



PROJECT FUNDING REQUEST

BOARD DATE: April 11, 2024

Team Manager: Jesse Milonovich

ACTION REQUESTED

Approve by resolution: (a) a request from the City of Silverton (Briscoe County) for \$14,990,000 in financial assistance consisting of \$4,990,000 in financing and \$10,000,000 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of a water system improvements project, and (b) a request for a waiver from the requirement that the project be consistent with the state and regional water plans.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The City of Silverton (City) is about 90 miles northeast of Lubbock, Texas. The City provides water and wastewater services to a population of approximately 754 residents and 349 connections.

PROJECT NEED AND DESCRIPTION

The City obtains its water supply primarily from Lake Mackenzie via the Mackenzie Municipal Water Authority and supplements it with a series of city-owned water wells located east of the City. Drought conditions have reduced lake levels to historic lows, forcing the City to rely on groundwater to meet demand. Reliance on its existing groundwater supply cannot be sustained to meet long-term needs. Also, the wells produce water that exceeds the Texas Commission on Environmental Quality (TCEQ) maximum contaminant level of arsenic.

The City proposes to drill three additional water wells at its Swisher County well field site that meet the current standards for arsenic content to allow for blending with its existing groundwater supply and sufficient capacity to meet long term needs during the drought conditions. In addition to the three new wells, the City proposes to add a new pump station, 200,000-gallon ground storage tank, approximately 59,400 feet of 12-inch transmission line, and well field piping. The project also requires valves, site work, a security fence, gates, an access road, electrical equipment, and a Supervisory Control and Data Acquisition system.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE OCTOBER 31, 2024

PROJECT SCHEDULE

Task	Schedule Date
Closing	August 8, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	October 15, 2024
Design Phase Completion	December 2, 2024
Start of Construction	March 14, 2025
Construction Completion	November 3, 2025

KEY ISSUES

The Texas Water Development Board (TWDB) provided initial funding for the planning, acquisition, and design of this project from the Economically Distressed Areas Program (EDAP), with grants committed in 2011 and 2012, in the combined amount of \$1,825,000. At that time, the project was identified as TWDB Number 10417, which was determined to be complete when the available funds were expended and is no longer active. Those funds were utilized to acquire a 638-acre well field.

The City qualifies for principal forgiveness as a Disadvantaged Community in the amount of \$8,800,000, for Urgent Need - Contaminants, in the amount of \$800,000, and for Very Small Systems in the amount of \$400,000.

The City requests a waiver of the requirement that the project be addressed in a manner consistent with the state and regional water plans because the project has increased in priority as the water levels from the City's drinking water system source continues to drop, the well field not being viable for potable water use due to the high arsenic levels, and the project has received the support of Region O Regional Water Planning Group.

LEGAL/SPECIAL CONDITIONS

- Water rights certification
- Submit a FY 2023 financial audit
- Submit documentation of cash reserve
- Adopt and implement sufficient system rates and charges

Attachments:

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

Financial Review City of Silverton

Risk Score: 2C

Audit Reviewed: FY 2022

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: -1.49%	State: 1.49%
Top 10 Customers % of Total Revenue	5%	10-15%
Median Household Income as % of State	58%	100%
Days of Cash on Hand (3-year Average)	0 days	30-149 days
Net Fixed Assets/ Annual Depreciation	16 years	12-24 years
Debt Service Coverage Ratio	0.21x	1.0x
Debt-to-Operating Revenues	14.16x	4.00-5.99x
Unemployment Rate (December 2023)	County: 3.80%	State: 3.50%
Working Capital Ratio	0.44	> 1.0
Cash Balance Ratio	46.39%	0-9.99%
Net Direct Debt / Total Assessed Valuation	0%	2-4.99%

Key Risk Score Strengths

- The City's top 10 customers as percentage of total revenues are below the benchmark, indicating the City does not overly rely on any one customer for its revenue stream.
- The City's net direct debt / total assessed valuation is well below the benchmark, indicating the capacity to take on tax debt if needed.
- The City's net fixed assets/annual depreciation is within the benchmark, indicating the fixed assets are still within their useful life.

Key Risk Score Concerns

- In a no growth scenario, based on 2022 audited numbers, the City's maximum projected rate increase would be \$44.11. The first projected rate increase would be \$37.77 to be implemented prior to closing in 2024, with an additional \$6.34 needed by 2054. The City is planning one rate increase in 2024 of approximately \$55, with no interest and sinking tax rate planned to be implemented. Additionally, the City will be required to submit the 2023 audit prior to closing.
- The City does not show any days of cash on hand due to not having a separate cash account for its water and sewer system. A special condition in the legal resolution will require one to be established and have 30 days of cash on hand prior to closing.

