Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: June 11, 2018 TEAM MANAGER: Dain Larsen

APPLICANT	City of San Marcos
TYPE OF ASSISTANCE	$1,935,000 Financing $1,274,900 Principal Forgiveness
LEGAL PLEDGE	Tax and Surplus Revenues

STAFF RECOMMENDATION

☒ Approve ☐ No Action

ACTION REQUESTED

Approve by resolution, a request from the City of San Marcos (Hays County) for $3,209,900 in financial assistance consisting of $1,935,000 in financing and $1,274,900 in principal forgiveness from the Clean Water State Revolving Fund for planning, acquisition, design and construction of a project to mitigate nonpoint source pollution.

PROJECT

Upper San Marcos NPS Land Acquisition
Project Number 73783

BACKGROUND

The City of San Marcos (City) is located 30 miles south of Austin, Texas. The City is in the Austin-Round Rock Metropolitan Statistical Area, which is the fastest growing metropolitan statistical area in the nation with a population greater than 1 million. The City itself continues to grow, but at a slightly lower rate than it did from 2012 to 2014 when it was the fastest growing city in the nation.

The City identified the acquisition of land along the Upper San Marcos River as a strategy to mitigate additional nonpoint source pollution. The Upper San Marcos River is currently impaired due to the presence of total dissolved solids above the regulatory threshold. Spring Lake and the Upper San Marcos River experience increased turbidity and declines in water quality after rainfall events with Sink Creek identified as the probable cause of the substantial loads of sediment and nutrients.

Based upon the results of multiple plans to improve water quality in the Edwards Aquifer and San Marcos River, the City is proposing to acquire property to mitigate nonpoint source pollution to the Edwards Aquifer and the San Marcos Springs and River. The City is considering one parcel of undeveloped property located over the Edwards Aquifer recharge zone and within the Sink Creek drainage basin. The parcel will require

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE DECEMBER 31, 2018

construction of fencing to isolate it from the original parent tract, and to protect significant recharge structures or other sensitive areas from disturbance.

Runoff from the property drains to Sink Creek and recharges artesian springs that are part of the Edwards Aquifer. These flows feed into Spring Lake, which is the headwaters of the San Marcos River and habitat for aquatic endangered species. Sink Creek has a large sinkhole that results in rapid recharge of the aquifer in this location. The rapid recharge reduces the amount of natural filtration of pollutants in the water that enters the aquifer, which increases the importance of preserving the proposed property. The preservation of this land will enhance the quality and quantity of runoff that reaches Spring Lake, the San Marcos River, and recharge features such as the sinkhole in Sink Creek.

FINANCIAL

Key Issues

None.

Pledge and Repayment

The City of San Marcos (City) is pledging ad valorem taxes and surplus net revenues for the repayment of the proposed loan. The City's current combined average monthly water and wastewater rate is $89.68. The utility system's current net revenues combined with the interest and sinking fund tax revenues generate approximately $28,574,026 in total revenues available for debt service. This provides 1.65 times coverage of the annual existing and proposed debt service during the first year of principal repayment on the proposed debt.

Principal Forgiveness

The City qualifies for $472,200 as a green project. The City also qualifies for $802,700 as a disadvantaged community.

Cost Savings

Based on a 20-year maturity and current interest rates, the City could save approximately $334,737 over the life of the financing. The City is also saving $1,294,900 in principal forgiveness.

Internal Risk Score

Staff assigns a 2A to the City and the proposed project to be funded by the Texas Water Development Board. This means that the City's payment capacity is strong.

The results of the City's financial sustainability indicators are strong. The revenues available for debt service provide a high coverage ratio. In addition, the City's level of reinvestment in the assets of the utility's infrastructure is typical, with an asset condition ratio of 14 years. An asset condition ratio of 12 to 24 years is considered typical.

