

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Justin P. Taack, Manager
Districts Section


11/30/2023

Date: November 30, 2023

Thru: Dan Finnegan, Team Lead
Districts Bond Team

From: Pirainder Lall
Districts Bond Team

Subject: South Shore Harbour Municipal Utility District No. 7; Application for Approval of \$4,200,000 in Unlimited Tax Bonds, Seventh Issue, 4.98% Net Effective Interest Rate, Series 2023; Pursuant to Texas Water Code Section 49.181.
TCEQ Internal Control No. D-10112023-015 (TC)
CN: 601357833 RN: 102674074

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received an application from South Shore Harbour Municipal Utility District No. 7 (District) of Galveston County for approval of the issuance of \$4,200,000 in unlimited tax bonds to finance the following projects:

1. Austin Lake Shoreline Repair; and
2. Tucker Lake Fence.

The District's previous bond issues funded utilities to serve 1,563 equivalent single-family (ESFCs) on 364.4 acres. This bond issue is not funding any internal utilities. According to the engineering report, the District's ultimate development is projected to serve 1,563 ESFCs on 471.81 total acres.

B. ECONOMIC ANALYSIS

Tax Rate Analysis

The feasibility of this bond issue is based on no-growth to a January 1, 2023, certified taxable assessed valuation (AV) of \$530,887,957. A market study has not been provided and is not required since the feasibility of this bond issue is based on no-growth.

According to a Galveston Central Appraisal District certificate, the District's January 1, 2023, certified taxable assessed valuation is \$530,887,957. The annual debt service requirement for a \$4,200,000 bond issue and existing debt averages \$2,289,701 for the 10-year life of the District's bond debt. According to the engineering report, the District levied a maintenance tax rate of \$0.0317 in 2022 and is projecting to levy a maintenance tax rate of \$0.0312 in the future.

The District's financial advisor submitted a cash flow schedule considering the requested \$4,200,000 bond issue, no-growth to a January 1, 2023, certified taxable AV of \$530,887,957, a 4.5% bond interest rate, a 3% bond discount, a 98% collection rate, and a projected tax rate of \$0.38 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.

District	Projected Tax Rate
Debt Service	\$0.3800 ⁽¹⁾⁽²⁾
Maintenance Tax	<u>\$0.0312</u>
Subtotal District Taxes	\$0.4112 ⁽³⁾

Notes:

- (1) Based on a proposed \$4,200,000 bond issue, existing debt, a net effective interest rate of 4.98%, a 98% tax collection rate, no-growth to a January 1, 2023, certified taxable AV of \$530,887,957, 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 rate of at most \$0.38 per \$100 AV.
- (3) 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 \$0.41 not exceeding \$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 of League City (City) pursuant to the "Utility Agreement" dated March 7, 2000. In accordance with the agreement, the City provides the District with its ultimate requirements for water supply and water distribution capacities. The City operates and maintains water facilities within the District.

The District does not have any emergency interconnects.

The District's existing water supply capacity appears adequate to serve the existing 1,563 ESFCs upon which the feasibility of this bond issue is based.

Wastewater Treatment

Wastewater treatment for the District is provided by the City pursuant to the "Utility Agreement" dated March 7, 2000.

Wastewater treatment for the District is provided by the City. Pursuant to a "Utility Agreement" dated August 10, 2015 between the City and the District, all wastewater treatment facilities are owned and maintained by the City. Texas Pollutant Discharge Elimination System Permit No. WQ0010568005 authorizes discharge of 12 million gallons per day.

The District's existing wastewater treatment capacity appears adequate to serve the existing 1,563 ESFCs upon which the feasibility of this bond issue is based.

Storm Water Drainage

Storm water within the District generally drains via curb and gutter streets to an underground storm system to the detention ponds which flow to Gum Bayou, then to Dickinson Bayou and ultimately into Galveston Bay and flows from northwest to southeast.

Purchase of Existing Facilities

None.

Facilities to be Constructed

<u>Project</u>	<u>Estimated Costs</u>	<u>District's Share</u>
Austin Lake Shoreline Repair	\$2,948,500	\$2,948,500
Tucker Lake Fence	\$163,591	\$163,591

Approved plans and specifications, preconstruction agreements, and various construction contract documents have not been provided.

