



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 Keller (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. 16-073, as amended by TWDB Resolution Nos. 19-073, 20-063, and 21-085 (Attachment A, referred to as the Resolution) on July 21, 2021, making a commitment to the City for financial assistance in the amount of \$12,180,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) administered by the TWDB; and

WHEREAS, the City closed on the 2016 portion of the commitment in the amount of \$4,060,000; and

WHEREAS, the City closed on the 2020 portion of the commitment in the amount of \$4,060,000; and

WHEREAS, through this Agreement, the City intends to sell to the TWDB the \$4,060,000 City of Keller, Texas Combination Tax and Surplus Revenue Series 2023 (City’s Bonds) for the TWDB’s financial assistance from the SWIRFT, as further described in Attachment B; 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

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

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

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 \$4,060,000 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

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

that the TWDB issue and deliver its SWIRFT Bonds approximately fifteen (15) days after 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 26, 2023) 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 \$4,031 (Transaction Cost Payment). The City shall be obligated to pay such costs to the TWDB no later than March 6, 2024.
- 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 6, 2024. The City understands and agrees that termination under this section will result in a total penalty amount of \$44,631.

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

- 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 6, 2024. 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 6, 2024. 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 \$225,660.

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.

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

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 6, 2024, 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 6, 2024. 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 \$225,660.

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.

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

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:

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: finance-debt-management@twdb.texas.gov	City of Keller Attn: Director of Administrative Services P.O. Box 770 Keller, Texas 76248-2114 Telephone: (817) 743-4080 Facsimile: (817) 743-4091 E-mail: arector@cityofkeller.com
---	---

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.

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

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. 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.

[Remainder of Page Intentionally Left Blank]

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

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

CITY OF KELLER

By: _____

Name: City Manager

Title: Mark Hafner

Date: _____

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

TEXAS WATER DEVELOPMENT BOARD

By: _____

Name: Jeff Walker

Title: Executive Administrator

Date: _____

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

ATTACHMENT A

TWDB RESOLUTION NO. 16-073
AS AMENDED BY TWDB RESOLUTIONS NOS. 19-073, 20-06, AND 21-085

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE CITY OF KELLER
IN THE FORM OF A MULTI-YEAR COMMITMENT
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS
THROUGH THE PROPOSED PURCHASE OF \$12,180,000 CITY OF KELLER, TEXAS
COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2016, PROPOSED SERIES 2019, AND PROPOSED SERIES 2022**

(16-073)

WHEREAS, the City of Keller (City) has filed an application for financial assistance in the amount of \$12,180,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the design and construction of certain water supply project(s) identified as Project No. 51029; and

WHEREAS, 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 \$12,180,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016, Proposed Series 2019, and Proposed Series 2022 (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; and

WHEREAS, the City has offered a pledge of ad valorem taxes and surplus net revenue as sufficient security for the repayment of the Obligations; and

WHEREAS, 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; and

WHEREAS, interest rate subsidies are available to the City at the following levels: 35% for a loan of a term of 20 years, 25% for a loan of a term of 21 to 25 years, and 20% for a loan of a term of 26 to 30 years. The interest rate subsidy applicable to each proposed series will be set through each financing agreement executed between the TWDB and the City, pursuant to this Resolution; and

WHEREAS, the TWDB hereby finds:

1. that 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. that the project is a recommended water management strategy in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a);
3. that a water conservation plan, has been submitted and implemented in accordance with Texas Water Code § 11.1271 and 31 TAC § 363.1309(b)(1);
4. that the City satisfactorily completed any request by the Executive Administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Texas Water Code § 16.053(q), in accordance with 31 TAC § 363.1309(b)(2);

5. that the current water audit, if required by Texas Water Code § 16.0121, has been completed by the City and filed with the TWDB in accordance with 31 TAC § 358.6; and
6. that the City has acknowledged its legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises, and any applicable state law relating 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 resolves as follows:

A commitment is made by the TWDB to the City of Keller for financial assistance in the amount of \$12,180,000 from the State Water Implementation Revenue Fund for Texas, to be evidenced by the TWDB's proposed purchase of City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation as follows:

- a) \$4,060,000 Proposed Series 2016 to expire on December 31, 2016;
- b) \$4,060,000 Proposed Series 2019 to expire on December 31, 2019; and
- c) \$4,060,000 Proposed Series 2022 to expire on December 31, 2022.

