

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: March 5, 2024

Team Manager: Mireya Loewe

ACTION REQUESTED

Consider approving by resolution a request from the City of Hidalgo (Hidalgo County) for \$13,715,000 in financial assistance from the Drinking Water State Revolving Fund, consisting of \$4,065,000 in principal forgiveness and \$9,650,000 in financing, for planning, acquisition, design, and construction of a water system improvements project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The City of Hidalgo (City) is located in Hidalgo County on the U.S.-Mexico border, approximately eight miles south of the City of McAllen. The City provides water and wastewater services to a population of approximately 12,200 residents through approximately 4,934 water and wastewater connections.

The City currently has 311.25 acre-feet per year of water rights from the Rio Grande. The City is in the process of negotiating a permanent water supply contract with the Hidalgo County Irrigation District No. 2 to receive approximately 5,290 acre-feet per year of water that will be necessary to operate the proposed surface water treatment plant at its design capacity.

PROJECT NEED AND DESCRIPTION

The City owns and operates two existing groundwater treatment plants. To meet the needs of existing water customers, the City purchases treated drinking water from the City of McAllen and the City of Pharr. The purchased drinking water is master-metered, blended with the groundwater produced by the City, and delivered to customers. During periods of high demand, the cities of Pharr and McAllen cannot deliver sufficient treated drinking water to meet the demands of the City. Therefore, a new water treatment plant is needed to ensure an adequate supply of safe drinking water to existing customers.

The project includes construction of a new 5.0-million-gallons-per-day conventional surface water treatment plant. It also includes the construction of a raw water intake at the existing Hidalgo Irrigation District #2 holding pond, approximately 9,450 linear feet of raw water transmission line, and miscellaneous improvements to the existing water distribution system. The project also includes preparation of an asset management plan and an emergency preparedness plan.

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|---|
| COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE SEPTEMBER 30, 2024 |
|---|

PROJECT SCHEDULE

| Task | Schedule Date |
|--|----------------------|
| Closing | June 1, 2024 |
| Engineering Feasibility Report Completion (End of Planning Phase) | December 1, 2025, |
| Design Phase Completion | July 1, 2026 |
| Start of Construction | November 2, 2026 |
| Construction Completion | November 2, 2027 |

KEY ISSUES

The City qualified for \$3,990,000 in principal forgiveness as a disadvantaged community. It also qualified for \$75,000 in principal forgiveness to complete an emergency preparedness plan and \$105,000 in zero-percent interest financing for an asset management plan.

LEGAL/SPECIAL CONDITIONS

- Adoption of water conservation program
- Water rights certification
- Executed Principal Forgiveness Agreement
- Return of surplus funds

Attachments:

1. Financial Review
2. Project Budget
3. Resolution (24-)
4. Water Conservation Review
5. Location Map

Financial Review City of Hidalgo

Risk Score: 2A

Audit Reviewed: FY 2022

Key Indicators

| Indicator | Result | Benchmark |
|---|---------------|--------------|
| Population Growth, Average Annual 2010-2020 | County: 2.23% | State: 1.49% |
| Top 10 Customers % of Total Revenue | 17% | 10-15% |
| Median Household Income as % of State | 54% | 100% |
| Days of Cash on Hand (3-year Average) | 595 days | 30-149 days |
| Net Fixed Assets/ Annual Depreciation | 17 years | 12-24 years |
| Debt Service Coverage Ratio | 1.0x | 1.0x |
| Debt-to-Operating Revenues | 1.36 | 4.00-5.99x |
| Net Direct Debt to Total Assessed Valuation | 1.48% | 2.00-4.99% |
| Unemployment Rate (December 2023) | County: 5.80% | State: 3.50% |
| Working Capital Ratio | 4.20 | > 1.0 |

Key Risk Score Strengths

- A high working capital ratio provides the City with ample resources to cover short-term liabilities and shows a strong liquidity position.
- The City's days of cash on hand is above the benchmark, indicating the City can pay its operating expenses with the cash it has available. The City also shows low debt to operating revenues, which shows that the City has the ability to take on debt without affecting the residents.
- The City has a net direct debt to total assessed valuation below the benchmark and has proposed to supplement the deficiency in repayment with tax revenues. The assessed valuation has shown an annual increase of approximately eight percent over the past five years.