The City has been able to maintain an unemployment rate that is lower than the state overall even though its population growth rate is substantially higher than the state overall. However, the median household income for the community is significantly lower than the state overall. The average, unadjusted, unemployment rate for the City was 3.30 percent in

March 2018, compared to 4.1 percent in the state overall. The City's population has increased at an average annual rate of 4.28 percent since 2010, compared to an increase at an annual rate of 1.08 percent for the population of the state overall. The City's median household income is $30,985, which is 57 percent of the median for the state overall.

Based on the current median household income and number of connections, the current utility system rates are higher than the industry benchmark. The City's household cost factor is 3.47 percent for water and wastewater services. The industry benchmark for the household cost factor is 2 percent for the two services.

Most of the City's debt is supported by both taxes and revenues and is self-supporting. The utility system's self-supporting debt compared to operating revenues, including the proposed loans, is low at 2.59. A ratio of 4 to 6 is considered typical for utility systems. The City maintains a low level of debt supported by tax revenues with a debt ratio 1.77 percent. A typical level of debt ratio ranges between 2 and 4.99 percent.

The system maintains strong reserves with unrestricted cash and short-term investments of approximately 1,435 days of the operating expenses of the utility system. Any amount between 30 and 150 days is a moderate level of liquidity.

The fiscal management of the utility system is strong. The City's cash reserves are high, as is the coverage ratio to service the proposed loan. Furthermore, the City maintains a low level of debt supported by tax revenues. These strong factors, and continued long-term financial planning further support the assigned risk score of 2A.

LEGAL

Key Issues

None.

Conditions

Standard Clean Water State Revolving Fund, tax-exempt, and tax and surplus net revenue conditions and further conditioned as follows:

- Principal Forgiveness Agreement; and
- Return of surplus funds.

Attachments: 1. Project Data Summary
2. Debt Service Schedule
3. Engineering/Environmental Review
4. Project Budget
5. Resolution (18-)
6. Water Conservation Review
7. Location Map
8. Project Map

Project Data Summary

Responsible Authority	City of San Marcos
Program	Clean Water State Revolving Fund
Commitment Code	L1000688 LF1000779
Project Number	73783
Intended Use Plan Year	2018
Type of Pledge	3- Combo Tax and Rev
Revenue Pledge Level	Third
Legal Description	$1,935,000 Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018 $1,274,900 Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	75,330
Rural	No
Water Connections	13,001
Wastewater Connections	10,420
Qualifies as Disadvantaged	Yes
Disadvantaged Level	6
Clean Water State Revolving Fund Type	Equivalency
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
Financial Managerial & Technical Complete	N/A
Funding Phase Code	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	No
Internal Risk Score	2A
External Ratings (for SRF rates)	
Standard and Poor's	AA
Moody's	Aa2
Fitch	Non-Rated
Special Issues	

Project Team

Team Manager	Dain Larsen
Financial Analyst	Hector Estrada
Engineering Reviewer	Jesse Milonovich
Environmental Reviewer	Kristin Miller
Attorney	Alexis Lorick

Attachment 2

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of San Marcos

$1,935,000 City of San Marcos, Texas Combination Tax And Surplus Revenue Certificates of Obligation, Proposed Series 2018

Dated Date:	**9/14/2018**	**Source:**	**CWSRF-EQUIVALENCY**
Delivery Date:	**9/14/2018**	**Rate:**	**1.33%**
First Interest:	**2/15/2019**	**Insurance:**	**No**
First Principal	**8/15/2019**	**Case:**	-
Last Principal:	**8/15/2038**	**Admin.Fee:**	**$33,280**
Fiscal Year End:	**09/30**	**Admin. Fee Payment Date:**	**9/14/2018**
Required Coverage:	**1.1**	**Total Assessed Valuation:**	**$4,435,401,766**