Such commitment is conditioned as follows:

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 all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said 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 that executed agreement to the TWDB consistent with the terms and conditions described in the financing agreement;
5. 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, to the TWDB and to the TWDB's designated Trustee, of all receipts documenting debt service payments;

The Following Conditions Must Be Included in the Obligations:

6. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which 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;
7. 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 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 such rule, such 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 such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;
8. the Obligations must contain a provision requiring the City to levy a tax and/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;
9. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (2) eligible costs for the project as authorized by the Executive Administrator;
10. 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;
11. loan 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;
12. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, recycling and disposition of any contaminated sewage sludge, contaminated sediments and/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;

13. 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;
14. 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 form in accordance with 31 TAC § 363.42(c)(1);
15. the Obligations must include a provision prohibiting the City from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
16. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (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 such proceeds are needed for the facilities to be financed;
 - b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and
 - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least 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;
17. the Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 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 such 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 loan with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;

- b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the making of the loan, and in order to induce the making of the loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
18. 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;
19. 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 § 149(b) of the Code;
20. the Obligations must provide that neither the City nor a related party thereto 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;
21. the Obligations must contain a provision that provides as follows:
- a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the

Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;

- ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and
- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than **1.10** times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements;

Conditions to Close or for Release of Funds:

- 22. prior to 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;
- 23. prior to closing, and if not previously provided with the application, the City shall submit executed contracts for engineering, and, if applicable, financial advisor and bond counsel contracts, 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;
- 24. prior to 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;
- 25. prior to 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;

26. prior to closing, the City's bond counsel must prepare a written opinion that also states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;
27. 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; and
28. the transcript must include evidence that the information reporting requirements of § 149(e) of the 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 § 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 21st day of July, 2016.

TEXAS WATER DEVELOPMENT BOARD

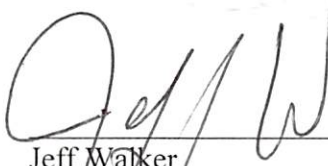


Bech K. Bruun

Bech K. Bruun, Chairman

DATE SIGNED: 7-21-16

ATTEST:



Jeff Walker
Executive Administrator

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
AMENDING TEXAS WATER DEVELOPMENT BOARD
RESOLUTION NO. 16-073
TO PROVIDE FINANCIAL ASSISTANCE TO THE CITY OF KELLER
IN THE AMOUNT OF \$12,180,000

(19-073)

WHEREAS, at its July 21, 2016 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 16-073, made a multi-year commitment to the City of Keller (City) for financial assistance in the amount of \$12,180,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of \$12,180,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation, all as is more specifically set forth in the TWDB's Resolution No. 16-073 (Resolution) and accompanying documentation, to which documents express reference is made; and

WHEREAS, the City closed on the 2016 portion of the commitment in the amount of \$4,060,000; and

WHEREAS, by correspondence dated February 8, 2019, the City requested that the TWDB amend the Resolution to modify the City's Annual Loan Closing Schedule to extend the 2019 commitment to 2020; and

WHEREAS, the TWDB hereby finds that the proposed amendments to TWDB Resolution No. 16-073 as requested by the City, are reasonable and within the public interest and will serve a public purpose; and

WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law.

NOW, THEREFORE, based on these considerations and findings, the TWDB resolves as follows:

1. The commitment made through the Resolution to the City of Keller for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be evidenced by the TWDB's proposed purchase of the City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation in accordance with the annual loan closing schedule proposed below:
 - a. \$4,060,000 Proposed Series 2020, to expire on December 31, 2020; and
 - b. \$4,060,000 Proposed Series 2022, to expire on December 31, 2022.
2. All other terms and conditions of TWDB Resolution No. 16-073 shall remain in full force and effect.

APPROVED and ordered of record this the 22nd day of July, 2019.



TEXAS WATER DEVELOPMENT BOARD

A handwritten signature in blue ink, appearing to read "P. Lake", is written over a horizontal line.

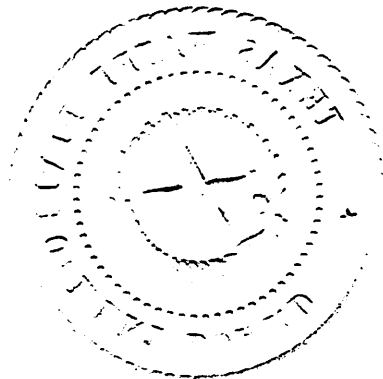
Peter M. Lake, Chairman

DATE SIGNED: 7/22/19

ATTEST:

A handwritten signature in blue ink, appearing to read "J. Walker", is written over a horizontal line.