Key Risk Score Concerns

- The median household income is below the benchmark, and the unemployment rate of the County and the percentage of water system revenue attributed to the top ten customers are greater than the benchmarks. The top water customer is a supply company that makes up approximately 10 percent of revenues. However, the City currently has low debt to operating revenues and net direct debt to total assessed valuation, indicating that it has sufficient capacity for additional debt.
- The City has pledged ad valorem taxes and subordinate lien water and wastewater revenues as security for the proposed debt and intends to use ad valorem taxes as the source of repayment. In a no-growth scenario, the City is projected to need an interest and sinking tax rate increase of approximately three cents by 2024.

PLEDGE

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

RATES AND CHARGES

| Average Residential Use | Gallons/Month | Current Rates | Projected Rates (Year 2024) | Current Household Cost Factor | Projected Household Cost Factor |
|-------------------------|---------------|---------------|-----------------------------|-------------------------------|---------------------------------|
| Water | 8,148 | \$32.38 | \$32.38 | 2.13 | 2.13 |
| Wastewater | 5,946 | \$27.17 | \$27.17 | | |

TAXES

| | 2023 Tax Year Rate | Max Projected Tax Rate (Year 2024) | Maximum Allowable Rate | 3-Year Avg Current Tax Collections | Assessed Valuation |
|-------------------------|--------------------|------------------------------------|------------------------|------------------------------------|--------------------|
| Maintenance & Operation | \$0.2533 | \$0.2533 | \$1.50 | 97% | \$970,457,449 |
| Interest & Sinking | \$0.1178 | \$0.1485 | | | |
| Total Tax Rate | \$0.3711 | \$0.4018 | | | |

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$2,611,317 over the life of the financing. The City is also saving \$4,065,000 in principal forgiveness.

Project Data Summary

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|--|---|
| Responsible Authority | Hidalgo |
| Program | DWSRF |
| Commitment Number | L1001704, L1001705, LF1001706 |
| Project Number | 62965 |
| List Year | 2022 |
| Type of Pledge | Combo Tax and Revenue |
| Pledge Level (if applicable) | Second Lien |
| Legal Description | \$9,650,000 City of Hidalgo, Texas Combination Tax and Revenue, Certificates of Obligation, Proposed Series 2024, \$4,065,000 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 | Yes |
| State Revolving Fund Type | Equivalency |
| Financial Managerial & Technical Complete | Yes |
| Phases Funded | Planning, Acquisition, Design, and Construction |
| Pre-Design | Yes |
| Project Consistent with State Water Plan | Yes |
| Water Conservation Plan | Approvable |
| Overall Risk Score | 2A |

PROJECT TEAM

| Team Manager | Financial Analyst | Engineering Reviewer | Environmental Reviewer | Attorney |
|--------------|-------------------|----------------------|------------------------|---------------|
| Mireya Loewe | Arnoldo Rubio | Sam Kiger | Lauren Dill | Michael Perez |

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Hidalgo

\$9,650,000 City of Hidalgo, Texas Combination Tax and Revenue, Certificates of Obligation, Proposed Series 2024

| | |
|----------------------------------|--|
| Dated Date: 6/1/2024 | Source: DWSRF-EQUIVALENCY |
| Delivery Date: 6/1/2024 | Rate: 2.97% |
| First Interest: 2/1/2025 | IUP Year: 2022 |
| First Principal: 8/1/2025 | Case: Tax and Revenue |
| Last Principal: 8/1/2053 | Admin.Fee: \$189,216 |
| Fiscal Year End: 09/30 | Admin. Fee Payment Date: 6/1/2024 |
| Required Coverage: 1.0 | Total Assessed Valuation: \$970,457,449 |