						$1,935,000 ISSUE					
FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	TOTAL DEBT SERVICE	COVERAGE
2019	$0.2539	$10,135,337	$18,438,689	$28,574,026	$17,256,598	$85,000	1.33%	$23,662	$108,662	$17,365,260	1.65
2020	0.2539	10,135,337	18,438,689	28,574,026	17,255,951	85,000	1.33%	24,605	109,605	17,365,556	1.65
2021	0.2539	10,135,337	18,438,689	28,574,026	15,115,035	90,000	1.33%	23,475	113,475	15,228,510	1.88
2022	0.2539	10,135,337	18,438,689	28,574,026	15,071,971	90,000	1.33%	22,278	112,278	15,184,249	1.88
2023	0.2539	10,135,337	18,438,689	28,574,026	14,985,588	90,000	1.33%	21,081	111,081	15,096,669	1.89
2024	0.2539	10,135,337	18,438,689	28,574,026	14,972,563	90,000	1.33%	19,884	109,884	15,082,447	1.89
2025	0.2539	10,135,337	18,438,689	28,574,026	14,955,465	90,000	1.33%	18,687	108,687	15,064,152	1.90
2026	0.2539	10,135,337	18,438,689	28,574,026	14,930,705	90,000	1.33%	17,490	107,490	15,038,195	1.90
2027	0.2539	10,135,337	18,438,689	28,574,026	14,935,669	95,000	1.33%	16,293	111,293	15,046,962	1.90
2028	0.2539	10,135,337	18,438,689	28,574,026	10,971,059	95,000	1.33%	15,029	110,029	11,081,088	2.58
2029	0.2539	10,135,337	18,438,689	28,574,026	10,965,269	95,000	1.33%	13,766	108,766	11,074,035	2.58
2030	0.2539	10,135,337	18,438,689	28,574,026	11,006,571	100,000	1.33%	12,502	112,502	11,119,073	2.57
2031	0.2539	10,135,337	18,438,689	28,574,026	8,980,404	100,000	1.33%	11,172	111,172	9,091,576	3.14
2032	0.2539	10,135,337	18,438,689	28,574,026	8,984,361	100,000	1.33%	9,842	109,842	9,094,203	3.14
2033	0.2539	10,135,337	18,438,689	28,574,026	8,979,038	100,000	1.33%	8,512	108,512	9,087,550	3.14
2034	0.2539	10,135,337	18,438,689	28,574,026	8,670,234	105,000	1.33%	7,182	112,182	8,782,416	3.25
2035	0.2539	10,135,337	18,438,689	28,574,026	8,317,928	105,000	1.33%	5,786	110,786	8,428,714	3.39
2036	0.2539	10,135,337	18,438,689	28,574,026	7,713,870	110,000	1.33%	4,389	114,389	7,828,259	3.65
2037	0.2539	10,135,337	18,438,689	28,574,026	6,539,126	110,000	1.33%	2,926	112,926	6,652,052	4.30
2038	0.2539	10,135,337	18,438,689	28,574,026	5,172,983	110,000	1.33%	1,463	111,463	5,284,446	5.41
				$571,480,512	$235,780,389	$1,935,000		$280,020	$2,215,020	$237,995,408	

AVERAGE (MATURITY) LIFE	**10.88 YEARS**
NET INTEREST RATE	**1.330%**
COST SAVINGS + PF with interest cost	**$ 1,804,416**
AVERAGE ANNUAL REQUIREMENT	**$11,899,770**

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable.

San Marcos
73783 Upper San Marcos NPS Land Acquisition
Engineering and Environmental Review

Engineering:

Key Issues:

None.

Project Need/Description

Project Need: The Upper San Marcos River is impaired due to the presence of total dissolved solids more than the regulatory threshold. Spring Lake and the Upper San Marcos River experience increased turbidity and declines in water quality after rainfall events with Sink Creek as the probable cause of the substantial loads of sediment and nutrients.

Project Description: Based upon the results of multiple plans to improve water quality in the Edwards Aquifer and San Marcos River, the City of San Marcos is proposing to acquire property to mitigate nonpoint source pollution to the Edwards Aquifer and the San Marcos Springs and River. The City is considering one parcel of undeveloped property located over the Edwards Aquifer Recharge Zone and within the Sink Creek drainage basin. The parcel will require construction of fencing to isolate it from the original parent tract, and to protect significant recharge structures or other sensitive areas from disturbance.

