

AUG 24 2020

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



OF THE COMMISSION, GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON
Bridget C. Bohan
BRIDGET C. BOHAN, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER APPROVING AN ENGINEERING PROJECT
AND THE ISSUANCE OF \$8,200,000 IN UNLIMITED TAX BONDS FOR
SOUTH BUDA WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 OF HAYS COUNTY

An application by South Buda Water Control and Improvement District No. 1 (the "District") of Hays 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 \$8,200,000 in bonds to finance: Stonefield Section 11 drainage improvements; new water meter assembly and vault; Meadows at Buda commercial detention and water quality pond; Meadows at Buda phase II lift station and force main improvements; water and wastewater capacity impact fees; land acquisition costs; and water, wastewater, and drainage facilities serving single-family development at Stonefield Section 12, and multi-family development at Harvest Meadows Phase 1. 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 January 21, 2020 for approval of a proposed engineering project and the issuance of \$8,200,000 in bonds.
2. The Executive Director has investigated the District.
3. The application and accompanying documents have been examined. The project site was visited by a member of the Districts Section on June 23, 2020. A memorandum was prepared on the project dated August 11, 2020, along with a copy of which is attached and made a part hereof.
4. The District's project and issuance of \$8,200,000 in bonds at a maximum net effective interest rate of 4.65% should be approved. Further, the District should be 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).
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 District's request for approval to fund developer interest for a period of more than two years should be approved pursuant to 30 TEX. ADMIN. CODE §293.50(b).
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 has investigated the District and the TCEQ has found it legally organized and feasible.

3. The Districts Section's memorandum dated August 11, 2020, 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 August 11, 2020 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 Buda Water Control and Improvement District No. 1 of Hays County is hereby approved together with the issuance of \$8,200,000 in bonds at a maximum net effective interest rate of 4.65%. 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 this 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). District funding to reimburse developer interest for a period of more than two years is approved in this bond issue in accordance with 30 TEX. ADMIN. CODE §293.50(b). 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 from 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 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: August 14, 2020



For the Commission

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

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

Date: August 11, 2020

From: Ruben Soto, Jr.
Districts Creation Review Team

Subject: South Buda Water Control and Improvement District No. 1 of Hays County;
Application for Approval of \$8,200,000 Unlimited Tax Bonds; Eighth Issue; 4.65%
Net Effective Interest Rate; Series 2020; Pursuant to Texas Water Code Section
49.181.
TCEQ Internal Control No. D-01212020-022 (TC)
CN: 602881443 RN: 104707583

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received an application from South Buda Water Control and Improvement District No. 1 (District) of Hays County requesting approval for the issuance of \$8,200,000 in unlimited tax bonds to finance the following projects:

1. Stonefield Section 11 drainage improvements;
2. New water meter assembly and vault;
3. Meadows at Buda commercial detention and water quality pond;
4. Meadows at Buda Phase II Lift Station and Force Main improvements;
5. Water and wastewater capacity impact fees;
6. Land acquisition costs; and
7. Water, wastewater, and drainage facilities serving the following development:

<u>Development</u>	<u>Type of Development</u>	<u>Acreage</u>	<u>Existing ESFCs ⁽¹⁾</u>	<u>Ultimate ESFCs</u>
Stonefield Section 12	Single-Family	10.87	59	60
Harvest Meadows Phase 1	Multi-Family	<u>15.67</u>	<u>10</u>	<u>130</u>
Total		26.54	69	190

Note:

- (1) Equivalent single-family connections as of July 27, 2020, as stated in the engineering report.

The District's previous bond issues funded utilities to serve 1,321 equivalent single-family connections (ESFCs) on 315.80 acres (both revised from previous bond issue). Including this bond issue, the District will have funded utilities to serve 1,511 ESFCs on 342.34 acres. According to the engineering report, the Districts ultimate development is projected to serve 1,617 ESFCs on 409.37 developable acres.

B. ECONOMIC ANALYSIS

Tax Rate Analysis

The financial feasibility of this bond issue is based on no-growth to the certified taxable assessed valuation (AV) of \$297,633,118 as of January 1, 2019. 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 Hays Central Appraisal District certificate, the District's January 1, 2019 certified taxable AV is \$297,633,118. The annual debt service requirement for the proposed bond amount of \$8,200,000 and existing debt averages \$1,830,693 for the 31-year life of the District's bond debt. The District levied a maintenance tax of \$0.195 in 2019 and according to the engineering report is projecting to levy the same maintenance tax in the future.

The District's financial advisor submitted a cash flow schedule considering the requested \$8,200,000 bond issue, no-growth to the January 1, 2019 certified taxable AV, a bond interest rate of 4.50%, a 3% bond discount, a 98% collection rate, and a projected tax rate of \$0.705 per \$100 AV.

