



PROJECT FUNDING REQUEST

BOARD DATE: May 9, 2024

Team Manager: David Firgens

ACTION REQUESTED

Consider approving by resolution a request from the City of Devine (Medina County) for \$11,561,224 in financial assistance consisting of \$5,665,000 in financing and \$5,896,224 in principal forgiveness from the Drinking Water State Revolving Fund Lead Service Line Replacement Program for planning, design, and construction of a water system project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The Infrastructure Investment and Jobs Act, 2021, Pub. L. 117-58 (IIJA) appropriated capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines. Projects being presented for consideration have been scored and ranked using prioritization criteria in the Drinking Water State Revolving Fund Lead Service Line Replacement State Fiscal Year 2023 Intended Use Plan. The prioritized list of projects was approved by the Texas Water Development Board in August 2023. All financial assistance will be made at the ratio of 51 percent principal forgiveness and 49 percent financing.

The City of Devine (City) is approximately 35 miles southwest of San Antonio. The City provides water and wastewater services to a population of approximately 4,324 residents and approximately 1,700 residential connections.

PROJECT NEED AND DESCRIPTION

The City has approximately 1,700 residential connections within the service area with the potential for lead water service lines.

The City proposes to prepare a geographic information system database of existing water services, a lead service line initial inventory, and replace an estimated 1,700 lead service line connections from the water main to the right-of-way and approximately 2,079 lead service line connections from the right-of-way to the residence.

Series	Use	Expiration date
Series 2024A and Principal Forgiveness	Inventory	May 31, 2025
Series 2024B and Principal Forgiveness	Line Replacement	May 31, 2026

PROJECT SCHEDULE

Task	Schedule Date
Closing	October 1, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	July 1, 2024
Design Phase Completion	February 1, 2025
Start of Construction	May 1, 2025
Construction Completion	May 1, 2026

KEY ISSUES

The City qualifies for principal forgiveness for the Drinking Water State Revolving Fund Lead Service Line Replacement Program.

The proposed project is eligible for \$78,061 in principal forgiveness and \$75,000 in financing at zero percent interest with a term of up to 15 years to complete the required lead service line inventory, which is due to the Texas Commission on Environmental Quality by October 16, 2024. In addition, the project is eligible for \$5,818,163 in principal forgiveness and \$5,590,000 in financing with a subsidized interest rate and a term of up to 30 years for the planning, design, and construction of lead service line replacements.

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 Devine

Risk Score: 2B

Audit Reviewed: FY 2023

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: -0.06%	State: 1.49%
Top 10 Customers % of Total Revenue	9%	10-15%
Median Household Income as % of State	68%	100%
Days of Cash on Hand (3-year Average)	462 days	30-149 days
Net Fixed Assets/ Annual Depreciation	10 years	12-24 years
Debt Service Coverage Ratio	1.61x	1.10x
Debt-to-Operating Revenues	2.53x	4.00-5.99x
Unemployment Rate (January 2024)	Medina County: 4.00%	State: 4.10%
Working Capital Ratio	1.03	>1.0

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, short-term liabilities, or debt service.
- The top ten customers as a percentage of utility revenues is below the benchmark, showing that the City does not rely on a limited customer base for revenues.
- The low debt to operating revenues ratio indicates that the City has sufficient capacity for additional debt.
- Using a no-growth scenario, current taxes and revenues are sufficient to meet the debt service requirements for the life of the loan.

Key Risk Score Concerns

- The City's median household income is lower than the benchmark, which qualifies the project for principal forgiveness funding as a disadvantaged community.
- Although the City's population had a slight decline over the past ten years, the number of water and sewer connections for the past five years remained stable.

PLEDGE

Legal Pledge Name	Tax & Surplus Revenue Certificates of Obligation
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	Max Projected Rates (2025)	Current Household Cost Factor	Projected Household Cost Factor
WATER	15,117	\$81.03	\$81.03	3.44%	3.44%
WASTEWATER	9,806	\$39.76	\$39.76		

TAXES

	2023 Tax Year Rate	Max Projected Tax Rate (Year 2025)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.3964	\$0.3964	\$2.50	99%	\$308,865,575
Interest & Sinking	\$0.0949	\$0.0949			
Total Tax Rate	\$0.4913	\$0.4913			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$1,738,428 over the life of the financing. The City is also saving \$5,896,224 in principal forgiveness.