Project Schedule:

Project Task	Schedule Date
Land Acquisition	6/25/2018
Engineering Feasibility Report Completion (End of Planning Phase)	7/30/2018
Closing	9/14/2018
Design Phase Complete	10/1/2018
Start of Construction	1/5/2019
Construction Completion	3/1/2019

Environmental Section:

Key Issues:

None known at this time.

Environmental Summary:

As set forth in the preliminary environmental information submitted by the applicant, there are no known environmental, social, or permitting issues that would preclude construction of the project. Based on this initial environmental review, it is not anticipated that the proposed project's primary environmental impacts should be significant or adverse, nor should they affect project implementation.

Pursuant to the requirements of 31 Texas Administrative Code § 375.61, all financial assistance shall be conditioned to read that funding for acquisition costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued.

Texas Water Development Board

Project Budget Summary

San Marcos

73783 - Upper San Marcos NPS Land Acquisition

Budget Items	Description	TWDB Funds	Total
Construction			
Construction	Security Fence	$35,000.00	$35,000.00
Subtotal for Construction		**$35,000.00**	**$35,000.00**
Basic Engineering Services			
Design		$5,000.00	$5,000.00
Subtotal for Basic Engineering Services		**$5,000.00**	**$5,000.00**
Special Services			
Environmental		$10,000.00	$10,000.00
Subtotal for Special Services		**$10,000.00**	**$10,000.00**
Fiscal Services			
Bond Counsel		$24,000.00	$24,000.00
Financial Advisor		$32,000.00	$32,000.00
Loan Origination Fee		$33,280.00	$33,280.00
Subtotal for Fiscal Services		**$89,280.00**	**$89,280.00**
Other			
Land/Easements Acquisition		$3,000,000.00	$3,000,000.00
Other	Appraisal; Appraisal Review; and Title Policy	$20,000.00	$20,000.00
Subtotal for Other		**$3,020,000.00**	**$3,020,000.00**
Contingency			
Contingency		$50,620.00	$50,620.00
Subtotal for Contingency		**$50,620.00**	**$50,620.00**
Total		$3,209,900.00	$3,209,900.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
$3,209,900 TO THE CITY OF SAN MARCOS
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
$1,935,000 CITY OF SAN MARCOS, TEXAS COMBINATION TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2018
AND
$1,274,900 IN PRINCIPAL FORGIVENESS

(18-)

WHEREAS, the City of San Marcos (City), located in Caldwell, Guadalupe, and Hays Counties, has filed an application for financial assistance in the amount of $3,209,900 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, acquisition, design, and construction of certain nonpoint source pollution flood mitigation improvements identified as Project No. 73783; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of $1,935,000 City of San Marcos, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018 (together with all authorizing documents, (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of $1,274,900, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of ad valorem taxes and surplus net revenues of the City's water and sewer works as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;

2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq*., as well as state law, in accordance with Texas Water Code § 15.607;

3. that the City has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;

4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007; and

5. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects.

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

A commitment is made by the TWDB to the City of San Marcos for financial assistance in the amount of $3,209,900 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of $1,935,000 City of San Marcos, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2018 and the execution of a Principal Forgiveness Agreement in the amount of $1,274,900. This commitment will expire on December 31, 2018.

Such commitment is conditioned as follows:

<u>Standard Conditions:</u>

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 compliance with all applicable requirements contained in 31 TAC Chapter 375;

4. 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;

5. 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;

6. 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;

7. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;

8. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) 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 (3) deposit into a reserve fund;

9. 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;

10. 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;

11. 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 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;

12. 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;

13. 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;

14. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

15. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

<u>Conditions Related to Tax-Exempt Status:</u>

16. 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;

17. the City's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;

18. 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 of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

19. 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;

20. 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;

21. 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;

22. 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;

23. 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;

24. 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;

25. 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;

<u>State Revolving Fund Conditions:</u>

26. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;

27. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of $2,000 the contracts clauses as provided by the TWDB;

28. the Obligations must include a provision stating that the City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;

29. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;

30. the Obligations must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;

31. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq*. related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;

32. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average projected useful life of the project, as determined by the schedule;

<u>Clean Water State Revolving Fund Conditions:</u>

33. prior to or at closing, the City shall pay a 1.75% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375 and the applicable Intended Use Plan;

34. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;

35. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

36. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the City must provide documentation that it has

met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq.* and 33 U.S.C. § 1382(b)(14).