| FISCAL YEAR | TAX RATE | REQUIRED TAX REVENUES WITH COLL. @ 97% | PROJECTED TOTAL REVENUES | CURRENT DEBT SERVICE | \$9,650,000 ISSUE | | | | | |
|-------------|----------|--|--------------------------|----------------------|-------------------|---------------|------------------|---------------|--------------------|----------|
| | | | | | PRINCIPAL PAYMENT | INTEREST RATE | INTEREST PAYMENT | TOTAL PAYMENT | TOTAL DEBT SERVICE | COVERAGE |
| 2025 | 0.1481 | \$1,262,607 | \$1,262,607 | \$723,266 | \$230,000 | 2.12% | \$309,341 | \$539,341 | \$1,262,607 | 1.00 |
| 2026 | 0.1430 | 1,219,266 | 1,219,266 | 723,997 | 235,000 | 2.02% | 260,269 | 495,269 | 1,219,266 | 1.00 |
| 2027 | 0.1433 | 1,221,927 | 1,221,927 | 726,414 | 240,000 | 2.00% | 255,513 | 495,513 | 1,221,927 | 1.00 |
| 2028 | 0.1427 | 1,217,011 | 1,217,011 | 721,309 | 245,000 | 2.01% | 250,702 | 495,702 | 1,217,011 | 1.00 |
| 2029 | 0.1029 | 885,413 | 885,413 | 389,624 | 250,000 | 2.06% | 245,789 | 495,789 | 885,413 | 1.00 |
| 2030 | 0.1037 | 884,602 | 884,602 | 388,950 | 255,000 | 2.13% | 240,652 | 495,652 | 884,413 | 1.00 |
| 2031 | 0.1036 | 883,459 | 883,459 | 388,250 | 260,000 | 2.15% | 235,209 | 495,209 | 883,459 | 1.00 |
| 2032 | 0.0729 | 621,656 | 621,656 | 122,050 | 270,000 | 2.21% | 229,606 | 499,606 | 621,656 | 1.00 |
| 2033 | 0.0728 | 621,062 | 621,062 | 122,410 | 275,000 | 2.24% | 223,652 | 498,652 | 621,062 | 1.00 |
| 2034 | 0.0726 | 618,955 | 618,955 | 121,450 | 280,000 | 2.35% | 217,505 | 497,505 | 618,955 | 1.00 |
| 2035 | 0.0724 | 617,512 | 617,512 | 121,600 | 285,000 | 2.47% | 210,912 | 495,912 | 617,512 | 1.00 |
| 2036 | 0.0728 | 620,562 | 620,562 | 121,700 | 295,000 | 2.57% | 203,862 | 498,862 | 620,562 | 1.00 |
| 2037 | 0.0725 | 618,131 | 618,131 | 121,864 | 300,000 | 2.67% | 196,267 | 496,267 | 618,131 | 1.00 |
| 2038 | 0.0727 | 619,995 | 619,995 | 121,750 | 310,000 | 2.74% | 188,245 | 498,245 | 619,995 | 1.00 |
| 2039 | 0.0729 | 621,439 | 621,439 | 121,700 | 320,000 | 2.80% | 179,739 | 499,739 | 621,439 | 1.00 |
| 2040 | 0.0724 | 617,364 | 617,364 | 121,600 | 325,000 | 2.85% | 170,764 | 495,764 | 617,364 | 1.00 |
| 2041 | 0.0725 | 618,029 | 618,029 | 121,542 | 335,000 | 2.89% | 161,487 | 496,487 | 618,029 | 1.00 |
| 2042 | 0.0726 | 619,072 | 619,072 | 122,250 | 345,000 | 2.93% | 151,822 | 496,822 | 619,072 | 1.00 |
| 2043 | 0.0726 | 618,704 | 618,704 | 121,975 | 355,000 | 2.97% | 141,729 | 496,729 | 618,704 | 1.00 |
| 2044 | 0.0725 | 617,849 | 617,849 | 121,650 | 365,000 | 3.01% | 131,199 | 496,199 | 617,849 | 1.00 |
| 2045 | 0.0730 | 622,566 | 622,566 | 122,342 | 380,000 | 3.03% | 120,224 | 500,224 | 622,566 | 1.00 |
| 2046 | 0.0728 | 620,544 | 620,544 | 121,825 | 390,000 | 3.05% | 108,719 | 498,719 | 620,544 | 1.00 |
| 2047 | 0.0725 | 618,155 | 618,155 | 121,325 | 400,000 | 3.08% | 96,830 | 496,830 | 618,155 | 1.00 |
| 2048 | 0.0729 | 621,289 | 621,289 | 121,775 | 415,000 | 3.10% | 84,514 | 499,514 | 621,289 | 1.00 |
| 2049 | 0.0732 | 623,839 | 623,839 | 122,189 | 430,000 | 3.12% | 71,650 | 501,650 | 623,839 | 1.00 |
| 2050 | 0.0727 | 619,681 | 619,681 | 121,450 | 440,000 | 3.12% | 58,231 | 498,231 | 619,681 | 1.00 |
| 2051 | 0.0729 | 621,197 | 621,197 | 121,700 | 455,000 | 3.12% | 44,497 | 499,497 | 621,197 | 1.00 |
| 2052 | 0.0730 | 622,165 | 622,165 | 121,875 | 470,000 | 3.13% | 30,290 | 500,290 | 622,165 | 1.00 |
| 2053 | 0.0742 | 632,548 | 632,548 | 121,983 | 495,000 | 3.14% | 15,565 | 510,565 | 632,548 | 1.00 |
| | | | | \$6,741,814 | \$9,650,000 | | \$4,834,782 | \$14,484,782 | \$21,226,596 | |