Jeff Walker, Executive Administrator



1952



**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD AMENDING
TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 16-073, AS AMENDED BY
TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 19-073,
TO PROVIDE FINANCIAL ASSISTANCE TO THE CITY OF KELLER
IN THE AMOUNT OF \$12,180,000**

(20-063).

WHEREAS, at its July 21, 2016 meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 16-073, made a multi-year commitment to the City of Keller (City) for financial assistance in the amount of \$12,180,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of \$12,180,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016, Proposed Series 2019, and Proposed Series 2022, all as is more specifically set forth in the TWDB's Resolution Nos. 16-073 and 19-073 and accompanying documentation, to which documents express reference is made; and

WHEREAS, the City closed on the 2016 portion of the commitment in the amount of \$4,060,000; and

WHEREAS, at its July 22, 2019, meeting the TWDB, through Resolution No. 19-073, amended TWDB Resolution 16-073 to extend the City's Annual Loan Closing Schedule for the 2019 commitment to 2020; and

WHEREAS, the City seeks an amendment to TWDB Resolution 16-073, as amended by TWDB Resolution No. 19-073, to modify distributions to be received by the City in funding cycles 2020 and 2021; and

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolution 16-073, as amended by TWDB Resolution No. 19-073, as requested by the City, is reasonable and within the public interest and will serve a public purpose; and

WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law;

NOW, THEREFORE, based on these considerations and findings, the TWDB resolves as follows:

1. The commitment made through TWDB Resolution 16-073, as amended by TWDB Resolution No. 19-073, to the City of Keller for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be evidenced by the TWDB's proposed purchase of the \$8,120,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation, in accordance with

the annual loan closing schedule proposed below:

- a. \$4,060,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation Proposed Series 2020, to expire on December 31, 2020;
 - b. \$4,060,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation Proposed Series 2021, to expire on December 31, 2021; and
2. All other terms and conditions of TWDB Resolution 16-073, as amended by TWDB Resolution No. 19-073, shall remain in full force and effect.

APPROVED and ordered of record this the 23rd day of July, 2020.

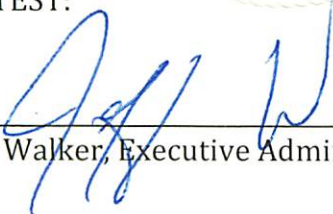
TEXAS WATER DEVELOPMENT BOARD



Peter M. Lake, Chairman

DATE SIGNED: 7/23/20

ATTEST:



Jeff Walker, Executive Administrator

**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD AMENDING
TEXAS WATER DEVELOPMENT BOARD RESOLUTION NO. 16-073, AS AMENDED BY
TEXAS WATER DEVELOPMENT BOARD RESOLUTION NOS. 19-073 AND 20-063,
TO PROVIDE FINANCIAL ASSISTANCE TO THE CITY OF KELLER
IN THE AMOUNT OF \$12,180,000**

(21-085)

WHEREAS, at its July 21, 2016, meeting, the Texas Water Development Board (TWDB), by TWDB Resolution No. 16-073, made a multi-year commitment to the City of Keller (City) for financial assistance in the amount of \$12,180,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT), through the purchase of \$12,180,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2016, Proposed Series 2019, and Proposed Series 2022, all as is more specifically set forth in the TWDB's Resolution Nos. 16-073, 19-073, and 20-063 and accompanying documentation, to which documents express reference is made; and

WHEREAS, the City closed on the 2016 portion of the commitment in the amount of \$4,060,000; and

WHEREAS, at its July 22, 2019, meeting the TWDB, through Resolution No. 19-073, amended TWDB Resolution 16-073, as amended by TWDB Resolution 19-073, to extend the City's Annual Loan Closing Schedule for the 2019 commitment to 2020; and

WHEREAS, at its July 23, 2020, meeting the TWDB, through Resolution No. 20-063, amended TWDB Resolution 16-073, as amended by TWDB Resolution 19-073, to modify distributions to be received by the City in funding cycles 2020 and 2021, wherein Proposed Series 2022 changed to Proposed Series 2021; and

