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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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Texas Commission on Environmental Quality

AN ORDER AUTHORIZING LAKE DUNLAP WATER CONTROL AND IMPROVEMENT DISTRICT OF COMAL AND GUADALUPE COUNTIES TO ENTER INTO A CONTRACT TO LEVY A CONTRACT TAX

An application by Lake Dunlap Water Control and Improvement District of Comal and Guadalupe Counties ("District") was presented to the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for approval pursuant to TEX. WATER CODE §§ 5.122 and 49.108 and 30 TEX. ADMIN. CODE § 293.89. The District requests approval to enter into a contract with the Guadalupe-Blanco River Authority (GBRA) to finance, reconstruct and maintain dams and facilities to restore the waters within Lake Dunlap and to collect taxes for debt that exceeds three years. 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 July 21, 2020 requesting authority to enter into a contract tax obligation.
2. The application and accompanying documents have been examined. The application meets the requirements of 30 TEX. ADMIN. CODE §§ 293.89 and 293.59, and a memorandum dated October 11, 2020 was prepared on this application, a copy of which is attached and made a part hereof.
3. The District's request to enter into a "Contract for Financing and Operation of Lake Dunlap Dam and Hydroelectric Facilities" with GBRA should be approved.

CONCLUSIONS OF LAW

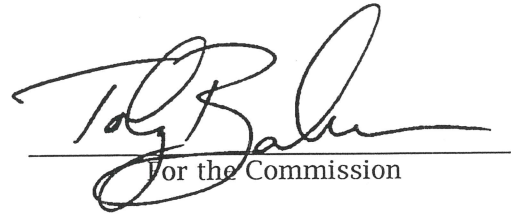
1. The TCEQ has jurisdiction to consider the application pursuant to TEX. WATER CODE § 49.108.
2. The Executive Director has investigated the District's proposed contract tax and has found it feasible.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that a "Contract for Financing and Operation of Lake Dunlap Dam and Hydroelectric Facilities" with the Guadalupe-Blanco River Authority to finance, reconstruct and maintain dams and facilities to restore the waters within Lake Dunlap and to collect taxes for debt that exceeds three years is approved.

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

The provisions of this Order are deemed severable and any finding of invalidity of any provision of this Order by a court of competent jurisdiction shall not affect the other provisions of this Order.

Issue Date: October 28, 2020



For the Commission

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

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

Date: October 11, 2020

From: Daniel Harrison
Districts Bond Team

Subject: Lake Dunlap Water Control and Improvement District of Comal and Guadalupe Counties; Application for Approval of Contract Tax Obligation; Pursuant to Texas Water Code Section 49.108.
TCEQ Internal Control No. D-07212020-028 (TC)
CN: 605714427 RN: 110878949

A. GENERAL INFORMATION

The Commission received an application from Lake Dunlap Water Control and Improvement District of Comal and Guadalupe Counties (District) requesting Commission approval to enter into a contract to finance, reconstruct and maintain dams and facilities to restore the waters within Lake Dunlap supported by the levy of a contract tax. The District is proposing to enter into a "Contract for Financing and Operation of Lake Dunlap Dam and Hydroelectric Facilities" (Contract) with Guadalupe-Blanco River Water Authority (GBRA) whereby the District will provide tax authority for funding for dam replacement including levying and assessing tax on land within the District that would be benefited by the lake restoration.

Pursuant to the Contract, the District is authorized or obligated to do the following:

- Call an election for the approval of the Contract and the authorization to levy, assess and collect ad valorem taxes on all taxable property within the District boundaries sufficient to make timely payments of all charges under the Contract to GBRA.
- Levy and annually assess and collect a continuing, direct ad valorem tax on all taxable property within the District boundaries to make timely payments to GBRA of all charges under the Contract.
- Pay to the GBRA the full amount of the Annual Requirement, which shall be identified in each GBRA annual budget, and which shall be sufficient to pay the debt service requirement and other required amounts as defined in the Contract.
- The District shall have no obligation to pay any debt service costs for any bonds that exceed the Maximum Principal Amount of \$40,000,000 specified in the contract.