PLEDGE

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

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (Year 2054)	Current Household Cost Factor	Projected Household Cost Factor
Water	3,218	\$37.50	\$59.57	2.44	3.91
Wastewater	1,500	\$35.50	\$57.57		

TAXES

	2023 Tax Year Rate	Max Projected Tax Rate	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.6700	\$0.6700	\$1.50	96%	\$22,992,514
Interest & Sinking	\$0.0000	\$0.0000			
Total Tax Rate	\$0.6700	\$0.6700			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$1,536,127 over the life of the financing. In addition, the City is also saving \$10,000,000 in principal forgiveness.



Project Data Summary

Responsible Authority	Silverton
Program	DWSRF
Commitment Number	L1001754, LF1001755
Project Number	62943
List Year	2023
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Second Lien
Legal Description	\$4,990,000 City of Silverton, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2024, \$10,000,000 City of Silverton, Texas Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	Yes
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	No
Water Conservation Plan	Approvable
Overall Risk Score	2C

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Bill Blaik	Kyle DuQuesnay	Cooper Stence	Chris Caran	Breann Hunter

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Silverton

\$4,990,000 City of Silverton, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Series 2024

Dated Date: 8/8/2024	Source: DWSRF-EQUIVALENCY
Delivery Date: 8/8/2024	Rate: 2.81%
First Interest: 2/15/2025	IUP Year: 2023
First Principal: 2/15/2025	Case: Tax and Revenue
Last Principal: 2/15/2054	Admin.Fee: \$97,843
Fiscal Year End: 09/30	Admin. Fee Payment Date: 8/8/2024
Required Coverage: 1.0	

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	\$4,990,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2025	\$231,653	\$0	\$100,000	2.15%	\$131,653	\$231,653	\$231,653	1.00
2026	\$241,913	-	115,000	1.97%	126,913	241,913	241,913	1.00
2027	\$244,647	-	120,000	1.89%	124,647	244,647	244,647	1.00
2028	\$244,647	-	120,000	1.83%	122,415	242,415	242,415	1.01
2029	\$245,160	-	125,000	1.85%	120,160	245,160	245,160	1.00
2030	\$245,160	-	125,000	1.88%	117,829	242,829	242,829	1.01
2031	\$245,160	-	125,000	1.95%	115,435	240,435	240,435	1.02
2032	\$245,160	-	130,000	1.97%	112,936	242,936	242,936	1.01
2033	\$245,160	-	130,000	2.00%	110,356	240,356	240,356	1.02
2034	\$245,160	-	135,000	2.02%	107,692	242,692	242,692	1.01
2035	\$245,160	-	140,000	2.18%	104,803	244,803	244,803	1.00
2036	\$245,160	-	140,000	2.30%	101,667	241,667	241,667	1.01
2037	\$245,160	-	145,000	2.41%	98,309	243,309	243,309	1.01
2038	\$245,160	-	150,000	2.54%	94,657	244,657	244,657	1.00
2039	\$245,722	-	155,000	2.62%	90,722	245,722	245,722	1.00
2040	\$245,722	-	160,000	2.67%	86,555	246,555	246,555	1.00
2041	\$247,175	-	165,000	2.72%	82,175	247,175	247,175	1.00
2042	\$247,577	-	170,000	2.77%	77,577	247,577	247,577	1.00
2043	\$247,763	-	175,000	2.81%	72,763	247,763	247,763	1.00
2044	\$247,763	-	180,000	2.85%	67,740	247,740	247,740	1.00
2045	\$247,763	-	185,000	2.88%	62,511	247,511	247,511	1.00
2046	\$252,009	-	195,000	2.91%	57,009	252,009	252,009	1.00
2047	\$252,009	-	200,000	2.94%	51,232	251,232	251,232	1.00
2048	\$252,009	-	205,000	2.96%	45,258	250,258	250,258	1.01
2049	\$254,010	-	215,000	2.99%	39,010	254,010	254,010	1.00
2050	\$254,010	-	220,000	3.00%	32,496	252,496	252,496	1.01
2051	\$255,734	-	230,000	3.01%	25,734	255,734	255,734	1.00
2052	\$255,734	-	235,000	3.02%	18,724	253,724	253,724	1.01
2053	\$256,464	-	245,000	3.03%	11,464	256,464	256,464	1.00
2054	\$258,876	-	255,000	3.04%	3,876	258,876	258,876	1.00
		\$0	\$4,990,000		\$2,414,314	\$7,404,314	\$7,404,314	

AVERAGE (MATURITY) LIFE	17.19 YEARS
NET INTEREST RATE	2.814%
COST SAVINGS	\$1,536,127
AVERAGE ANNUAL REQUIREMENT	\$246,810

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
Silverton
62943 - Swisher County Well Field Development