Pledge Conditions for the Loan:

37. 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.

PROVIDED, however, the commitment is subject to the following special conditions:

<u>Special Conditions:</u>

38. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and

39. the Principal Forgiveness Agreement must include a provision stating that the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 11th day of June 2018.

TEXAS WATER DEVELOPMENT BOARD

____
Peter Lake, Chairman

DATE SIGNED: ____________________

ATTEST:

____
Jeff Walker
Executive Administrator

Attachment 6

WATER CONSERVATION REVIEW

Entity: City of San Marcos

Review date: October 2017

WATER CONSERVATION PLAN DATE: April 2014 ☐ **Approvable** ☑ **Adopted**

	Total GPCD	**Residential GPCD**	**Water Loss GPCD**	**Water Loss Percent**
Baseline	137	72	24	17
5-year Goal	116	61	14	12
10-year Goal	114	59	14	12

WATER LOSS AUDIT YEAR: 2016

Total water loss (GPCD): 23

Total water loss (percent): 19

Wholesale Water ☐

Total no. of connections: 12,374

Length of mains (miles): 274

Connections per mile: 45

If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (*ILI*): 4.77

WATER LOSS THRESHOLDS:

	Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
If population ≤ 10K, connections/mile < 32 :	NA	NA	NA	NA	NA	NA
If population ≤ 10K, connections/mile ≥ 32 :	NA	NA	NA	NA	NA	NA
If population > 10K :	NA	NA	NA	NA	NA	NA

Does the applicant meet Water Loss Threshold requirements? Yes ☐ No ☐ NA ☑

ADDITIONAL INFORMATION:

The City's leak detection program includes conducting monthly and annual pre-screening audits in an effort to determine and control unaccounted for use. Its system-wide leak detection program surveys portions of the system annually using sonic sounding equipment on service lines, fire hydrants, and valves to detect leaks. The city also conducts ongoing visual inspection of lines and offers a 24-hour leak hotline. Its meter replacement program includes replacing all water meters on a 10-year cycle. Four-inch or larger meters are tested annually and replaced as needed.

The city has dedicated conservation staff responsible for implementing the water conservation and drought management plans. Additionally, the public education program provides water conservation information to customers and K-12 students via written materials such as press releases, newsletter articles, and bill inserts; websites and social media; presentations to local groups, organizations, and schools; and presentations at public events. Further conservation efforts include rebate and incentive programs, household water audits, and rain barrel sales.

STAFF NOTES AND RECOMMENDATIONS:

The city's request for financial assistance is for a wastewater project; therefore, water loss thresholds are not applicable.

DEFINITIONS

Adopted refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formally approved and adopted by the applicant's governing body.

Apparent loss refers to unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

Approvable refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

Best Management Practices are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

GPCD means gallons per capita per day.

Infrastructure Leakage Index (ILI) is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 5,000 connections, average pressure greater than 35 psi, and a connection density of more than 32 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a bench marking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

NA means not applicable.

Produced water is the total amount of water purchased or produced by the utility.