Pursuant to the Contract, GBRA is authorized or obligated to do the following:

- Acquire, construct and improve facilities to restore proper operation of the dam facilities and water levels within Lake Dunlap.
- Own the dam facilities constructed and acquired by GBRA, including all related appurtenances, sites, rights-of-way, easements and all enlargements, extensions or improvements thereto.

- Be solely responsible for operation, maintenance, repair and replacement of the dam facilities and hydro facilities, collectively.
- From time to time to issue bonds, with prior approval of the District, payable from and secured by a pledge of the debt service requirement as defined in the Contract, to obtain funds to pay the capital costs for acquiring, constructing and improving the dam facilities and all costs incurred with the issuance of the bonds.
- Pay the Annual GBRA Payment equal to all income, receipts and revenues derived or received from the Lake Dunlap Hydro Facilities (Hydro Revenues) to the District, which may use it to fund all or a portion of the District's Annual Requirement.

According to the information provided in the application, the land within the District is fully developed and consists of 707 properties (including single-family, multi-family, commercial and others) on 2,200 acres.

B. ECONOMIC ANALYSIS

Tax Rate Analysis

The financial feasibility of this contract tax obligation application is based on no growth in the existing residential development and an estimated assessed valuation (AV) of \$285,213,209. The District has provided an estimate of AV from the Comal County Appraisal District of \$107,886,069 as of August 31, 2020 and an estimate of AV from the Guadalupe County Appraisal District of \$177,327,140 as of September 1, 2020.

According to the engineering report, the District expects the proposed dam repair and replacement for the areas within the District to require the issuance of approximately \$35,000,000 and up to \$40,000,000 in bonds. The GBRA has submitted an application to the Texas Water Development Board for a no interest loan, which would result in the lowest debt service for the District to fund. The District prepared two debt service estimates to represent the range of tax rates that would be required to complete the dam and lake restoration. The first estimate of the required debt is one that they consider to be based on realistic assumptions. The District assumed that GBRA issues a bond amount of \$35,000,000, with an estimated taxable AV of \$285,213,209, a 3% bond interest rate, a 98% collection rate, a term of 30 years, with \$700,000 in annual Hydro Revenues used to pay part of the debt service. This resulted in a calculated contract tax rate of \$0.3985 per \$100 of taxable AV and an average annual debt service requirement of \$1,811,692.

The District provided the second estimate as representing the most conservative assumptions including a maximum cost for the dam replacement of \$40,000,000, although they do not anticipate the project will cost that much, and no annual Hydro Revenues, although historically, Hydro Revenues have averaged \$700,000 per year. The conservative estimate is based on a \$40,000,000 bond amount assuming an estimated taxable AV of \$285,213,209, for which the calculated contract tax rate would be \$0.7416 per \$100 of taxable AV to service the debt. For this estimate, the District assumed an interest rate of 3.0% for a term of 30 years, no annual Hydro Revenues and a 98% collection rate resulting in an average annual debt service requirement of \$2,070,448.

C. SPECIAL CONSIDERATIONS

The District is partially within the corporate limits and the extraterritorial jurisdiction of the City of New Braunfels (City). By Resolution No. 2019-R-41, passed and adopted September 23, 2019, the City gave its consent to the petition for creation of the District.

D. CONCLUSIONS

The contract and supporting material within the application appear to be in order pursuant to 30 Texas Administrative Code Section 293.89, and the contract tax obligation is considered feasible. Therefore, the District, as required under Texas Water Code (TWC) Section 49.181, is considered in compliance with TWC Section 49.108(e).

E. RECOMMENDATION

Approve the request from Lake Dunlap Water Control and Improvement District of Comal and Guadalupe Counties, to enter into contract with the Guadalupe-Blanco River Authority to provide tax authority to finance and reconstruct dams and facilities to restore the waters within Lake Dunlap and to collect taxes for debt that exceeds three years.

F. ADDITIONAL INFORMATION

The applicant's professional representative is:

Attorney: Mr. Anthony S. Corbett - McLean & Howard, LLP