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

<u>District</u>	<u>Projected Tax Rate</u>
Debt Service	\$0.71 ^{(1) (2)}
Maintenance	<u>\$0.19</u>
Total District Taxes	\$0.90 ⁽³⁾

Notes:

- (1) Based on existing debt, a bond amount of \$8,200,000, a net effective interest rate of 4.65%, a 98% collection rate, no-growth to a taxable AV of \$297,633,118, and at least a 25% ending debt service fund balance.
- (2) The term "commission-approved tax rate" in 30 Texas Administrative Code (30 TAC) Section 293.85 refers to an initial ad valorem debt service tax rate of at most \$0.71 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 \$0.90 not exceeding \$1.20 pursuant to 30 TAC Sections 293.59(l) and 293.59(k)(11)(C).

C. ENGINEERING ANALYSIS

Water Supply

Water supply for the portion of the District located west of IH-35 is provided by Monarch Utilities. Pursuant to the Water Services Agreement (Agreement) between Monarch Utilities and the District dated October 25, 2005, Monarch Utilities will provide to the District sufficient capacity to serve 984 ESFCs. The Agreement also indicates that the District will serve commercial property outside the District to be served by Monarch.

Water supply for the portion of the District located east of IH-35 is provided by Goforth Water Supply Corporation (WSC). Pursuant to the Non-Standard Water Utility Service Agreement by and between Goforth Water Supply Corporation and the District, dated April 7, 2006, Goforth WSC will reserve a total of 880 ESFCs (680 ESFCs in major facilities within Goforth's system with the right to obtain an additional 200 ESFCs) for the District.

The western portion of the District has three metered interconnects with Monarch.

The existing water supply facilities appear adequate to serve 1,664 (918 plus 680) ESFCs, which appears sufficient to serve the existing 1,388 ESFCs upon which the feasibility of this bond issue is based.

Wastewater Treatment

Wastewater treatment capacity for the District is provided by the City of Buda's (City) 1.5 million gallons per day (MGD) central wastewater treatment plant (WWTP). Texas Pollutant Discharge Elimination System Permit No. WQ0011060001 authorizes the WWTP to discharge a flow of 1.5 MGD. Based on a design criterion of 300 gpd/ESFC, the City's 1.5 MGD WWTP can serve 5,000 ESFCs. The District's collection system includes a 650 gallon per minute lift station and force main to the City's wastewater collection system and WWTP. Pursuant to a "Consent and Development Agreement", dated November 2, 2005, customers within the District will pay the City for wastewater services, and any costs paid for the 650 gallon per minute lift station and force main will offset any wastewater impact fees due.

The existing wastewater supply facilities appear adequate to serve the existing 1,388 ESFCs upon which the feasibility of this bond issue is based.

Storm Water Drainage

Storm water for the portion of the District located west of IH-35 generally drains through underground storm water collection lines which outfalls into detention ponds and eventually into Porter Creek.

Storm water for the portion of the District located east of IH-35 drains in various directions. Storm water is collected in underground storm sewer collection lines which outfalls into detention ponds and is conveyed under County Road 133 to a channel along IH-35.

Purchase of Existing Facilities/Assumption of Contracts

<u>Project</u>	<u>Contractor</u>	<u>% Complete (Date)</u>	<u>Final Contract Amount</u> ⁽¹⁾	<u>Amt. Subj. to Distr. Contrib.</u>
Stonefield Section 11 - W, WW, D	CRU, Ltd.	100% (09/30/2017)	\$1,292,398	\$1,264,270 ⁽²⁾ \$165,949 ⁽³⁾
Stonefield Section 12 - W, WW, D	JL Gray Construction	100% (07/31/2018)	\$415,561	\$415,561
New Water Meter Assembly and Vault	Facilities Rehabilitation, Inc.	100% (12/16/2019)	\$268,744	\$268,744
Meadows at Buda - Commercial Detention and Water Quality Pond	Austin Engineering Co., Inc.	100% (10/31/2019)	\$398,956	\$398,956

Harvest Meadows Phase 1 - W, WW, D	Austin Engineering Co., Inc.	100% (12/03/2019)	\$1,449,319	\$1,434,378 ⁽⁴⁾
Meadows at Buda Phase II Lift Station and Force Main Improvements	D. Guerra Construction	50% (12/31/2019)	\$3,307,443	\$3,307,443 \$2,172,800 ⁽⁵⁾

Notes:

- (1) Based on original contract amount less/plus any change orders, less/plus final quantity adjustments.
- (2) Excludes \$28,128 for change order no. 1 pursuant to 30 TAC 293.46(3) relating to the awarding of the contract prior to city or agency approval.
- (3) Excludes \$1,098,321 funded in a previous bond issue.
- (4) Excludes \$1,641 for 50% street excavation, and minus \$13,300 for change order no. 1 for ineligible district items.
- (5) Represents the amount pre-funded by NewStand Buda (\$1,071,049) and Lennar (\$1,101,751).

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 June 23, 2020. Streets and utilities appeared to be complete within sections to be funded from the current bond issue. District name signs were properly posted.