Real loss comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

Residential GPCD is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

Total baseline GPCD is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

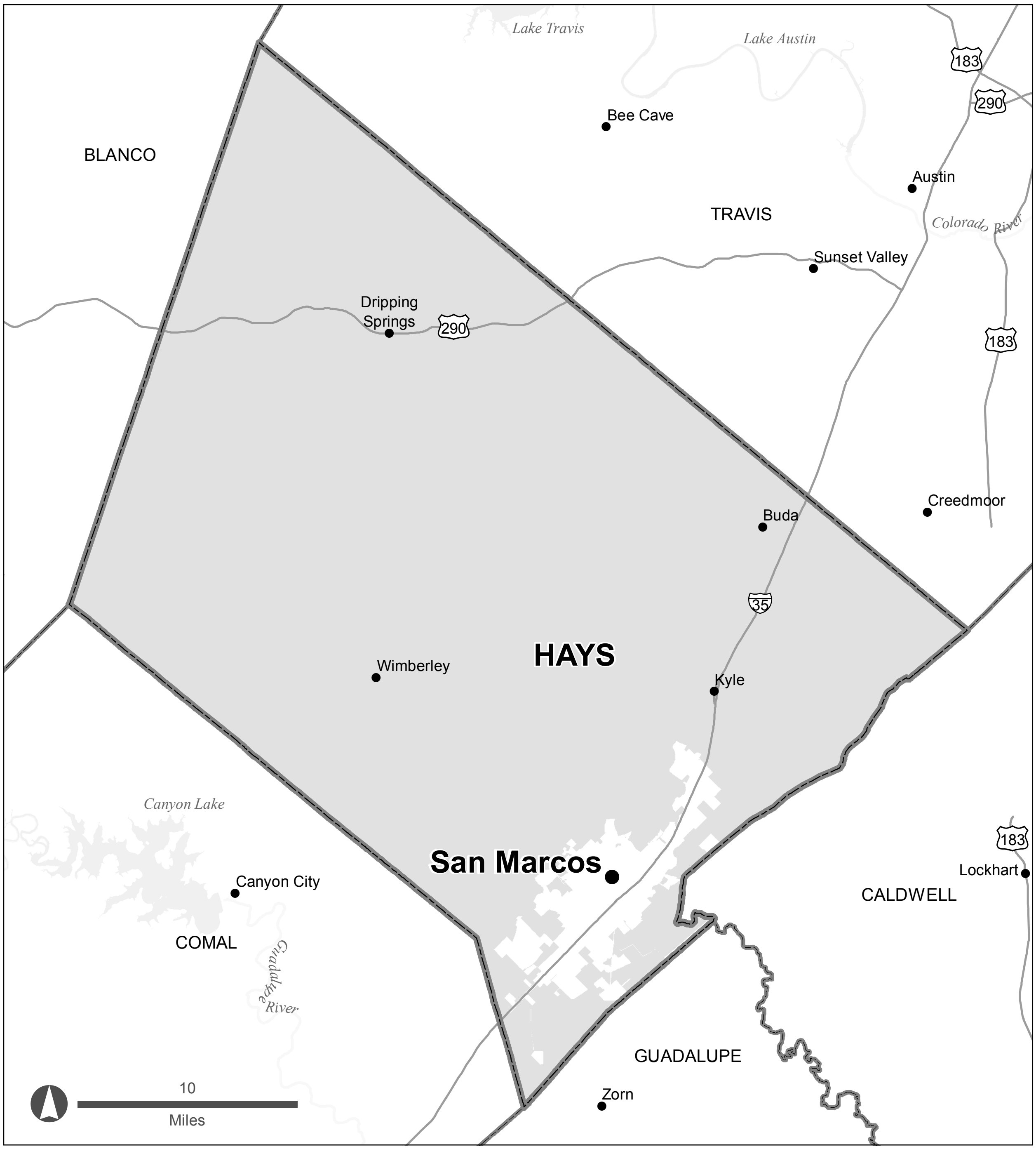
Total water loss is the sum of the apparent and real water losses.

Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

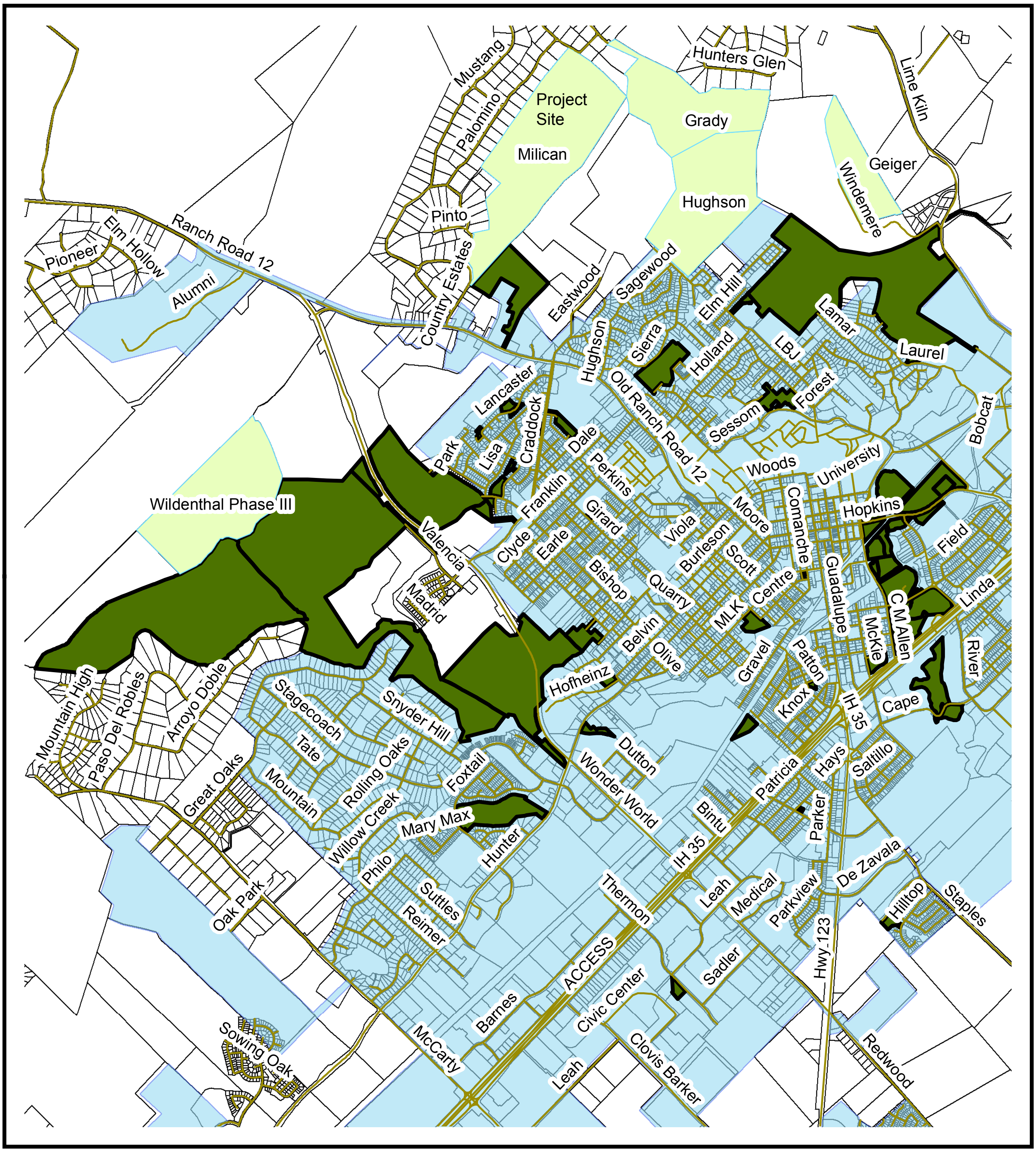
Water Loss Thresholds are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

