

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: May 4, 2023

Team Manager: Nancy Richards

ACTION REQUESTED

Consider approving by resolution a request from the Orange County Water Control and Improvement District No. 1 (Orange County) for \$910,000 in financial assistance consisting of \$410,000 in financing and \$500,000 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of a water system improvement project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The Orange County Water Control and Improvement District No. 1 (District) is located in Vidor approximately 10 miles northeast of Beaumont, Texas. The District provides water and wastewater services to a population of approximately 14,140 residents and 5,200 water connections and 4,066 wastewater connections.

PROJECT NEED AND DESCRIPTION

The District needs to reduce the high levels of total trihalomethanes (TTHM) in their finished drinking water. The levels of TTHM have exceeded the Texas Commission on Environmental Quality's maximum contaminant levels, and the District is near facing enforcement to correct this issue.

The District is proposing to plan, design, and construct a liquid ammonium sulfate system and related infrastructure at each of the District's existing three water well sites. The proposed project is anticipated to reduce the total TTHM in the finished drinking water to be below the maximum contaminant level.

PROJECT SCHEDULE

Task	Schedule Date
Closing	September 1, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	November 1, 2023
Design Phase Completion	July 1, 2024
Start of Construction	August 1, 2024
Construction Completion	January 1, 2025

KEY ISSUES

The District qualified for \$500,000 in urgent need funding and the remaining \$410,000 in zero percent financing to provide a safe source of drinking water and comply with state and federal maximum contaminant levels. Also on the agenda is a request for \$5,260,000 in

COMMITMENT PERIOD SIX (6) MONTHS TO EXPIRE NOVEMBER 30, 2023

financing from the Drinking Water State Revolving Fund. The proposed loans for both projects are considered in the financial analysis and the attached debt service schedule.

LEGAL/SPECIAL CONDITIONS

- Conversion and conveyance
- Executed principal forgiveness agreement
- Return of surplus funds

Attachments

1. Financial Review
2. Project Budget
3. Resolution (23-)
4. Water Conservation Review
5. Location Map

Financial Review

Orange County Water Control and Improvement District #1

Risk Score: 2B

Audit Reviewed: FY 2021

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City of Vidor: -0.77%	State: 1.49%
Top 10 Customers % of Total Revenue	4%	10-15%
Median Household Income as % of State	71%	100%
Days of Cash on Hand (3-year Average)	242	30-149 days
Net Fixed Assets/ Annual Depreciation	23 years	12-24 years
Debt Service Coverage Ratio	1.15x	1.0x
Debt-to-Operating Revenues	2.97x	4.00-5.99x
Unemployment Rate (January, 2023)	Orange Co.: 6.10%	State: 4.20%
Working Capital Ratio	26.16	> 1.0

Key Risk Score Strengths

- The District has a debt service coverage ratio of 1.15x which is sufficient to meet debt service without requiring an increase in the current water and sewer rates.
- The District's top 10 customers only account for 4% of its revenue indicating its customer base is large and not reliant on a few customers to generate revenues.
- With 242 days of cash on hand the District is well positioned to handle fiscal emergencies.

Key Risk Score Concerns

- The District has high unemployment relative to the state and slightly negative population growth. According to the 2022 State Water Plan, the District's population is projected to increase 5% between 2030 and 2050.
- The District's household cost factor is high at 4.61%, however, this concern is mitigated by the District not requiring any increases to the water and sewer rates in order to make debt service. Current rates have been in effect since July of 2022.

PLEDGE

Legal Pledge Name	Water and Sewer System Revenues
Type of Pledge	<input type="checkbox"/> Tax <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input checked="" type="checkbox"/> First <input type="checkbox"/> Second <input type="checkbox"/> Third <input type="checkbox"/> N/A

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates	Current Household Cost Factor	Projected Household Cost Factor
Water	5,600	\$83.79	\$83.79	4.61	4.61
Wastewater	5,600	\$84.00	\$84.00		

Cost Savings

Based on a 20-year maturity schedule and current interest rates, the District could save approximately \$171,589 over the life of the financing. The District is also saving \$500,000 in principal forgiveness.