| | |
|-----------------------------------|--------------------|
| AVERAGE (MATURITY) LIFE | 17.06 YEARS |
| NET INTEREST RATE | 2.937% |
| COST SAVINGS | \$2,661,046 |
| AVERAGE ANNUAL REQUIREMENT | \$499,475 |

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 and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.



Project Budget Summary
Hidalgo
62965 - 5.0 MGD Water Treatment Plant

| Budget Items | TWDB Funds | Total |
|---|------------------------|------------------------|
| Construction | | |
| Construction | \$11,000,000.00 | \$11,000,000.00 |
| Subtotal for Construction | \$11,000,000.00 | \$11,000,000.00 |
| Basic Engineering Services | | |
| Construction Engineering | \$300,000.00 | \$300,000.00 |
| Design | \$700,000.00 | \$700,000.00 |
| Planning | \$50,000.00 | \$50,000.00 |
| Subtotal for Basic Engineering Services | \$1,050,000.00 | \$1,050,000.00 |
| Special Services | | |
| Application | \$10,000.00 | \$10,000.00 |
| Environmental | \$40,000.00 | \$40,000.00 |
| Geotechnical | \$30,000.00 | \$30,000.00 |
| Inspection | \$120,000.00 | \$120,000.00 |
| O&M Manual | \$10,000.00 | \$10,000.00 |
| Special Service Other (ROW Services) | \$10,000.00 | \$10,000.00 |
| Surveying | \$80,000.00 | \$80,000.00 |
| Subtotal for Special Services | \$300,000.00 | \$300,000.00 |
| Fiscal Services | | |
| Bond Counsel | \$40,000.00 | \$40,000.00 |
| Financial Advisor | \$120,000.00 | \$120,000.00 |
| Loan Origination Fee | \$189,216.00 | \$189,216.00 |
| Subtotal for Fiscal Services | \$349,216.00 | \$349,216.00 |
| Other | | |
| Administration | \$20,000.00 | \$20,000.00 |
| Land/Easements Acquisition | \$200,000.00 | \$200,000.00 |
| Other (asset management and emergency preparedness plans) | \$180,000.00 | \$180,000.00 |
| Project Legal Expenses | \$100,000.00 | \$100,000.00 |
| Subtotal for Other | \$500,000.00 | \$500,000.00 |
| Contingency | | |
| Contingency | \$515,784.00 | \$515,784.00 |
| Subtotal for Contingency | \$515,784.00 | \$515,784.00 |
| Total | \$13,715,000.00 | \$13,715,000.00 |

