

MEMORANDUM

DATE: April 9, 2021

TO: The City of Georgetown, Texas

FROM: Richard S. Donoghue, Partner
McCall, Parkhurst & Horton L.L.P.

RE: **Use of Existing Voted Transportation Bond Authority**

Purpose

In my capacity as Bond Counsel to the City of Georgetown, Texas (the "City"), you have asked me to prepare this memorandum to discuss whether the City can legally use proceeds of authorized but unissued transportation bonds from the City's 2008 and 2015 transportation bond elections to fund certain transportation projects that would be undertaken by the City in conjunction with the transportation projects the City would fund from transportation bonds to be considered by the voters at the May 1, 2021 bond election, if such bond election passes.

As part of the sizing of the May 1, 2021 bond election, the City identified projects that fell within the language of the 2008 and 2015 transportation bond propositions. Accordingly, as discussed below in more detail, the City has the legal authority to issue bonds from the 2008 and 2015 transportation bond authorizations to fund those projects.

Background

Under Texas law, the proceeds of voter approved bonds can only be used for the purposes described in the bond proposition for such bonds. So the question of whether a particular purpose is an authorized use of bond proceeds requires a review of the language in the applicable bond proposition. The purpose language from the City's 2008 and 2015 transportation bond propositions is excerpted below in this memorandum.

Each bond proposition authorizes a total amount of bonds that may be issued for all the purposes listed in the proposition. Propositions do not contain individual dollar limits for each specific purpose contained in the proposition because the construction costs of each project are subject to change prior to completion. Accordingly, the City has discretion to allocate bond proceeds among the purposes listed in a bond proposition as it deems necessary under the facts and circumstances at the time.



It is also important to note that the City's bond propositions authorize the issuance of bonds "in one or more series or issues." This allows for the total amount of bonds authorized by the voters in a proposition to be issued over time in order to take into account the varying construction schedules of each transportation project. Accordingly, for a transportation proposition with many different projects, each series of bonds issued may pay for all or a portion of the projects listed in the bond proposition.

2008 Transportation Bond Proposition

The language of the transportation bond proposition approved by the voters in the November 4, 2008 bond election authorized up to \$46,000,000 in principal amount of bonds to be issued in one or more series for the purposes of:

"...constructing, improving, extending, expanding, upgrading and/or developing streets, roads, bridges and intersections, to wit: FM 971, Southeast Arterial 1, Northwest Inner Loop/DB Wood Road, FM 1460 and Berry Creek Drive and a routing study for SH 29, and related utility relocation, sidewalks, traffic safety and operational improvements, purchase of any necessary rights-of-way, drainage and other related costs..."

As of the date hereof, the City has issued \$25,050,000 of the \$46,000,000 in bonds authorized by the 2008 transportation bond proposition. That leaves the City with \$20,950,000 of voter approved authorization to issue future bonds for any of the purposes listed above in the 2008 transportation bond proposition.

2015 Transportation Bond Proposition

The language of the transportation bond proposition approved by the voters in the May 9, 2015 bond election authorized up to \$105,000,000 in principal amount of bonds to be issued in one or more series for the purposes of:

"...constructing, improving, extending, expanding, upgrading and/or developing streets, roads, bridges, and intersections, to wit: (i) Northwest Blvd Bridge-Fontana Dr to Austin Ave, Rivery Blvd Extension-Williams Dr to Northwest Blvd, IH 35 NB Frontage Road-Williams Dr to Lakeway Bridge, Southwest Bypass-Wolf Ranch Pkwy to Leander Rd, Wolf Ranch Pkwy-DB Wood Dr to Southwest Bypass, Intersection/Capital Pool, Leander Bridge at IH 35, NE Inner Loop-Stadium Dr to FM 971, Stadium Dr (CR 151)-Austin Ave to NE Inner Loop, Southwestern Blvd-Raintree Dr to SE Inner Loop, SH 29 (Haven Lane to SH 130), Leander Rd (RM 2243)- 400ft W of SW Bypass to River Ridge, DB Wood Dr- SH 29 to Oak Ridge Dr, Southwest Bypass-Wolf Ranch Pkwy to SH29, sidewalk, safety and ADA accessibility pool and related utility relocation, sidewalk, safety and operational improvements, purchase of any necessary rights-of-way, drainage and other related costs and (ii) preliminary engineering and rights-of-way acquisition for Williams Dr-Rivery Blvd. to Frontage Rd, IH 35 SB Frontage Road-Williams Dr to Rivery Blvd, SE Inner Loop- Southwestern Blvd to IH 35, SE Inner Loop-SH 29 to Southwestern Blvd, Shell Rd-Williams Dr to Shell Spur Rd, DB Wood Dr-Oak Ridge Dr to Lake Overlook Dr..."



As of the date hereof, the City has issued \$60,470,000¹ of the \$105,000,000 in bonds authorized by the 2015 transportation bond proposition. That leaves the City with \$44,530,000 of voter approved authorization to issue future bonds for any of the purposes listed above in the 2015 transportation bond proposition.

Conclusion

As part of the process of determining the size of the City's upcoming \$90,000,000 bond election to be held on May 1, 2021, the City identified certain projects and components of projects that would be covered by the purpose language of the 2008 and 2015 transportation bond propositions. Furthermore, the amounts of such projects did not exceed the amount of authorized but unissued bonds still remaining under such propositions. Accordingly, the City has the legal authority to issue bonds under the 2008 and 2015 bond propositions to finance those projects.

¹ Takes into account \$6,800,000 of transportation bonds in the process of issuance that are anticipated to be delivered in late May of 2021.