

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: July 23, 2020

Team Manager: Mireya Loewe

ACTION REQUESTED

Approve by resolution a request from the City of Los Fresnos (Cameron County) for \$3,625,000 in financing from the Drinking Water State Revolving Fund for construction of a water system improvements project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The City of Los Fresnos (City) is located in Cameron County approximately 12 miles north of Brownsville, Texas. The City provides water and wastewater services to a population of approximately 6,651 residents, with an estimated 2,111 water and 1,803 wastewater connections.

The City's water treatment plant was built in 1952 and has a current treatment capacity of 1 million gallons per day (MGD). The City also co-owns a 2.28 percent share of the 10 MGD Southmost Regional Water Authority (SRWA) treatment plant and has a right to receive up to 0.228 MGD without further costs. Although the City's existing total treatment capacity of 1.228 MGD is sufficient to meet current water demands, it does not meet the required minimum treatment capacity of 1.414 MGD per the existing number of connections. In addition, the City anticipates that by 2035 the daily demand could reach 1.32 MGD, while the required minimum treatment capacity would be 2.09 MGD.

In September 2014, the City received a \$1,426,101 commitment from the Drinking Water State Revolving Fund for the planning and design of a project to expand and rehabilitate the City's water treatment plant. The City has completed this work and is now requesting funding for the construction of the project.

In September 2016, a mandatory comprehensive performance evaluation of the treatment plant was performed in response to Texas Commission of Environmental Quality (TCEQ) violations. A corrective action plan resulted from this evaluation. The proposed project addresses the items in the corrective action plan and TCEQ violations to bring the plant into regulatory compliance.

PROJECT NEED AND DESCRIPTION

The City's water treatment plant is currently in noncompliance with TCEQ requirements regarding treatment and operations. Additionally, with a projected increase of more than 300 water connections by the 2035, the plant will not have enough capacity to meet future water demands.

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE JULY 31, 2021.

The project consists of increasing the City's water treatment plant capacity from 1.0 to 1.5 million gallons per day (MGD) to meet future water demands. The project will also rehabilitate and upgrade a large portion of the plant's equipment and treatment facilities to address treatment violations and system operational compliance.

PROJECT SCHEDULE

Task	Schedule Date
Closing	October 29, 2020
Start of Construction	November 15, 2020
Construction Completion	August 1, 2022

KEY ISSUES

The City submitted a Clean Water State Revolving Fund application for \$1,600,000 in financing at the same time as this application. The analysis is based on both financings.

The City is pledging tax and subordinate revenues from the water and wastewater system for the repayment of the proposed debt. However, the City intends to repay the debt only from revenues of the system. The attached proforma includes projections of the required tax revenues necessary to repay the existing tax-supported debt. Thus, in order to meet debt service coverage with only the revenues of the system, the City could need multi-year increases to the average monthly water and wastewater rate. In anticipation of the projects, the City has implemented a rate increase in fiscal year (FY) 2020 (effective October 1, 2019) and is already planning additional increases in FYs 2022 and 2024. Based on the system's FY 2019 revenues and excluding the FY 2020 rate increase, the potential increases could range from approximately \$7.41 in FY 2021 to \$9.32 in FY 2025. However, through a resolution, the Los Fresnos Community Development Corporation (LFCDC) has committed to provide funds for debt service payments between fiscal years 2020 to 2025. The contribution is based on the approximate percentage of debt service associated with the benefits local business will receive from the projects. When accounting for the funds from the LFCDC, the potential rate increase by FY 2025 could be reduced to about \$7.24. These funds are not considered in the attached proforma because they are not part of the proposed legal pledge.

Per the City's FY 2019 audited financial statements, the system's top ten customers totaled 23 percent of water sales. Although this percentage could be considered high, in this case it is less of a concern because it consists of apartments and schools, with the highest single customer being only 5 percent of total water sales.

LEGAL

Special Conditions

None.