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$13,715,000 TO THE CITY OF HIDALGO
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE IN ONE OR MORE SERIES OF
\$9,650,000 CITY OF HIDALGO, TEXAS COMBINATION TAX AND REVENUE
CERTIFICATES OF OBLIGATION
AND
\$4,065,000 IN PRINCIPAL FORGIVENESS

(24 -)

Recitals:

The City of Hidalgo (City), located in Hidalgo County, has filed an application for financial assistance in the amount of \$13,715,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design, and construction of certain water system improvements identified as Project No. 62965.

The City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase in one or more series of \$9,650,000 City of Hidalgo, Texas Combination Tax and Revenue Certificates of Obligation, (together with all authorizing documents (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$4,065,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff.

The City has offered a pledge of ad valorem taxes and a subordinate lien on the revenues of the City's Water and Sewer system as sufficient security for the repayment of the Obligations.

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.

Findings:

1. The revenue or 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. 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. The term of the Obligations does not exceed the expected useful life of the project proposed by the City.

4. The City has submitted a proposed program of water conservation 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.
5. 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 consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j).
6. The City has completed a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 and filed it with the TWDB in accordance with Texas Water Code § 16.053(j).
7. The City meets the definition of "Disadvantaged Community" in 31 TAC § 371.1(23) and is therefore eligible for principal forgiveness in the amount of \$3,990,000. The City qualifies for financial assistance with a reduced interest rate in order to prepare an Asset Management Plan as described in the applicable Intended Use Plan. The City is receiving \$75,000 in principal forgiveness to conduct an Emergency Preparedness Evaluation as described in the Intended Use Plan. The City is therefore eligible for principal forgiveness through the DWSRF in a total amount not to exceed \$4,065,000 and financial assistance in the amount of \$105,000 with a reduced interest rate.

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

A commitment is made by the TWDB to the City of Hidalgo for financial assistance in the amount of \$13,715,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase in one or more series of \$9,650,000 City of Hidalgo, Texas Combination Tax and Revenue Certificates of Obligation and the execution of a Principal Forgiveness Agreement in the amount of \$4,065,000. This commitment will expire on September 30, 2024.

The 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 the Obligations were issued have been complied with; that the

Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that the 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 371.
4. The Obligations must provide that the City 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 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.
6. 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 the 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 the rule, this 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 the Obligations and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to those bonds under SEC Rule 15c2-12.
7. The Obligations must contain a provision requiring the City 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 City to use any financial assistance 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 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.
9. The Obligations must include a provision requiring the City to use any financial assistance proceeds from the Obligations determined to be surplus funds in a manner approved by the Executive Administrator. Surplus funds are funds remaining after completion of the project and completion of a final accounting.

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 will be of no force and effect.
11. Proceeds of this commitment are public funds. Therefore, the Obligations must include a provision requiring that these proceeds will 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. Proceeds of this commitment must not be used by the City when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations must include a provision that states the City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments 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. Before closing, the City must 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. Before closing, and if not previously provided with the application, the City must submit executed contracts for engineering and, if applicable, financial advisor and bond counsel 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. Before closing, when any portion of the financial assistance is to be held in escrow or in trust, the City must execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and must submit that executed agreement to the TWDB.
16. The Executive Administrator may require the City to 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 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 City will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
19. The Obligations must provide that the City 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 City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
21. The City 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 City will submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.