Inspection

The District was investigated by the TCEQ's Districts Section on November 13, 2023. The District appeared as represented in the engineering report. District name signs were properly posted.

D. SUMMARY OF COSTS

<u>Construction Costs</u>	District's ⁽¹⁾ <u>Share</u>
A. Developer Contribution Items	
None	\$ 0
B. District Items	
1. Austin Lake Shoreline Repair	\$ 2,948,500
2. Tucker Lake Fence	163,591
3. Contingencies (10% of Items 1-2)	311,209
4. Engineering and Technical Services (10% of Items 1-3)	<u>350,000</u>
TOTAL CONSTRUCTION COSTS (89.84% of Bond Issue)	\$ 3,773,300

Nonconstruction Costs

A. Legal Fees	\$ 132,000 ⁽²⁾
B. Fiscal Agent Fees	84,000 ⁽³⁾
C. Bond Discount (3%)	126,000
D. Bond Issuance Expenses	20,000
E. Bond Application Report Costs	50,000

F. Attorney General Fee (0.10% or \$9,500 Max.)	4,200
G. TCEQ Bond Issuance Fee (0.25%)	<u>10,500</u>
TOTAL NONCONSTRUCTION COSTS (10.16% of Bond Issue)	\$ 426,700

TOTAL BOND ISSUE REQUIREMENT **\$ 4,200,000**

Notes:

- (1) The 30% developer contribution requirement does not apply to the District projects proposed for funding from the current bond issue, pursuant to 30 TAC Section 293.47(d).
- (2) According to contract provided, legal fees for any issuances that are \$1,000,000 or greater are \$36,000 plus 3% of bonds issued over \$1,000,000.
- (3) According to contract provided, fiscal agent fees are based on 2% of the bonds issued.

E. SPECIAL CONSIDERATIONS

Delayed Funding

The cost summary includes funds for District projects and/or facilities which are proposed and for which approved plans and specifications are not available. Therefore, the District should be directed not to expend these funds until the District's board has received plans and specifications approved by all authorities with jurisdiction.

F. CONCLUSIONS

1. Based on \$62,550,000 in unlimited tax bonds approved by voters for water, wastewater, and drainage facilities, and \$25,525,000 in bonds previously approved by the TCEQ and issued by the District for water, wastewater, and drainage facilities, the District has sufficient voter-authorized bonds (\$37,025,000) for the proposed bond issue.
2. Based on the review of the engineering report 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 \$4,200,000 in accordance with the recommended summary of costs at a maximum net effective interest rate of 4.98%.
2. Direct the District Board not to expend a total of \$3,423,300 pending the District Board receipt of plans and specifications approved by all authorities having jurisdiction, as necessary, as follows:

- a. \$3,243,350 (\$2,948,500 construction plus \$294,850 contingencies) for Austin Lake Shoreline Repair; and
 - b. \$179,950 (\$163,591 construction plus \$16,359 contingencies) for Tucker Lake Fence.
3. Standard recommendations regarding consultant fees, surplus proceeds, time of approval, and bond proceeds fee apply.

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 1, 2023

Mr. Dax W. Philbin
c/o Bacon, Wallace & Philbin, LLP
6363 Woodway, Suite 800
Houston, Texas 77057

Re: South Shore Harbour Municipal Utility District No. 7; Application for Approval of \$4,200,000 in Unlimited Tax Bonds, Seventh Issue, 4.98% Net Effective Interest Rate, Series 2023; Pursuant to Texas Water Code Section 49.181.
TCEQ Internal Control No. D-10112023-015
CN: 601357833 RN: 102674074

Dear Mr. Philbin:

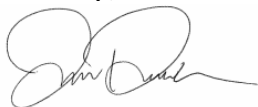
Enclosed is (1) a copy of the Texas Commission on Environmental Quality's (TCEQ) initialed memorandum which constitutes the official TCEQ report on the referenced application and (2) a copy of the draft TCEQ order for your review. After we receive your consent, we will finalize the order approving your application and submit it to the Executive Director for signature.

