



PROJECT FUNDING REQUEST

BOARD DATE: December 17, 2024

Team Manager: David Firgens

ACTION REQUESTED

Consider approving by resolution a request from the City of Marble Falls (Burnet County) for \$19,744,500 in financial assistance consisting of \$12,930,000 in financing and \$6,814,500 in principal forgiveness from the Clean Water State Revolving Fund for construction of wastewater system improvements.

STAFF RECOMMENDATION

☒ Approve ☐ No Action

BACKGROUND

The City of Marble Falls (City) is in Burnet County approximately 45 miles northwest of Austin. The City provides water and wastewater services to approximately 7,037 residents with 2,745 connections.

PROJECT NEED AND DESCRIPTION

The City's current wastewater treatment plant is in the floodplain and has experienced severe flooding over the last ten years during major flood events. In 2021, the City received funding from the Flood Infrastructure Fund for a project to fully relocate the existing wastewater treatment plant out of the floodplain and decommission and restore the existing site. The City projects the need for additional capacity for the relocated plant due to additional growth in its service area.

The City proposes to install additional treatment, screening, and filtration capacity, along with additional pumping capacity to pump the wastewater flow to the new plant.

Task	Schedule Date
Closing	March 1, 2025
Engineering Feasibility Report Completion (End of Planning Phase)	May 31, 2024
Design Phase	June 6, 2024
Start of Construction	April 30, 2025
Construction Completion	December 31, 2027

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE JUNE 30, 2025

KEY ISSUES

The City qualifies for principal forgiveness as a disadvantaged community. The City also qualifies for a portion of the remaining financing to be zero interest as a disadvantaged small/rural community.

LEGAL/SPECIAL CONDITIONS

- Executed principal forgiveness agreement
- Return of surplus principal forgiveness funds

Attachments:

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

Financial Review

City of Marble Falls

Attachment 1

Risk Score: 2B

Audit Reviewed: FY 2023

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: 1.48%	State: 1.49%
Top 10 Customers % of Total Revenue	2%	10-15%
Median Household Income as % of State	72%	100%
Days of Cash on Hand (3-year Average)	3,101	30-149 days
Net Fixed Assets/ Annual Depreciation	20 years	12-24 years
Debt Service Coverage Ratio	0.94x	1.1x
Debt-to-Operating Revenues	9.77x	4.00-5.99x
Unemployment Rate (September 2024)	County: 3.10%	State: 4.10%
Working Capital Ratio	1.91	>1.0
Total Assessed Valuation Per Capita	\$233,668	\$30,000 – \$64,999

Key Risk Score Strengths

- The average days of cash on hand is above the benchmark, indicating that the City has sufficient cash reserves to pay operating expenses or debt service.
- The top ten water customers account for only two percent of the revenue generated by the utility system, indicating the City does not rely on a limited customer base to generate most of its revenues.
- With a total assessed value per capita of \$233,668, the City has a strong tax base to generate property tax revenue to support the existing and proposed debt, if needed.
- As a proactive measure, the City utilized a rate study and capital improvement plan for implementing proposed projects, rate increases, and managing debt issuance.

Key Risk Score Concerns

- The City is pledging taxes and revenues as security on the proposed debt; however, the City intends to repay the proposed debt using system revenues. Using the system revenues from the 2023 audit, the City is below the 1.10x debt service coverage requirements for the existing and proposed debt. Assuming a no growth scenario, the City is projected to need a maximum rate increase of \$36.83 by the year 2027.
- The debt to operating revenue is above the benchmark, as the City is implementing several capital improvement projects simultaneously to maximize multiple funding sources. The City is currently on track with implementing the annual planned rate increases for water and sewer services, as recommended by the 2020 rate study.

PLEDGE

Legal Pledge Name	Ad Valorem Tax and Surplus Water and Sewer 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 type="checkbox"/> Second <input checked="" type="checkbox"/> Third <input type="checkbox"/> N/A

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (2027)	Current Household Cost Factor	Projected Household Cost Factor
WATER	13,474	\$72.59	\$91.00	3.14	4.06
WASTEWATER	9,896	\$53.75	\$72.17		

TAXES

	2023 Tax Year Rate	Max Projected Tax Rate (Year 2023)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.2009	\$0.2009	\$2.50	99%	\$1,769,570,614
Interest & Sinking	\$0.3391	\$0.3391			
Total Tax Rate	\$0.5400	\$0.5400			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$4,875,060 over the life of the financing. The City is also saving \$6,814,500 in principal forgiveness.