FINANCIAL

Risk Score: 2B

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2018	City: 3.24%	State: 1.24%
Median Household Income as % of State	75%	100%
Days of Cash on Hand (3-year Average)	166 days	30-149 days
Direct Debt as % Total Assessed Valuation	2.99%	2-5%
Debt Service Coverage Ratio	0.66x	1.0x
Top 10 Customers of the System	23%	< 10-15%
Debt-to-Operating Revenues	4.52x	4.00-5.99x
Debt per Capita	\$2,719	\$1,500 - \$1,999
Unemployment (April 2020)	17.10%	State: 13.00%

Key Risk Score Strengths

- High population growth
- High Assessed Value growth

Key Risk Score Concerns

- Median household income below the state's level
- Unemployment rate higher than the state's

PLEDGE

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 2025 Rates	Current Household Cost Factor	Projected Household Cost Factor
WATER	5,000	\$38.31	\$42.88	2.06	2.28
WASTEWATER	5,000	\$39.88	\$44.63		

TAXES

	2019 Tax Year Rate	Max Projected Tax Rate (Year 2026)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.5157	\$0.5157	\$1.50	96.9%	\$287,727,964
Interest & Sinking	\$0.1993	\$0.3592			
Total Tax Rate	\$0.715	\$0.8749			

Cost Savings

Based on a 30-year maturity and current interest rates, the City could save approximately \$490,542 over the life of the financing.

Attachments:

1. Project Data Summary
2. Debt Service Schedule
3. Project Budget
4. Resolution (20-)
5. Water Conservation Review
6. Location Map

Project Data Summary

Responsible Authority	Los Fresnos
Program	DWSRF
Commitment Number	L1001090
Project Number	62627
List Year	2020
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Second Lien
Legal Description	\$3,625,000 City of Los Fresnos, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund)
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	Equivalency
Financial Managerial & Technical Complete	Yes
Phases Funded	Construction
Pre-Design	No
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
Mireya Loewe	Arnoldo Rubio	Behni Bolhassani	Lauren Dill	Joe Reynolds

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Los Fresnos

\$1,600,000 City of Los Fresnos Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series

\$3,625,000 City of Los Fresnos, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund)

2020B (Clean Water State Revolving Fund)

Dated Date:	10/29/2020	Source:	CWSRF-EQUIVALENCY
Delivery Date:	10/29/2020	Rate:	1.27%
First Interest:	2/1/2021	IUP Year:	2020
First Principal:	2/1/2022	Case:	Tax and Revenue
Last Principal:	2/1/2040	Admin.Fee:	\$27,518
Fiscal Year End:	09/30	Admin. Fee Payment Date:	10/29/2020
Required Coverage:	1.0	Total Assessed Valuation:	\$287,727,964

Dated Date:	10/29/2020	Source:	DWSRF-EQUIVALENCY
Delivery Date:	10/29/2020	Rate:	1.37%
First Interest:	2/1/2021	IUP Year:	2020
First Principal:	2/1/2022	Case:	Tax and Revenue
Last Principal:	2/1/2040	Admin.Fee:	\$71,078
Fiscal Year End:	9/30	Admin. Fee Payment Date:	10/29/2020
Required Coverage:	1.0		