The Executive Director is authorized to sign the order on behalf of the Commission in accordance with Section 5.122 of the Texas Water Code and the TCEQ's rules. **Please e-mail the executed consent form to Pirainder Lall at pirainder.lall@tceq.texas.gov. Please do not send additional copies via mail or fax. If the executed consent form is not received within 5 working days, the application for your district will be considered "contested" and finalization of the order could be delayed significantly.** After the Executive Director signs the order, the Chief Clerk's office will provide you with a signed copy.

If you request amendments to the memorandum, and/or draft order because of changes to your application or because you provide more information, additional time will be required to review the requested changes and modify the memorandum, and/or draft order. **This could result in significant delays for obtaining approval of your application.**

If you have any questions, please contact Pirainder Lall at (512) 239-0881 or by e-mail at pirainder.lall@tceq.texas.gov.

Sincerely,



Justin P. Taack, Manager
Water Supply Division – Districts Section
Texas Commission on Environmental Quality

JPT/pl

_____ I concur with the recommendations contained in the memorandum dated November 30, 2023, and the associated draft order.

_____ I intend to respond to the recommendations contained in the memorandum dated November 30, 2023, and the associated draft order.

_____ I concur with the recommendations contained in the memorandum dated November 30, 2023, and the associated draft order, with the exception of the below stated objection(s)¹. I request that the Commission proceed with issuing the order as drafted and understand that the objections will be addressed in a subsequent application.

1. Objections described below include items deemed ineligible as stated in the memorandum or order which the District believes are reimbursable. The District may include items deemed ineligible in this application in a subsequent application and may provide additional information in favor of reimbursement justifying these items as part of the subsequent application. Please reference the section and page number of the staff memorandum when noting your objections.

_____ I concur with the recommendations contained in the memorandum dated November 30, 2023, and the associated draft order. However, the following non-substantive² changes are recommended.

2. Non-substantive changes described below, include typos, transposition of numbers, dates, etc. Please reference the section and page number of the staff memorandum when providing your comments.

Objections/Comments: _____

Signed: _____ Date: _____

Printed Name

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER APPROVING AN ENGINEERING PROJECT AND THE ISSUANCE OF \$4,200,000 IN UNLIMITED TAX BONDS FOR SOUTH SHORE HARBOUR MUNICIPAL UTILITY DISTRICT NO. 7

An application by South Shore Harbour Municipal Utility District No. 7 (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 requests approval of an engineering project and the issuance of \$4,200,000 in bonds to finance the District's share of the following projects: 1) Austin Lake Shoreline Repair; and 2) Tucker Lake Fence. 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 October 11, 2023, for approval of a proposed engineering project and the issuance of \$4,200,000 in bonds.
2. The Executive Director has investigated the District.
3. The application and accompanying documents have been examined. The District was inspected by a member of the Districts Section on November 13, 2023, and a memorandum was prepared on the project dated November 30, 2023, a copy of which is attached and made a part hereof.
4. The District's project and issuance of \$4,200,000 in bonds at a maximum net effective interest rate of 4.98% to finance the project should be approved.
5. The District should be directed not to expend a total of \$3,423,300 pending District board receipt of plans and specifications approved by all authorities having jurisdiction, as necessary, as follows:
 - a. \$3,243,350 (\$2,948,500 construction plus \$294,850 contingencies) for Austin Lake Shoreline Repair; and
 - b. \$179,950 (\$163,591 construction plus \$16,359 contingencies) for Tucker Lake Fence.
6. 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.
7. 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 has investigated the District, and the TCEQ has found it legally organized and feasible.
3. The Districts Section's memorandum dated November 30, 2023, 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 November 30, 2023, 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 South Shore Harbour Municipal Utility District No. 7 is hereby approved together with the issuance of \$4,200,000 in bonds at a maximum net effective interest rate of 4.98%. The District is directed not to expend a total of \$3,423,300 pending District board receipt of plans and specifications approved by all authorities having jurisdiction, as necessary, as follows: a) \$3,243,350 (\$2,948,500 construction plus \$294,850 contingencies) for Austin Lake Shoreline Repair; and b) \$179,950 (\$163,591 construction plus \$16,359 contingencies) for Tucker Lake Fence. 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. 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), which have 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: DRAFT

For the Commission