WHEREAS, the City closed on the 2020 portion of the commitment in the amount of \$4,060,000; and

WHEREAS, the City seeks an amendment to TWDB Resolution 16-073, as amended by TWDB Resolution Nos. 19-073 and 20-063, to modify the City's Annual Loan Closing Schedule to extend the last of its multi-year commitment from 2021 to 2023;

WHEREAS, the TWDB hereby finds that the proposed amendment to TWDB Resolution 16-073, as amended by TWDB Resolution Nos. 19-073 and 20-063, as requested by the City, is reasonable and within the public interest and will serve a public purpose; and

WHEREAS, in accordance with the Texas Water Code, the TWDB has carefully considered all matters required by law;

NOW, THEREFORE, based on these considerations and findings, the TWDB resolves as follows:

1. The commitment made through TWDB Resolution 16-073, as amended by TWDB Resolution Nos. 19-073 and 20-063, to the City of Keller for financial assistance from the State Water Implementation Revenue Fund for Texas is amended, and shall be evidenced by the TWDB's proposed purchase of one more series of City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation, in accordance with the annual loan closing schedule proposed below:
 - a. \$4,060,000 City of Keller, Texas Combination Tax and Surplus Revenue Certificates of Obligation Proposed Series 2023, to expire on December 31, 2023; and
2. All other terms and conditions of TWDB Resolution 16-073, as amended by TWDB Resolution Nos. 19-073 and 20-063, shall remain in full force and effect.

APPROVED and ordered of record this, the 22nd day of July 2021.

TEXAS WATER DEVELOPMENT BOARD


Brooke T. Paup
Brooke T. Paup, Chairwoman

DATE SIGNED: July 22, 2021

ATTEST:

Jeff Walker
Jeff Walker, Executive Administrator

ATTACHMENT B

DESCRIPTION OF BORROWER BONDS

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

ATTACHMENT B

DESCRIPTION OF BORROWER BONDS

Title of Borrower Bonds: City of Keller, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2023

Project Name:

Project Number: 51029

Aggregate Principal Amount of Borrower Bonds: \$4,060,000

Anticipated Closing Date: 11/14/2023

Dated Date: 11/1/2023

First Principal Payment Date: 2/15/2024

First Interest Payment Date: 2/15/2024

Maturity Schedule:

<u>Maturity</u>	<u>Principal Amount</u>
2/15/2024	250,000
2/15/2025	230,000
2/15/2026	240,000
2/15/2027	245,000
2/15/2028	250,000
2/15/2029	255,000
2/15/2030	260,000
2/15/2031	265,000
2/15/2032	275,000
2/15/2033	280,000
2/15/2034	285,000
2/15/2035	295,000
2/15/2036	300,000
2/15/2037	310,000
2/15/2038	320,000

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

ATTACHMENT C
FINANCING SCHEDULE

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein is subject to change upon further review of the TWDB.

ATTACHMENT C
FINANCING SCHEDULE*

DATE	ACTION
07/25/2023	TWDB approval of commitments
09/4/2023	<i>Labor Day Holiday**</i>
09/7/2023	<i>Financing agreement - last day to execute (19 days prior to initiation of pricing)</i>
09/12/2023	Financing agreement (Sec. 4A) -last day political subdivisions can terminate without penalty (14 days prior to initiation of pricing)
09/12/2023	Financing agreement (Sec. 5) -last day political subdivisions can modify maturity schedule (14 days prior to initiation of pricing)
09/21/2023	Financing agreement (Sec. 4B) -last day political subdivisions can terminate with costs of issuance (5 days prior to initiation of pricing)
09/26/2023	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).
09/26/2023	TWDB bond pricing initiation (pre-pricing begins)
09/27/2023	TWDB bond pricing
10/5/2023	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
10/9/2023	<i>Columbus Day Holiday (TWDB open)**</i>
10/12/2023	TWDB bond closing (<i>political subdivisions must close within 56 days</i>)
10/13 to 12/7/2023	Closings on political subdivision obligations
11/11/2023	<i>Veteran's Day Holiday**</i>
11/23/2023	<i>Thanksgiving Holiday**</i>
11/24/2023	<i>Thanksgiving Holiday**</i>
12/7/2023	Last day to close on political subdivision obligations
12/8/2023	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)
03/6/2024	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.*