Project Data Summary

Responsible Authority	Orange Co WCID # 1
Program	DWSRF
Commitment Number	L1001627, LF1001626
Project Number	62949
List Year	2023
Type of Pledge	Revenue Pledge
Pledge Level (if applicable)	First Lien
Legal Description	\$410,000 Orange County Water Control and Improvement District No. 1 Revenue Notes Series 2023A, \$500,000 Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	No
State Revolving Fund Type	Non-Equivalency
Financial Managerial & Technical Complete	Yes
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	Yes
Water Conservation Plan	Adopted
Overall Risk Score	2B

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Nancy Richards	Rand Zeolla	Paul Jungen	Gayla Duaine	Michael Perez

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Orange County Water Control and Improvement
District 1

\$410,000 Orange County Water Control and Improvement District No. 1 Revenue Notes Series 2023A

Dated Date: 9/1/2023 Source: DWSRF-NON-EQUIVALENCY
 Delivery Date: 9/1/2023 IUP Year: 2023
 First Interest: 3/15/2024 Case: Revenue
 First Principal: 9/15/2024 Admin.Fee: \$8,039
 Last Principal: 9/15/2043 Admin. Fee Payment Date: 9/1/2023
 Fiscal Year End: 09/30 Required Coverage: 1.0

\$5,260,000 Orange County Water Control and Improvement District No. 1 Revenue Notes Series 2023B

Dated Date: 9/1/2023 Source: DWSRF-NON-EQUIVALENCY
 Delivery Date: 9/1/2023 IUP Year: 2023
 First Interest: 3/15/2024 Case: Revenue
 First Principal: 9/15/2024 Admin.Fee: \$103,137
 Last Principal: 9/15/2043 Admin. Fee Payment Date: 9/1/2023
 Fiscal Year End: 9/30 Required Coverage: 1.0

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	\$410,000 ISSUE				\$5,260,000 ISSUE				TOTAL DEBT SERVICE	ACTUAL COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2024	\$1,460,251	\$942,250	\$10,000	-	-	\$10,000	\$200,000	1.70%	\$118,942	\$318,942	\$1,271,192	1.15
2025	1,460,251	945,750	15,000	-	-	15,000	200,000	1.65%	111,090	311,090	1,271,840	1.15
2026	1,460,251	943,900	15,000	-	-	15,000	200,000	1.62%	107,790	307,790	1,266,690	1.15
2027	1,460,251	941,750	15,000	-	-	15,000	250,000	1.60%	104,550	354,550	1,311,300	1.11
2028	1,460,251	944,250	20,000	-	-	20,000	250,000	1.59%	100,550	350,550	1,314,800	1.11
2029	1,460,251	940,925	20,000	-	-	20,000	250,000	1.65%	96,575	346,575	1,307,500	1.12
2030	1,460,251	941,925	20,000	-	-	20,000	250,000	1.68%	92,450	342,450	1,304,375	1.12
2031	1,460,251	942,825	20,000	-	-	20,000	250,000	1.69%	88,250	338,250	1,301,075	1.12
2032	1,460,251	942,469	20,000	-	-	20,000	250,000	1.75%	84,025	334,025	1,296,494	1.13
2033	1,460,251	940,844	20,000	-	-	20,000	250,000	1.80%	79,650	329,650	1,290,494	1.13
2034	1,460,251	-	20,000	-	-	20,000	250,000	2.02%	75,150	325,150	345,150	4.23
2035	1,460,251	-	20,000	-	-	20,000	260,000	2.20%	70,100	330,100	350,100	4.17
2036	1,460,251	-	20,000	-	-	20,000	300,000	2.39%	64,380	364,380	384,380	3.80
2037	1,460,251	-	25,000	-	-	25,000	300,000	2.53%	57,210	357,210	382,210	3.82
2038	1,460,251	-	25,000	-	-	25,000	300,000	2.63%	49,620	349,620	374,620	3.90
2039	1,460,251	-	25,000	-	-	25,000	300,000	2.69%	41,730	341,730	366,730	3.98
2040	1,460,251	-	25,000	-	-	25,000	300,000	2.74%	33,660	333,660	358,660	4.07
2041	1,460,251	-	25,000	-	-	25,000	300,000	2.78%	25,440	325,440	350,440	4.17
2042	1,460,251	-	25,000	-	-	25,000	300,000	2.83%	17,100	317,100	342,100	4.27
2043	1,460,251	-	25,000	-	-	25,000	300,000	2.87%	8,610	308,610	333,610	4.38
		\$ 9,426,888	\$410,000			\$0	\$410,000	\$5,260,000	\$1,426,872	\$6,686,872	\$16,523,760	

\$410,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.6 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$171,589
AVERAGE ANNUAL REQUIREMENT	\$20,500

\$5,260,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.24 YEARS
NET INTEREST RATE	2.413%
COST SAVINGS	\$694,256
AVERAGE ANNUAL REQUIREMENT	\$334,344

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$826,188

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. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only



Project Budget Summary

Orange Co WCID # 1
62949 - URGENT NEED -
Water Well Disinfection
System Improvements
Project