D. SUMMARY OF COSTS

Construction Costs

A. Developer Contribution Items		<u>Amount</u> ⁽¹⁾
1. Stonefield Section 11 - Drainage Improvements	\$	165,949
2. Stonefield Section 12 - W, WW, D		415,561
3. New Water Meter Assembly and Vault		268,744
4. Meadows at Buda Detention and Water Quality Pond		398,956
5. Meadows at Buda Phase II Lift Station and Force Main		2,172,800
6. Harvest Meadows Phase 1- W, WW, D		1,434,378
7. Engineering (Item nos. 1, 2, 3, 4, and 6)		<u>730,552</u> ⁽²⁾
Total Developer Contribution Items	\$	5,586,940
B. District Items		
1. Water Impact Fees - Goforth	\$	103,275 ⁽³⁾
2. Wastewater Impact Fees - City of Buda		1,002,160 ⁽⁴⁾
3. Land Acquisition Costs - Channel Easement and Pond Site		<u>238,875</u> ⁽⁵⁾
Total District Contribution Items		1,344,310
TOTAL CONSTRUCTION COSTS	\$	\$6,931,250

Nonconstruction Costs

A. Legal Fees	\$	164,000 ⁽⁶⁾
B. Fiscal Agent Fees		143,500 ⁽⁷⁾
C. Developer Interest		588,943 ⁽⁸⁾
D. Bond Discount (3%)		246,000

E. Bond Issuance Expenses	15,607
F. Bond Application Report Costs	82,000
G. Attorney General Fee (0.10% or \$9,500 max.)	8,200
H. TCEQ Bond Issuance Fee (0.25%)	<u>20,500</u>
TOTAL NONCONSTRUCTION COSTS	\$ 1,268,750
 TOTAL BOND ISSUE REQUIREMENT	 \$ 8,200,000

Notes:

- (1) The District has requested a waiver of the 30% developer contribution requirement in accordance with 30 TAC Section 293.47.
- (2) Includes \$51,848 for Stonefield Section 10, \$92,740 for Stonefield Section 11, \$42,470 for Stonefield Section 12, \$148,472 for Meadows at Buda detention and water quality pond improvements, \$257,812 for Harvest Meadows phase 1, and \$137,209 for new water meter assembly and vault.
- (3) Includes 72 connections at \$425 for Stonefield Section 10, 111 connections at \$425 for Stonefield Section 11, and 60 connections at \$425 for Stonefield Section 12. The District previously funded 445 water capacity impact fees, and this bond issue proposes to fund 243 water capacity impact fees as payment to Lennar, for a total of 688 water capacity impact fees.
- (4) Includes 217 connections at \$1,362 for Meadows at Buda, 184.8 connections at \$1,362 for AOH multi-family, and 334 connections at \$1,362 for Stonefield.
- (5) Price per acre is based on 11.375 acres for \$238,875 resulting in \$21,000 per acre. The area for the channel easement and pond land is 11.375 acres @ \$21,000/acre for a total of \$238,875. Interest and taxes are not included at this time.
- (6) According to the contract provided, legal fees are 2% of the bonds issued.
- (7) According to the contract provided, fiscal agent fees are 1.75% of the bonds.
- (8) Estimated at 4.5% with a proposed funding date of June 30, 2020, or a maximum of five years in accordance with 30 TAC Section 293.50(a). The District has requested to reimburse for more than two years of interest in accordance with 30 TAC Section 293.50(b). See Special Consideration No. 2.

E. SPECIAL CONSIDERATIONS

1. Waiver of the 30% Developer Contribution and Market Study Requirements

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 January 14, 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, staff recommends a waiver of the 30% developer contribution requirement in accordance with 30 TAC Section 293.47(a)(2).

The District has also requested a waiver of the market study requirement. Since the feasibility of the bond issue is based on no-growth, the District is exempt from the market study requirement, and granting a waiver is unnecessary.

2. Developer Interest for a Period of More Than Two Years

The District has requested approval to fund developer interest for a period of more than two years in accordance with 30 TAC Section 293.50(b)(2). Because the \$588,943 in developer interest in this bond issue does not exceed an amount equal to four years interest (\$1,476,000) on the total bond issue the request to reimburse developer interest should be approved in accordance with 30 TAC Section 293.50(b).

3. Less Than One Year Capitalized Interest

In compliance with 30 TAC Section 293.60(b)(2), the District has requested authorization to sell the bonds with less than one year of capitalized interest. By letter dated July 27, 2020, the District's financial advisor stated that the period of less than one year of capitalized interest will have no impact upon the feasibility of this bond issue.

F. CONCLUSIONS

1. Based on \$78,000,000 in unlimited tax bonds approved by voters for water, wastewater and drainage facilities and \$25,595,000 previously approved for water, wastewater and drainage facilities by the TCEQ and issued by the District, the District has sufficient voter-authorized bonds (\$52,405,000) 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 \$8,200,000, in accordance with the recommended summary of costs, at a maximum net effective interest rate of 4.65%. Further, direct 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 in accordance with 30 TAC Sections 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 District's request to fund developer interest for a period of more than two years in accordance with 30 TAC Section 293.50(b).
4. Standard recommendations regarding purchase of facilities, developer interest, consultant fees, surplus proceeds, time of approval, and bond proceeds fee apply.