Project Data Summary

Responsible Authority	City of Marble Falls
Program	CWSRF
Commitment Number	L1001669, L1001670, L1001723, LF1001671
Project Number	40131
List Year	2023
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$3,055,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025A, \$5,580,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025B, \$4,295,000 City of Marble Falls, Texas Combination Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2025C, \$6,814,500 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, Non-Equivalency
Financial Managerial & Technical Complete	N/A
Phases Funded	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
David Firgens	Caaren Skrobarczyk	David Firgens	Stephannie Resendez	Marshall Walters

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Marble Falls

\$5,580,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificate of Obligation, Proposed Series 2025B

Dated Date:	3/1/2025	Source:	CWSRF-EQUIVALENCY
Delivery Date:	3/1/2025	Rate:	2.38%
First Interest:	8/1/2025	IUP Year:	2023
First Principal:	2/1/2026	Case:	Tax and Revenue
Last Principal:	2/1/2055	Admin.Fee:	\$95,971
Fiscal Year End:	9/30	Admin. Fee Payment Date:	3/1/2025
Required Coverage:	1.1	Total Assessed Valuation:	\$1,769,570,614

\$4,295,000 City of Marble Falls, Texas Combination Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2025C

Dated Date:	3/1/2025	Source:	CWSRF-NON-EQUIVALENCY
Delivery Date:	3/1/2025	Rate:	2.59%
First Interest:	8/1/2025	IUP Year:	2023
First Principal:	2/1/2026	Case:	Tax and Revenue
Last Principal:	2/1/2055	Admin.Fee:	\$73,870
Fiscal Year End:	9/30	Admin. Fee Payment Date:	3/1/2025
Required Coverage:	1.1		