Project Data Summary

Responsible Authority	Devine
Program	DWSRF
Commitment Number	L1001772, L1001774, LF1001773, LF1001775
Project Number	62981
List Year	2023
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$75,000 City of Devine, Texas Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2024A, \$5,590,000 City of Devine, Texas Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2024B, \$78,061 Principal Forgiveness Agreement for Inventory, \$5,818,163 Principal Forgiveness Agreement for Line Replacement
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, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	2B

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Dain Larsen	Caaren Skrobarczyk	David Firgens	Chris Caran	Marshall Walters

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Devine

\$5,590,000 City of Devine, Texas Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2024B

Dated Date: 10/1/2024 Source: DWSRF-EQUIVALENCY
 Delivery Date: 10/1/2024 Rate: 2.80%
 First Interest: 2/1/2025 IUP Year: 2023
 First Principal: 8/1/2025 Case: Tax & Revenue
 Last Principal: 8/1/2054 Admin.Fee: \$109,608
 Fiscal Year End: 9/30 Admin. Fee Payment Date: 10/1/2024
 Required Coverage: 1.1 Total Assessed Valuation: \$308,865,575

\$75,000 City of Devine, Texas Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2024A

Dated Date: 10/1/2024 Source: DWSRF-EQUIVALENCY
 Delivery Date: 10/1/2024 Rate: 0.00%
 First Interest: 2/1/2025 IUP Year: 2023
 First Principal: 8/1/2025 Case: Tax & Revenue
 Last Principal: 8/1/2039 Admin.Fee: \$1,471
 Fiscal Year End: 9/30 Admin. Fee Payment Date: 10/1/2024
 Required Coverage: 1.1

