance a portion of the projects. A letter from the District's bookkeeper dated January 25, 2021 indicates that the District has unallocated surplus funds in excess of \$306,886 from its Series 2019 utility bond application.

**F. CONCLUSIONS**

1. Based on \$44,000,000 in unlimited tax bonds approved by voters for water, wastewater, and drainage facilities on November 12, 2004, and \$25,995,000 previously approved by the TCEQ and issued by the District, the District has sufficient voter-authorized bonds (\$18,005,000) for the proposed bond issue.
2. Based on the review of the engineering report, plans, specifications, and supporting documents, the bond issue is considered feasible and meets the criteria established by the TCEQ's economic feasibility rules, 30 TAC Section 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

**G. RECOMMENDATIONS**

1. Approve the bond issue in the amount of \$4,800,000 in accordance with the recommended summary of costs, at a maximum net effective interest rate of 4.09%. Further, direct the District that the bonds are to be sold only upon the District receiving an acceptable credit rating on the bonds as defined in 30 TAC Section 293.47(b).
2. Grant a waiver of the 30% developer contribution requirement pursuant to 30 TAC Section 293.47(a)(2) if the District obtains an acceptable credit rating on the bonds as defined in 30 TAC Section 293.47(b).
3. Approve the use of \$216,258 in surplus funds as shown in the summary of costs to reduce the bond issue requirement.
4. Standard recommendations regarding purchase of facilities, developer interest, consultant fees, surplus proceeds, time of approval, and bond proceeds fee apply.