Budget Items	TWDB Funds	Total
Construction		
Construction	\$607,200.00	\$607,200.00
Subtotal for Construction	\$607,200.00	\$607,200.00
Basic Engineering Services		
Construction Engineering	\$14,000.00	\$14,000.00
Design	\$56,505.00	\$56,505.00
Planning	\$13,400.00	\$13,400.00
Subtotal for Basic Engineering Services	\$83,905.00	\$83,905.00
Special Services		
Application	\$12,640.00	\$12,640.00
Inspection	\$13,111.00	\$13,111.00
Special Service (Electrical Engineering)	\$20,000.00	\$20,000.00
Special Service (Water Quality Compliance)	\$10,000.00	\$10,000.00
Subtotal for Special Services	\$55,751.00	\$55,751.00
Fiscal Services		
Bond Counsel	\$25,000.00	\$25,000.00
Financial Advisor	\$17,575.00	\$17,575.00
Fiscal/Legal	\$2,715.00	\$2,715.00
Loan Origination Fee	\$8,039.00	\$8,039.00
Subtotal for Fiscal Services	\$53,329.00	\$53,329.00
Contingency		
Contingency	\$109,815.00	\$109,815.00
Subtotal for Contingency	\$109,815.00	\$109,815.00
Total	\$910,000.00	\$910,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$910,000 TO THE ORANGE COUNTY
WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$410,000 ORANGE COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1
REVENUE NOTES,
PROPOSED SERIES 2023A
AND
\$500,000 IN PRINCIPAL FORGIVENESS

(23 -)

WHEREAS, the Orange County Water Control and Improvement District No. 1 District, located in Orange County, has filed an application for financial assistance in the amount of \$910,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design, and construction of certain water system improvements identified as Project No. 62949; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$410,000 Orange County Water Control and Improvement District No. 1 Revenue Notes, Proposed Series 2023A (together with all authorizing documents (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$500,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of a first lien on net system revenues 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 § 371.13; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the District will be sufficient to meet all the Obligations assumed by the District, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the District 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 TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j);
5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the District and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. that the project qualifies as an Urgent Need project in accordance with the applicable Intended Use Plan and 31 TAC § 371.21(f) and is eligible for principal forgiveness in the amount of \$500,000 and financial assistance in the amount of \$410,000 with a reduced interest rate of zero percent;

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

A commitment is made by the TWDB to the Orange County Water Control and Improvement District No. 1 for financial assistance in the amount of \$910,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$410,000 Orange County Water Control and Improvement District No. 1 Revenue Notes, Proposed Series 2023A and the execution of a Principal Forgiveness Agreement in the amount of \$500,000. This commitment will expire on November 30, 2023.

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 as determined by the TWDB. 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;
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 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 District;
3. this commitment is contingent upon the District's compliance with all applicable requirements contained in 31 TAC Chapter 371;

4. the Obligations must provide that the District agrees to comply with all the conditions set forth in the TWDB Resolution,
5. the Obligations must provide that the Obligations can be called for early redemption on any date beginning on or after ten years from the dated date of the Obligations, at a redemption price of par;
6. the District, 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 District'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 District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;
7. the Obligations must contain a provision requiring the District to levy a tax or maintain and collect sufficient rates and charges, as applicable, to produce system funds 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;
8. the Obligations must include a provision requiring the District 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 District to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the District 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 in a manner approved 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 District when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations shall include an environmental indemnification provision wherein the District 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, or contaminated media that may be generated by the District, its contractors, consultants, agents, officials, and employees as a result of activities relating to the project to the extent permitted by law;
13. prior to closing, the District shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements;
14. prior to closing, and if not previously provided with the application, the District 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;
15. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the District 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;
16. the Executive Administrator may require that the District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
17. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;
18. the Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
19. the Obligations must provide that the District must comply with all conditions as specified in the final environmental finding of the Executive Administrator when

issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources;

20. the Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
21. the District must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition);
22. the Obligations must provide that the District will submit annually, an audit prepared by a certified public accountant in accordance with generally accepted auditing standards:

Conditions Related to Tax-Exempt Status:

23. the District'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 District when rendering this opinion;
24. the District'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 District when rendering this opinion;
25. the Obligations must include a provision prohibiting the District from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of section 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
26. 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 section 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 section 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;
27. the Obligations must include a provision requiring the District 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 to satisfy the requirements of section 148 of the Code. The Obligations must provide that the District 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 District may, however, to the extent permitted by law, commingle Gross Proceeds of its Loan with other money of the District, provided that the District 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 section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder. The District 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 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;
28. the Obligations must include a provision prohibiting the District from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;

29. the Obligations must provide that the District will not cause or permit the Obligations to be treated as “federally guaranteed” obligations within the meaning of section 149(b) of the Code;
30. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the District’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;
31. the Obligations must contain a provision that the District will refrain from using the proceeds provided by this TWDB commitment or the proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Obligations in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);
32. the transcript must include evidence that the information reporting requirements of section 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 section 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;
33. the Obligations must provide that neither the District 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 District by the TWDB;
34. the District’s federal tax certificate shall provide that the weighted average maturity of the Obligations purchased by the TWDB does not exceed 120% of the weighted average reasonably expected economic life of the Project;