FISCAL YEAR	CURRENT TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 99%		PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$5,590,000 ISSUE				\$75,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
		PRINCIPAL PAYMENT	INTEREST RATE				INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT				
2025	\$0.0949	\$290,182	\$508,490	\$798,672	\$240,152	\$130,000	2.15%	\$120,936	\$250,936	5,000	0%	\$0	\$5,000	\$496,088	1.61	
2026	\$0.0949	290,182	508,490	798,672	388,884	135,000	1.97%	142,329	277,329	5,000	-	-	5,000	671,213	1.19	
2027	\$0.0949	290,182	508,490	798,672	392,488	135,000	1.89%	139,669	274,669	5,000	-	-	5,000	672,157	1.19	
2028	\$0.0949	290,182	508,490	798,672	390,988	140,000	1.83%	137,118	277,118	5,000	-	-	5,000	673,106	1.19	
2029	\$0.0949	290,182	508,490	798,672	389,440	140,000	1.85%	134,556	274,556	5,000	-	-	5,000	668,996	1.19	
2030	\$0.0949	290,182	508,490	798,672	392,802	145,000	1.88%	131,966	276,966	5,000	-	-	5,000	674,767	1.18	
2031	\$0.0949	290,182	508,490	798,672	391,076	150,000	1.95%	129,240	279,240	5,000	-	-	5,000	675,316	1.18	
2032	\$0.0949	290,182	508,490	798,672	389,317	150,000	1.97%	126,315	276,315	5,000	-	-	5,000	670,631	1.19	
2033	\$0.0949	290,182	508,490	798,672	392,470	155,000	2.00%	123,360	278,360	5,000	-	-	5,000	675,830	1.18	
2034	\$0.0949	290,182	508,490	798,672	385,535	155,000	2.02%	120,260	275,260	5,000	-	-	5,000	665,795	1.20	
2035	\$0.0949	290,182	508,490	798,672	383,569	160,000	2.18%	117,129	277,129	5,000	-	-	5,000	665,697	1.20	
2036	\$0.0949	290,182	508,490	798,672	386,524	165,000	2.30%	113,641	278,641	5,000	-	-	5,000	670,165	1.19	
2037	\$0.0949	290,182	508,490	798,672	384,401	165,000	2.41%	109,846	274,846	5,000	-	-	5,000	664,246	1.20	
2038	\$0.0949	290,182	508,490	798,672	387,197	170,000	2.54%	105,869	275,869	5,000	-	-	5,000	668,066	1.20	
2039	\$0.0949	290,182	508,490	798,672	384,922	175,000	2.62%	101,551	276,551	5,000	-	-	5,000	666,473	1.20	
2040	\$0.0949	290,182	508,490	798,672	387,580	180,000	2.67%	96,966	276,966	-	-	-	-	664,546	1.20	
2041	\$0.0949	290,182	508,490	798,672	385,170	185,000	2.72%	92,160	277,160	-	-	-	-	662,330	1.21	
2042	\$0.0949	290,182	508,490	798,672	382,750	190,000	2.77%	87,128	277,128	-	-	-	-	659,878	1.21	
2043	\$0.0949	290,182	508,490	798,672	385,261	195,000	2.81%	81,865	276,865	-	-	-	-	662,126	1.21	
2044	\$0.0949	290,182	508,490	798,672	387,645	200,000	2.85%	76,386	276,386	-	-	-	-	664,031	1.20	
2045	\$0.0949	290,182	508,490	798,672	384,960	205,000	2.88%	70,686	275,686	-	-	-	-	660,646	1.21	
2046	\$0.0949	290,182	508,490	798,672	387,205	210,000	2.91%	64,782	274,782	-	-	-	-	661,986	1.21	
2047	\$0.0949	290,182	508,490	798,672	384,379	220,000	2.94%	58,671	278,671	-	-	-	-	663,049	1.20	
2048	\$0.0949	290,182	508,490	798,672	391,481	225,000	2.96%	52,203	277,203	-	-	-	-	668,684	1.19	
2049	\$0.0949	290,182	508,490	798,672	-	230,000	2.99%	45,543	275,543	-	-	-	-	275,543	2.90	
2050	\$0.0949	290,182	508,490	798,672	-	240,000	3.00%	38,666	278,666	-	-	-	-	278,666	2.87	
2051	\$0.0949	290,182	508,490	798,672	-	245,000	3.01%	31,466	276,466	-	-	-	-	276,466	2.89	
2052	\$0.0949	290,182	508,490	798,672	-	255,000	3.02%	24,091	279,091	-	-	-	-	279,091	2.86	
2053	\$0.0949	290,182	508,490	798,672	-	260,000	3.03%	16,390	276,390	-	-	-	-	276,390	2.89	
2054	\$0.0949	290,182	508,490	798,672	-	280,000	3.04%	8,512	288,512	-	-	-	-	288,512	2.77	
				\$23,960,169	\$9,156,194	\$5,590,000		\$2,699,291	\$8,289,291	\$75,000		\$0	\$75,000	\$17,520,484		

\$5,590,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	17.23 YEARS
NET INTEREST RATE	2.803%
COST SAVINGS	\$2,851,619
AVERAGE ANNUAL REQUIREMENT	\$276,310

\$75,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	7.83 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$19,258
AVERAGE ANNUAL REQUIREMENT	\$5,000

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$281,310

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
 Devine
 62981 - City of Devine Lead Service Line
 Replacement Project

Budget Items	This Commitment	Total
Construction		
Construction	\$7,532,250.00	\$7,532,250.00
Subtotal for Construction	\$7,532,250.00	\$7,532,250.00
Basic Engineering Services		
Construction Engineering	\$112,984.00	\$112,984.00
Design	\$527,258.00	\$527,258.00
Planning	\$112,984.00	\$112,984.00
Lead Service Lines - Inventory	\$153,061.00	\$153,061.00
Subtotal for Basic Engineering Services	\$906,287.00	\$906,287.00
Special Services		
Inspection	\$225,967.00	\$225,967.00
Surveying	\$225,967.00	\$225,967.00
Subtotal for Special Services	\$451,934.00	\$451,934.00
Fiscal Services		
Bond Counsel	\$100,000.00	\$100,000.00
Financial Advisor	\$129,761.00	\$129,761.00
Issuance Costs	\$55,000.00	\$55,000.00
Loan Origination Fee	\$111,079.00	\$111,079.00
Subtotal for Fiscal Services	\$395,840.00	\$395,840.00
Other		
Administration	\$467,010.00	\$467,010.00
Subtotal for Other	\$467,010.00	\$467,010.00
Contingency		
Contingency	\$1,807,903.00	\$1,807,903.00
Subtotal for Contingency	\$1,807,903.00	\$1,807,903.00
Total	\$11,561,224.00.00	\$11,561,224.00.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$11,561,224 TO THE CITY OF DEVINE
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE, IN ONE OR MORE SERIES OF
\$75,000 CITY OF DEVINE, TEXAS TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2024A, FOR INVENTORY
AND
\$5,590,000 CITY OF DEVINE, TEXAS TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2024B, FOR NON-INVENTORY
AND
\$5,896,224 PRINCIPAL FORGIVENESS