Attachment 7

City of San Marcos
Hays County



Potential Acquisition Tracts with Wastewater CCN



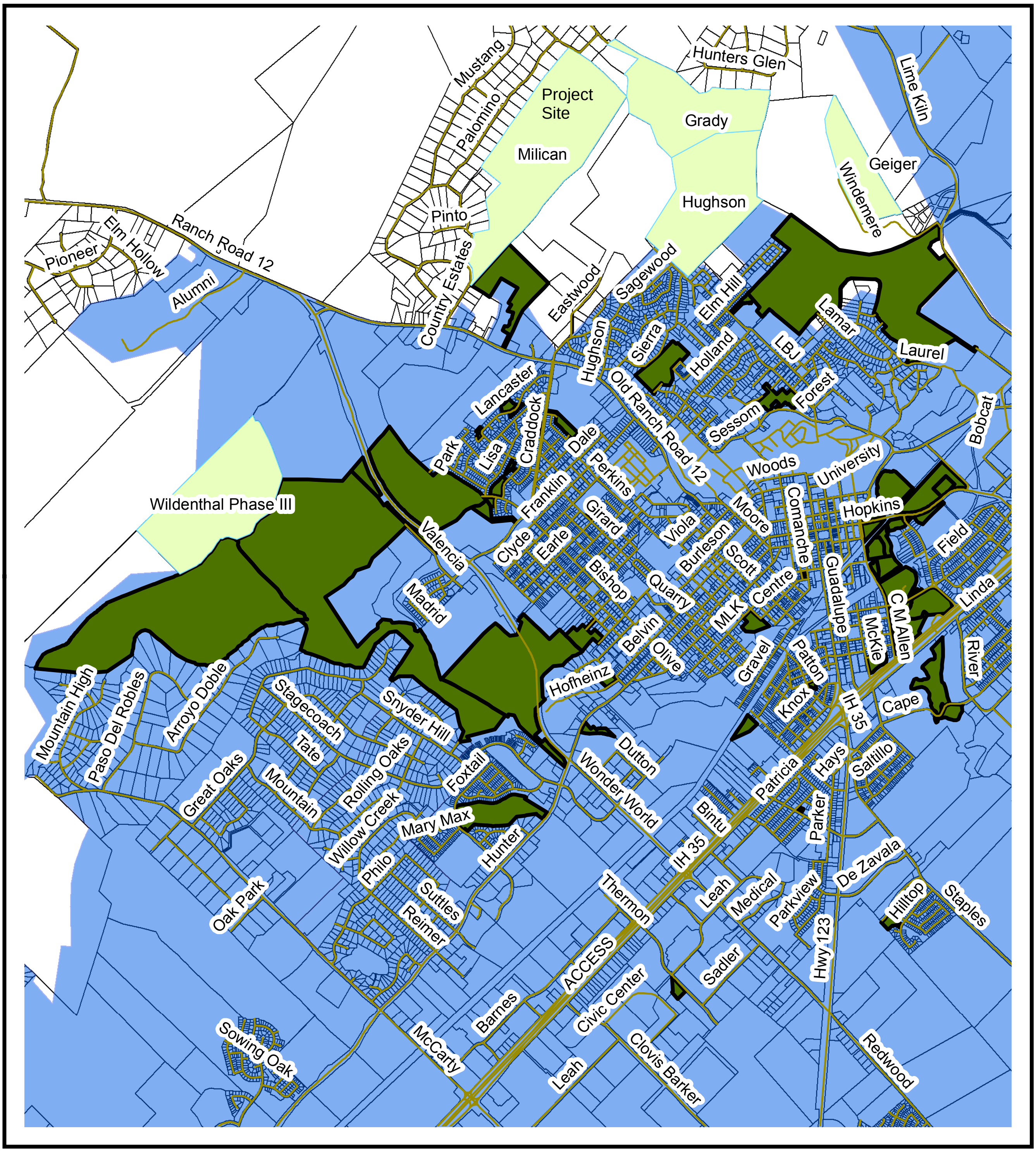
Selected_Tracts

City_Parks/Open space

WasteWaterCNN

0 0.5 1 2 Miles

Potential Acquisition Tracts with Water CCN



Selected_Tracts

City_Parks/Open space

WaterCNN

0 0.5 1 2 Miles