FISCAL YEAR	REQUIRED					\$5,580,000 ISSUE				\$4,295,000 ISSUE				PROPOSED SERIES		
	REQUIRED TAX RATE	TAX REVENUES WITH COLL. @ 99%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	2025A ZERO PERCENT \$3,055,000 ISSUE	DEBT SERVICE	ACTUAL COVERAGE
2025	\$0.3391	\$5,940,608	\$5,287,766	\$11,228,374	\$10,096,484	\$0	-	\$60,479	\$60,479	-	-	\$50,650	\$50,650	\$0	\$10,207,613	1.10
2026	0.3391	5,940,608	6,016,438	11,957,046	10,324,405	130,000	1.39%	120,054	250,054	95,000	1.51%	100,583	195,583	100,000	10,870,042	1.10
2027	0.3391	5,940,608	6,059,891	12,000,499	10,359,164	130,000	1.37%	118,260	248,260	100,000	1.49%	99,121	199,121	103,000	10,909,544	1.10
2028	0.3391	5,940,608	6,059,891	12,000,499	9,614,333	135,000	1.39%	116,431	251,431	100,000	1.50%	97,626	197,626	101,000	10,164,389	1.18
2029	0.3391	5,940,608	6,059,891	12,000,499	8,952,228	135,000	1.39%	114,555	249,555	105,000	1.51%	96,083	201,083	105,000	9,507,865	1.26
2030	0.3391	5,940,608	6,059,891	12,000,499	8,960,782	140,000	1.44%	112,609	252,609	105,000	1.56%	94,471	199,471	103,000	9,515,862	1.26
2031	0.3391	5,940,608	6,059,891	12,000,499	7,911,595	145,000	1.49%	110,520	255,520	110,000	1.61%	92,767	202,767	101,000	8,470,881	1.42
2032	0.3391	5,940,608	6,059,891	12,000,499	7,738,346	150,000	1.52%	108,300	258,300	110,000	1.65%	90,974	200,974	100,000	8,297,619	1.45
2033	0.3391	5,940,608	6,059,891	12,000,499	7,045,043	150,000	1.55%	105,998	255,998	115,000	1.68%	89,100	204,100	104,000	7,609,141	1.58
2034	0.3391	5,940,608	6,059,891	12,000,499	6,570,864	155,000	1.58%	103,611	258,611	115,000	1.72%	87,145	202,145	102,000	7,133,619	1.68
2035	0.3391	5,940,608	6,059,891	12,000,499	6,105,065	160,000	1.73%	101,002	261,002	120,000	1.87%	85,034	205,034	101,000	6,672,101	1.80
2036	0.3391	5,940,608	6,059,891	12,000,499	6,092,118	165,000	1.85%	98,092	263,092	125,000	2.00%	82,662	207,662	100,000	6,662,872	1.80
2037	0.3391	5,940,608	6,059,891	12,000,499	5,554,362	165,000	1.94%	94,965	259,965	125,000	2.11%	80,093	205,093	104,000	6,123,420	1.96
2038	0.3391	5,940,608	6,059,891	12,000,499	5,547,102	170,000	2.02%	91,648	261,648	130,000	2.19%	77,351	207,351	103,000	6,119,100	1.96
2039	0.3391	5,940,608	6,059,891	12,000,499	5,328,156	175,000	2.11%	88,084	263,084	135,000	2.28%	74,389	209,389	102,000	5,902,629	2.03
2040	0.3391	5,940,608	6,059,891	12,000,499	5,324,225	180,000	2.18%	84,276	264,276	135,000	2.36%	71,257	206,257	102,000	5,896,758	2.04
2041	0.3391	5,940,608	6,059,891	12,000,499	4,954,167	185,000	2.25%	80,233	265,233	140,000	2.44%	67,956	207,956	101,000	5,528,356	2.17
2042	0.3391	5,940,608	6,059,891	12,000,499	4,713,903	190,000	2.30%	75,967	265,967	145,000	2.50%	64,435	209,435	101,000	5,290,304	2.27
2043	0.3391	5,940,608	6,059,891	12,000,499	4,137,509	195,000	2.35%	71,490	266,490	150,000	2.55%	60,710	210,710	100,000	4,714,709	2.55
2044	0.3391	5,940,608	6,059,891	12,000,499	2,231,669	200,000	2.40%	66,799	266,799	155,000	2.60%	56,783	211,783	100,000	2,810,250	2.03
2045	0.3391	5,940,608	6,059,891	12,000,499	1,407,669	205,000	2.44%	61,898	266,898	155,000	2.65%	52,714	207,714	100,000	1,982,280	6.25
2046	0.3391	5,940,608	6,059,891	12,000,499	1,409,469	205,000	2.47%	56,865	261,865	160,000	2.67%	48,524	208,524	105,000	1,984,858	6.05
2047	0.3391	5,940,608	6,059,891	12,000,499	1,405,869	210,000	2.50%	51,709	261,709	165,000	2.71%	44,152	209,152	105,000	1,981,729	6.06
2048	0.3391	5,940,608	6,059,891	12,000,499	1,401,969	220,000	2.52%	46,312	266,312	170,000	2.73%	39,596	209,596	100,000	1,977,876	6.07
2049	0.3391	5,940,608	6,059,891	12,000,499	1,402,769	225,000	2.54%	40,682	265,682	175,000	2.76%	34,861	209,861	100,000	1,978,311	6.07
2050	0.3391	5,940,608	6,059,891	12,000,499	1,403,016	230,000	2.56%	34,881	264,881	180,000	2.78%	29,944	209,944	101,000	1,978,840	6.06
2051	0.3391	5,940,608	6,059,891	12,000,499	1,403,703	235,000	2.57%	28,917	263,917	185,000	2.79%	24,861	209,861	102,000	1,979,481	6.06
2052	0.3391	5,940,608	6,059,891	12,000,499	828,978	240,000	2.59%	22,789	262,789	190,000	2.81%	19,611	209,611	102,000	1,403,378	8.55
2053	0.3391	5,940,608	6,059,891	12,000,499	842,738	245,000	2.60%	16,496	261,496	195,000	2.81%	14,201	209,201	103,000	1,416,435	8.47
2054	0.3391	5,940,608	6,059,891	12,000,499	770,981	250,000	2.61%	10,049	260,049	200,000	2.83%	8,632	208,632	104,000	1,343,661	8.93
2055	0.3391	5,940,608	6,059,891	12,000,499	480,000	260,000	2.61%	3,393	263,393	205,000	2.83%	2,901	207,901	100,000	1,051,294	11.41
				\$387,357,326	\$150,318,678	\$5,580,000		\$2,297,360	\$7,877,360	\$4,295,000		\$1,939,181	\$6,234,181	\$3,055,000	\$167,485,218	