(24-)

Recitals:

The City of Devine (City), located in Medina County, has filed an application for financial assistance in the amount of \$11,561,224 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design, and construction of certain water system improvements identified as Project No. 62981.

The City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase, in one or more series of \$75,000 City of Devine, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2024A, and \$5,590,000 City of Devine, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2024B (together with all authorizing documents (Obligations)), and the execution of one or more Principal Forgiveness Agreements in an amount of \$5,896,224, 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 utility system revenue 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.*, and Pub. L. 117-58, 135 Stat. 1400-1401, 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 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).
6. The City is eligible for principal forgiveness through the DWSRF in a total amount not to exceed \$5,896,224 and financial assistance in the amount of \$75,000 with a reduced interest rate of zero percent.

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

A commitment is made by the TWDB to the City of Devine for financial assistance in the amount of \$11,561,224 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase, in one or more series, of:

- a) \$75,000 City of Devine, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2024A, to expire on May 31, 2025;
 - b) \$5,590,000 City of Devine, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2024B, to expire on May 31, 2026;
- and

And the execution of one or more Principal Forgiveness Agreements in the amounts of:

- a) \$78,061 to expire on May 31, 2025; and
- b) \$5,818,163, to expire on May 31, 2026.

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 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 that 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 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.

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 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.
10. 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.
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. Therefore, 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, except for an LSLR project or associated activity directly connected to the identification, planning, design, and replacement of lead service lines. The Obligations must include an environmental indemnification provision wherein the City agrees, and agrees to cause its construction contractors, to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action, or damages arising from activities performed by the City or its construction contractors, including their officials and employees, in connection with 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 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.
19. The Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
20. 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.
21. The Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
22. 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).
23. 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:

24. 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.

25. 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.
26. 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).
27. 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.
28. 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 shall 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;
29. 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.
30. 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.
31. 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.
32. 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).

33. 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.
34. 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.
35. The City's federal tax certificate shall provide that the weighted average maturity of the Obligations purchased by the TWDB does not exceed 120% of the weighted average reasonably expected economic life of the Project.

State Revolving Fund Conditions;

36. The City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.
37. 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 the financial assistance made available shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB.
38. 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.
39. The Obligations shall provide that all financial assistance proceeds 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.
40. 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.

41. 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.
42. 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 and 2 CFR part 184.

Drinking Water State Revolving Fund Conditions:

43. The City shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371.
44. 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.
45. 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.

Pledge Conditions:

46. The Obligations must contain a provision that provides 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 must not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until 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 before the time taxes are to be levied for that year, the City must 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 of these, into the Interest and Sinking Fund for the repayment of the Obligations; and
- iii. the Obligations must include a requirement that the City must 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 the Obligations, or the City must 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.

APPROVED and ordered of record this 9th day of May 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Bryan McMath, Interim 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:

Apparent Loss GCD

Real Loss GCD

Threshold Type:

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.

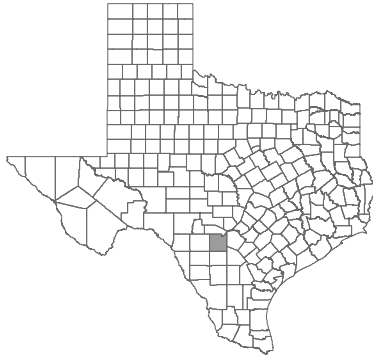
Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

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 Devine Medina County