FISCAL YEAR	REQUIRED TAX REVENUES WITH COLL. @ 97%			PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$1,600,000 ISSUE			\$3,625,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
	TAX RATE						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT		
2021	\$0.2852	\$795,064	\$745,830	\$1,540,894	\$1,488,018	-	-	\$15,353	\$15,353	-	-	\$37,523	\$37,523	\$1,540,894	1.00
2022	0.3002	837,089	788,757	1,625,846	1,521,098	\$10,000	1.27%	20,257	30,257	\$25,000	1.37%	49,491	74,491	1,625,846	1.00
2023	0.3129	872,316	788,757	1,661,073	1,521,611	10,000	1.27%	20,130	30,130	25,000	1.37%	49,149	74,149	1,625,889	1.02
2024	0.3266	910,726	799,041	1,709,767	1,521,529	35,000	1.27%	19,844	54,844	85,000	1.37%	48,395	133,395	1,709,768	1.00
2025	0.3433	957,158	\$805,682	1,762,840	1,571,244	35,000	1.27%	19,399	54,399	90,000	1.37%	47,197	137,197	1,762,840	1.00
2026	0.3592	1,001,489	\$805,682	1,807,171	1,207,439	90,000	1.27%	18,606	108,606	205,000	1.37%	45,176	250,176	1,566,220	1.15
2027	0.3127	871,849	\$805,682	1,677,531	1,226,698	95,000	1.27%	17,431	112,431	210,000	1.37%	42,333	252,333	1,591,462	1.05
2028	0.3205	893,614	\$805,682	1,699,295	1,087,973	95,000	1.27%	16,224	111,224	215,000	1.37%	39,422	254,422	1,453,619	1.17
2029	0.2659	741,480	\$805,682	1,547,161	1,094,434	95,000	1.27%	15,018	110,018	215,000	1.37%	36,476	251,476	1,455,928	1.06
2030	0.2675	745,731	\$805,682	1,551,413	1,074,593	95,000	1.27%	13,811	108,811	220,000	1.37%	33,497	253,497	1,436,901	1.08
2031	0.2722	759,025	\$805,682	1,564,706	1,079,485	100,000	1.27%	12,573	112,573	220,000	1.37%	30,483	250,483	1,442,541	1.08
2032	0.2748	766,254	\$805,682	1,571,936	930,585	100,000	1.27%	11,303	111,303	225,000	1.37%	27,434	252,434	1,294,323	1.21
2033	0.2223	619,692	\$805,682	1,425,373	558,325	100,000	1.27%	10,033	110,033	225,000	1.37%	24,352	249,352	917,710	1.55
2034	0.0878	244,875	\$805,682	1,050,557	550,894	100,000	1.27%	8,763	108,763	230,000	1.37%	21,235	251,235	910,892	1.15
2035	0.0861	239,994	\$805,682	1,045,675	308,350	105,000	1.27%	7,461	112,461	230,000	1.37%	18,084	248,084	668,895	1.56
2036	0.0000	-	\$805,682	805,682	310,694	105,000	1.27%	6,128	111,128	235,000	1.37%	14,899	249,899	671,720	1.20
2037	0.0000	-	\$805,682	805,682	307,931	105,000	1.27%	4,794	109,794	240,000	1.37%	11,645	251,645	669,371	1.20
2038	0.0000	-	\$805,682	805,682	330,063	105,000	1.27%	3,461	108,461	240,000	1.37%	8,357	248,357	686,880	1.17
2039	0.0000	-	\$805,682	805,682	332,088	110,000	1.27%	2,096	112,096	245,000	1.37%	5,035	250,035	694,218	1.16
2040	0.0000	-	\$805,682	805,682	99,113	110,000	1.27%	699	110,699	245,000	1.37%	1,678	246,678	456,489	1.76
				\$27,269,648	\$18,122,164	\$1,600,000		\$243,381	\$1,843,381	\$3,625,000		\$591,859	\$4,216,859	\$24,182,404	

\$1,600,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.98 YEARS
NET INTEREST RATE	1.270%
COST SAVINGS	\$239,487
AVERAGE ANNUAL REQUIREMENT	\$92,169

\$3,625,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.92 YEARS
NET INTEREST RATE	1.370%
COST SAVINGS	\$490,542
AVERAGE ANNUAL REQUIREMENT	\$210,843

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$1,209,120

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
Los Fresnos
62627 - SWTP Expansion & Distribution Lines