\$5,580,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	17.3 YEARS
NET INTEREST RATE	2.380%
COST SAVINGS	\$1,737,324
AVERAGE ANNUAL REQUIREMENT	\$254,108

\$4,295,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	17.46 YEARS
NET INTEREST RATE	2.585%
COST SAVINGS	\$1,204,594
AVERAGE ANNUAL REQUIREMENT	\$201,103

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$5,402,749

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

City of Marble Falls

40131 - Wastewater Treatment Plant Relocation out of Floodplain

Budget Items	Previous Commitments	This Commitment CWSRF	Concurrent Commitment FIF	Local and Other Funds	Total
Construction					
Construction	\$24,931,132.00	\$15,519,500.00	\$17,984,000.00	\$5,625,000.00	\$64,059,632.00
Subtotal for Construction	\$24,931,132.00	\$15,519,500.00	\$17,984,000.00	\$5,625,000.00	\$64,059,632.00
Basic Engineering Services					
Construction Engineering	\$125,000.00	\$2,000,000.00	\$0.00	\$965,306.00	\$3,090,306.00
Design	\$0.00	\$0.00	\$0.00	\$4,492,990.00	\$4,492,990.00
Planning	\$407,000.00	\$0.00	\$0.00	\$300,000.00	\$707,000.00
Subtotal for Basic Engineering Services	\$532,000.00	\$2,000,000.00	\$0.00	\$5,758,296.00	\$8,290,296.00
Special Services					
Environmental	\$0.00	\$15,000.00	\$0.00	\$189,495.00	\$204,495.00
Geotechnical	\$0.00	\$0.00	\$0.00	\$25,680.00	\$25,680.00
Inspection	\$600,000.00	\$150,000.00	\$0.00	\$0.00	\$750,000.00
O&M Manual	\$0.00	\$40,000.00	\$0.00	\$0.00	\$40,000.00
Permits	\$0.00	\$0.00	\$0.00	\$298,861.00	\$298,861.00
Pilot Testing	\$400,000.00	\$0.00	\$0.00	\$0.00	\$400,000.00
Project Management (by engineer)	\$0.00	\$250,000.00	\$0.00	\$0.00	\$250,000.00
Surveying	\$0.00	\$0.00	\$0.00	\$40,406.00	\$40,406.00
Water Distribution Modeling	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Subtotal for Special Services	\$1,000,000.00	\$455,000.00	\$0.00	\$554,442.00	\$2,009,442.00
Fiscal Services					
Bond Counsel	\$36,238.00	\$65,000.00	\$32,000.00	\$0.00	\$133,238.00
Financial Advisor	\$98,112.00	\$140,000.00	\$70,000.00	\$0.00	\$308,112.00
Fiscal/Legal	\$8,871.00	\$20,000.00	\$6,000.00	\$0.00	\$34,871.00
Issuance Costs	\$11,556.93	\$0.00	\$13,000.00	\$0.00	\$24,556.93
Loan Origination Fee	\$0.00	\$169,841.00	\$0.00	\$0.00	\$169,841.00
Subtotal for Fiscal Services	\$154,777.93	\$394,841.00	\$121,000.00	\$0.00	\$670,618.93
Other					
Administration	\$593,896.00	\$540,000.00	\$0.00	\$105,000.00	\$1,238,896.00
Subtotal for Other	\$593,896.00	\$540,000.00	\$0.00	\$105,000.00	\$1,238,896.00
Contingency					
Contingency	\$2,482,994.07	\$835,159.00	\$7,501,200.00	\$632,000.00	\$11,451,353.07
Subtotal for Contingency	\$2,482,994.07	\$835,159.00	\$7,501,200.00	\$632,000.00	\$11,451,353.07
Total	\$29,694,800.00	\$19,744,500.00	\$25,606,200.00	\$12,674,738.00	\$87,720,238.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$19,744,500 TO THE CITY OF MARBLE FALLS
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE, IN ONE OR MORE SERIES, OF
\$3,055,000 CITY OF MARBLE FALLS, TEXAS COMBINATION TAX AND
SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2025A
AND
\$5,580,000 CITY OF MARBLE FALLS, TEXAS COMBINATION TAX AND
SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2025B
AND
\$4,295,000 CITY OF MARBLE FALLS, TEXAS COMBINATION TAX AND
SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2025C
AND
\$6,814,500 IN PRINCIPAL FORGIVENESS

(24 -)

Recitals:

The City of Marble Falls (City), located in Burnet County, Texas, has filed an application for financial assistance in the amount of \$19,744,500 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 40131.