State Revolving Fund Conditions:

35. the District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
36. 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 District, 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;

37. the Obligations must include a provision stating that the District 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 District shall obtain a Unique Entity Identification Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;
38. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and shall provide that the District will adhere to the approved project schedule;
39. Obligations and Principal Forgiveness Agreement must contain a covenant that the District 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 § 371.4 and related State Revolving Fund Policy Guidelines;
40. The Obligations and Principal Forgiveness Agreement must contain a covenant that the District shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216;

Drinking Water State Revolving Fund Conditions:

41. the District shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371;
42. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the District has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;

Pledge Conditions for the Loan:

43. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements of the Obligations and the annual debt service requirement of all additional debt, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations, and contain a provision that provides so long as any Bonds Similarly Secured are held by the TWDB, the District will not satisfy all or any part of the Required Reserve Amount with a Surety Policy without first obtaining the written consent of the TWDB;
44. the Obligations must contain a provision pertaining to the reserve fund that

provides so long as any Bonds Similarly Secured are held by the TWDB, the District will not satisfy all or any part of the Required Reserve Amount with a Surety Policy, without first obtaining the written consent of the TWDB;

45. if the District has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;
46. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if the District has secured from its chief financial officer or General Manager a certificate or opinion to the effect that, the Net Revenues of the System, for the preceding Fiscal Year or for any 12 consecutive calendar month period out of the 18 months immediately preceding the month the order authorizing the Additional Parity Obligations is adopted, are at least equal to 1.25 times the Average Annual Debt Service Requirements for the payment of principal of and interest on all outstanding Bonds Similarly Secured after giving effect to the issuance of the Additional Prior Lien Obligations then proposed. In making a determination of the Net Revenues, the chief financial officer or General Manager may take into consideration a change in the rates and charges for services and facilities afforded by the System that became effective less than ninety (90) days prior to adoption of the order authorizing the issuance of the Additional Prior Lien Obligations and, for purposes of satisfying the Net Revenues test, make a pro forma determination of the Net Revenues for the period of time covered by his certification or opinion based on such change in rates and charges being in effect for the entire period covered by the chief financial officer or General Manager's certificate or opinion;

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

Special Conditions:

47. the District must notify the Executive Administrator in writing, thirty (30) days prior to taking any actions to alter its legal status in any manner;
48. the Obligations must include a provision requiring that the District notify the Executive Administrator in writing prior to any action by it to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB;
49. prior to closing, the District shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

50. the Principal Forgiveness Agreement must include a provision stating that the District 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 4th day of May, 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

Review Date:

Project ID:

Water
Wastewater
Other

WATER CONSERVATION REVIEW

Entity:

Other entity:

WATER CONSERVATION PLAN DATE:**Approvable****Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD
Baseline			
5-year Goal			
10-year Goal			

WATER LOSS AUDIT YEAR:

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:

ILI¹:

1 – Infrastructure Leakage Index only applicable if > 16 connections per mile and > 3,000 service connections

WATER LOSS THRESHOLDS

Water Loss Project:

Wholesale Adjusted:

Threshold Type:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day

Does the applicant meet Water Loss Threshold Requirements?

Yes**No****NA****ADDITIONAL INFORMATION****STAFF NOTES AND RECOMMENDATIONS**

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 losses are paper losses that occur when the water reaches a customer, but the volume is not accurately measured and/or recorded due to unauthorized consumption, customer meter inaccuracy, or billing system and collection data errors.

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.

GCD means gallons per connection 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 3,000 connections and a connection density of more than 16 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.

Real losses are the physical losses, largely leakage, from the infrastructure: mains, valves, and storage tank overflows. Real loss constitutes background leakage (unreported and difficult to detect), unreported leakage (leaks that do not surface but could be detected), and reported leakage (leaks that often surface and those that are detected by the utility through leak detection).

Residential GPCD is the amount of residential water use (single and multi-family customer use) divided by the residential population divided by 365.

Total GPCD is the amount of total system input volume divided by the retail population 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 GPCD is the amount of water loss divided by the retail population divided by 365.

Water Loss per Connection per Day Calculated as the water loss volume divided by the number service connections divided by 365. This indicator allows for reliable performance tracking in the water utility's efforts to reduce water losses. It replaces water loss percentage.

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.

Wholesale Adjusted represents that some utilities provide large volumes of wholesale water to other providers that travel through the general distribution system, so a calculation has been established to adjust for that volume of wholesale water. These adjustments are only applicable for use in determining whether a utility meets or exceeds water loss thresholds in review of their application for financial assistance. These adjustments should not be used for performance tracking or benchmarking.



Orange County WCID #1 Orange County