Tax-Exempt Conditions:

23. 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.
24. 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.
25. The Obligations must include a provision prohibiting the City from using the proceeds of this financial assistance 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 under section 141 (Regulations).
26. The Obligations must provide that no portion of the proceeds of this commitment 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 this commitment (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 the 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 the 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 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 to satisfy the requirements of section 148 of the Code. The Obligations must provide that the City must:
- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures, and investments) on its books of account separately and apart from all other funds (and receipts, expenditures and investments) and retain all records of the 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 financing with other money of the City, provided that the City separately accounts for each receipt and expenditure of the Gross Proceeds and the obligations acquired with them;
 - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its financing, 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 under these sections. The City must maintain a copy of the calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the making of this commitment, and to induce the making of the commitment by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date; and
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if an error is made, to discover and promptly to correct the error within a reasonable amount of time

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 City 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 City 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 City’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations.
31. The Obligations must contain a provision that the City 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 City nor a related party 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.
34. The City’s federal tax certificate must 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 City must 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 will 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 must 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 the financial assistance made available must insert in full in any contract in excess of \$2,000 the contract clauses as provided by the TWDB.

37. The Obligations must include a provision stating that the City must 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 must obtain a Unique Entity Identification Number and must register with System for Award Management (SAM) and maintain current registration at all times during which the Obligations are outstanding.
38. The Obligations must provide that all financial assistance proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and must provide that the City will adhere to the approved project schedule.
39. The Obligations and Principal Forgiveness Agreement 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 § 371.4 and related State Revolving Fund Policy Guidelines.
40. The Obligations and Principal Forgiveness Agreement must contain a covenant that the City must 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 City must pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371.
42. Before 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 City 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.
43. Before the 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.

Special Conditions:

44. Before closing, the City must adopt and implement the water conservation program approved by the TWDB.
45. Before the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the City has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that a finding will be made before the release of funds for construction.
46. Before the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must issue a written finding that the City has the right to use the water that the project financed by the TWDB will provide.
47. Before closing, the City must execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator.
48. The Principal Forgiveness Agreement must include a provision stating that the City must return any principal forgiveness funds that are determined to be surplus funds.
49. Before the closing, the City must provide certification that the weighted average maturity of the Obligations does not exceed 120% of the average reasonably expected economic life of the Project.

APPROVED and ordered of record this 5th day of March, 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

Water
 Wastewater
 Other _____

WATER CONSERVATION REVIEWEntity: City of Hidalgo

Other entity: _____

WATER CONSERVATION PLAN DATE: 2019 **Approvable** **Adopted**

| | Total GPCD | Residential GPCD | Water Loss GPCD |
|--------------|------------|------------------|-----------------|
| Baseline | 211 | 211 | 21 |
| 5-year Goal | 95 | 95 | 10 |
| 10-year Goal | 90 | 90 | 10 |

WATER LOSS AUDIT YEAR: 2022

Service connections: 4,082 Length of main lines (miles): 38 Water Loss GCD: 27
 Retail population: 14,329 Connections per mile: 107 Water Loss GPCD: 8
 ILI¹: 1

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:

Population > 10K :

| 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 |
|---|---|---|---|---|--|
| 23 | NA | 4 | 29 | NA | 30 |

Does the applicant meet Water Loss Threshold Requirements?

Yes No NA

ADDITIONAL INFORMATION

According to the city's water conservation plan, customer meters are maintained to an accuracy of plus or minus 5 percent; universal metering is used for all connections including for wholesale customers; and, inspections are conducted to detect leaks and illegal connections. The city provides brochures, bill inserts, xeriscaping information, and information regarding the water conservation plan as part of its public education program. The city encourages replacing higher water-use plumbing fixtures with water efficient fixtures. The city also requires its wholesale customers to have a water conservation plan.

STAFF NOTES AND RECOMMENDATIONS

The city will need to provide proof of adoption of its 2019 water conservation plan prior to closing. The city will also need to update its utility profile and water conservation plan by May 1, 2024.

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.



City of Edinburg Hidalgo County