The City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase, in one or more series, of \$3,055,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025A, \$5,580,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025B, and \$4,295,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025C (together with all authorizing documents, (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$6,814,500, 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 surplus net revenues of the City's utility system as sufficient security for the repayment of the Obligations.

Findings:

1. The revenue and taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607.
2. The application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607.
3. The term of the Obligations does not exceed the expected useful life of the project proposed by the City.

4. 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.
5. The City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007.
6. The City meets the definition of a "Disadvantaged Community" in 31 TAC § 375.1(23) and is therefore eligible for principal forgiveness in the amount of \$6,814,500.
7. The City qualifies as a Disadvantaged Community and a "small" or "rural" system as determined by the applicable Intended Use Plan, and the project is therefore eligible for a reduced interest rate in an amount, including the origination fee, not to exceed \$3,055,000.

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

A commitment is made by the TWDB to the City of Marble Falls for financial assistance in the amount of \$19,744,500 from the Clean Water State Revolving Fund through the TWDB's proposed purchase, in one or more series, of \$3,055,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025A, \$5,580,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025B, and \$4,295,000 City of Marble Falls, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2025C and the execution of a Principal Forgiveness Agreement in the amount of \$6,814,500. This commitment will expire on June 30, 2025.

Such commitment is conditioned as follows:

Standard Conditions:

1. The 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. The 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 City.
3. The commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375.

4. the Obligations must provide that the City agrees to comply with all the conditions set forth in the TWDB Resolution.
5. The low interest 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 zero interest 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.
7. 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.
8. 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.
9. The Obligations must include a provision requiring the City to use any financial assistance 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.
10. The Obligations must include a provision requiring the City to use any financial assistance 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.
11. 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.
12. Proceeds of this commitment 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.

13. 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 provide that 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.
14. Before closing, the City 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.
15. Before 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.
16. Before 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.
17. The Executive Administrator may require the City to execute a separate financing agreement in form and substance acceptable to 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.

Conditions Related to Tax-Exempt Status:

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 thereunder (Regulations).
26. The Obligations must provide that no portion of the proceeds of the financial assistance 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 financial assistance (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 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 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 financial assistance 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 financial assistance, 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 financial assistance, and to induce the making of the financial assistance 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; and
 - 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 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 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.
34. Before closing, the City shall provide certification that the average weighted maturity of the Obligations purchased by the TWDB does not exceed 120% of the average reasonably expected economic life of the Project.

State Revolving Fund Conditions:

35. The City 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 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 contract clauses as provided by the TWDB.
37. 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 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 financial assistance will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and shall 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 § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines.

40. The Obligations and Principal Forgiveness Agreement must contain a covenant that the City will abide by all applicable requirements related to the Build America, Buy America Act, Public Law 117-58.
41. The Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets.
42. The Obligations and Principal Forgiveness Agreement must contain a covenant that the City shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216.

Clean Water State Revolving Fund Conditions:

43. The City shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375.
44. Before 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.
45. Before release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)–(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq.* and 33 U.S.C. § 1382(b)(14).

Pledge Conditions:

46. The Obligations must provide as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the

amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;

- ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues or tax revenues or both, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and
- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

Special Conditions:

- 47. Before closing, the City shall 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 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 17th day of December 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Bryan McMath, 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:

ILI:

Real Loss GMD:

WATER LOSS THRESHOLDS

Water Loss Project:

Waiver Requested:

Wholesale Adjusted:

Threshold Type:

Apparent Loss GCD		Real Loss GCD	
Reported	Threshold	Reported	Threshold

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.

GMD means gallons per mile 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 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 Marble Falls Burnet County