Budget Items	Previous Commitments	This Commitment	Total
Construction			
Construction	\$0.00	\$2,770,000.00	\$2,770,000.00
Subtotal for Construction	\$0.00	\$2,770,000.00	\$2,770,000.00
Basic Engineering Services			
Construction Engineering	\$0.00	\$60,000.00	\$60,000.00
Design	\$1,146,596.00	\$0.00	\$1,146,596.00
Planning	\$80,000.00	\$0.00	\$80,000.00
Subtotal for Basic Engineering Services	\$1,226,596.00	\$60,000.00	\$1,286,596.00
Special Services			
Application	\$10,000.00	\$10,000.00	\$20,000.00
Environmental	\$10,000.00	\$0.00	\$10,000.00
Geotechnical	\$15,000.00	\$0.00	\$15,000.00
Inspection	\$0.00	\$140,000.00	\$140,000.00
O&M Manual	\$0.00	\$30,000.00	\$30,000.00
Permits	\$40,000.00	\$0.00	\$40,000.00
Project Management (by engineer)	\$0.00	\$60,000.00	\$60,000.00
Surveying	\$45,000.00	\$20,000.00	\$65,000.00
Testing	\$5,250.00	\$15,000.00	\$20,250.00
Subtotal for Special Services	\$125,250.00	\$275,000.00	\$400,250.00
Fiscal Services			
Bond Counsel	\$15,000.00	\$45,000.00	\$60,000.00
Financial Advisor	\$35,000.00	\$110,000.00	\$145,000.00
Fiscal/Legal	\$0.00	\$9,000.00	\$9,000.00
Issuance Costs	\$2,250.00	\$17,000.00	\$19,250.00
Loan Origination Fee	\$22,005.00	\$71,078.00	\$93,083.00
Subtotal for Fiscal Services	\$74,255.00	\$252,078.00	\$326,333.00
Contingency			
Contingency	\$0.00	\$267,922.00	\$267,922.00
Subtotal for Contingency	\$0.00	\$267,922.00	\$267,922.00
Total	\$1,426,101.00	\$3,625,000.00	\$5,051,101.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$3,625,000 TO THE CITY OF LOS FRESNOS
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$3,625,000 CITY OF LOS FRESNOS, TEXAS COMBINATION TAX AND SUBORDINATE
LIEN REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2020A (DRINKING WATER STATE REVOLVING FUND)

(20 -)

WHEREAS, the City of Los Fresnos (City), located in Cameron County, has filed an application for financial assistance in the amount of \$3,625,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62627; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$3,625,000 City of Los Fresnos, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund) together with all authorizing documents (Obligations), 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 a subordinate lien on the net revenues of the system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/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. 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 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 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 City and filed with the TWDB in accordance with Texas Water Code § 16.053(j);

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

A commitment is made by the TWDB to the City of Los Fresnos for financial assistance in the amount of \$3,625,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$3,625,000 City of Los Fresnos, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2020A (Drinking Water State Revolving Fund). This commitment will expire on July 31, 2021.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the City agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;
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 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;

7. the Obligations must contain a provision requiring the City to levy a tax and/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 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;
9. 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 in a manner as 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 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;

13. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges and/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 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;
15. 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;
16. the Executive Administrator may require that the City 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;

Conditions Related to Tax-Exempt Status

18. 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;
19. 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;
20. 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 section 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

21. 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;

22. 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 section 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 section 148(f) of the Code, section 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;
- 23. 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;
 - 24. 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;
 - 25. 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;
 - 26. 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);
 - 27. 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;
 - 28. 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;

State Revolving Fund Conditions

29. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
30. 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;
31. 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;
32. 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;
33. 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 § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

34. the City shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371;
35. 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 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; and

36. prior to 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 federal procurement requirements under the Disadvantaged Business Enterprises program;

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

TEXAS WATER DEVELOPMENT BOARD

Peter M. Lake, Chairman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

Water
 Wastewater
 Other

WATER CONSERVATION REVIEW

Entity: _____

Review date: _____

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

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

WATER LOSS AUDIT YEAR:

Total water loss (GPCD): _____ Total water loss (percent): _____ Wholesale Water
 Total no. of connections: _____ Length of mains (miles): _____ Connections per mile: _____
 If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (ILI): _____

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
If population ≤ 10K, connections/mile ≥ 32 :		NA			NA	
If population > 10K :		NA			NA	

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 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 benchmarking 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.



City of Los Fresnos Cameron County