Budget Items	This Commitment	Total
Construction		
Construction	\$12,564,000.00	\$12,564,000.00
Subtotal for Construction	\$12,564,000.00	\$12,564,000.00
Basic Engineering Services		
Construction Engineering	\$100,000.00	\$100,000.00
Design	\$276,000.00	\$276,000.00
Subtotal for Basic Engineering Services	\$376,000.00	\$376,000.00
Special Services		
Application	\$14,000.00	\$14,000.00
Environmental	\$22,000.00	\$22,000.00
Geotechnical	\$18,000.00	\$18,000.00
Inspection	\$300,000.00	\$300,000.00
O&M Manual	\$6,000.00	\$6,000.00
Permits	\$8,000.00	\$8,000.00
Project Management (by engineer)	\$50,000.00	\$50,000.00
Surveying	\$28,000.00	\$28,000.00
Testing	\$51,000.00	\$51,000.00
Water Conservation Plan	\$6,000.00	\$6,000.00
Subtotal for Special Services	\$503,000.00	\$503,000.00
Fiscal Services		
Bond Counsel	\$64,640.00	\$64,640.00
Financial Advisor	\$105,380.00	\$105,380.00
Fiscal/Legal	\$9,500.00	\$9,500.00
Issuance Costs	\$12,637.00	\$12,637.00
Loan Origination Fee	\$97,843.00	\$97,843.00
Subtotal for Fiscal Services	\$290,000.00	\$290,000.00
Contingency		
Contingency	\$1,257,000.00	\$1,257,000.00
Subtotal for Contingency	\$1,257,000.00	\$1,257,000.00
Total	\$14,990,000.00	\$14,990,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$14,990,000 TO THE CITY OF SILVERTON
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$4,990,000 CITY OF SILVERTON, TEXAS COMBINATION TAX AND SUBORDINATE LIEN
REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2024
AND
\$10,000,000 IN PRINCIPAL FORGIVENESS

(24 -)

Recitals:

The City of Silverton (City), located in Briscoe County, has filed an application for financial assistance in the amount of \$14,990,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design, and construction of certain water system improvements identified as Project No. 62943.

The City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$4,990,000 City of Silverton, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2024 (together with all authorizing documents (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$10,000,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff.

The City has offered a pledge of ad valorem tax and utility system subordinate lien revenues 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.

The City requests a waiver of the requirement that the project be addressed in a manner consistent with the state and regional water plans because the project has increased in priority as the water levels from the City's drinking water system source continues to drop, the well field not being viable for potable water use due to the high arsenic levels, and the project has received the support of Regional Water Planning Region O.

Findings:

1. The Subordinate Lien 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. 1401-1402, as well as state law, in accordance with Texas Water Code § 15.607.
3. The term of the Obligations does not exceed the expected useful life of the project proposed by the City.
4. The City has submitted a proposed program of water conservation for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules.
5. The 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 meets the definition of "Disadvantaged Community" in 31 TAC § 371.1(23) and is therefore eligible for principal forgiveness in the amount of \$8,800,000. The City meets the definition of a very small system in accordance with the current Intended Use Plan and is therefore eligible for principal forgiveness in the amount of \$400,000. The project qualifies as an Urgent Need project in accordance with the applicable Intended Use Plan and 31 TAC § 371.21(f) and is eligible for principal forgiveness in the amount of \$800,000. The City is therefore eligible for principal forgiveness through the DWSRF in a total amount not to exceed \$10,000,000.
7. The conditions, as described above, warrant a waiver of the requirements that the TWDB determine that the needs to be addressed by the project will be addressed in a manner that is consistent with the State Water Plan, and with the approved Regional Water Plan that includes the area to benefit from the proposed project.

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

1. For the reasons stated above, the TWDB waives the requirements of Texas Water Code § 16.053(j), pursuant to Texas Water Code § 16.053(k).
2. A commitment is made by the TWDB to the City of Silverton for financial assistance in the amount of \$14,990,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$4,990,000 City of Silverton, Texas Combination

Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Series 2024 and the execution of a Principal Forgiveness Agreement in the amount of \$10,000,000. This commitment will expire on October 31, 2024.

The commitment is conditioned as follows:

Standard Conditions:

1. This commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand as determined by the TWDB. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution.
2. This commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all the requirements of the laws under which the Obligations were issued have been complied with; that the Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that the Obligations are valid and binding obligations of the City.
3. This commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 371.
4. The Obligations must provide that the City agrees to comply with all the conditions set forth in the TWDB Resolution.
5. The Obligations must provide that the Obligations can be called for early redemption on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations at a redemption price of par together with accrued interest to the date fixed for redemption.
6. The City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations, or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by the Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of the rule, this continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers the Obligations and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to those bonds under SEC Rule 15c2-12.

7. The Obligations must contain a provision requiring the City to levy a tax or maintain and collect sufficient rates and charges, as applicable, to produce system funds in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations.
8. The Obligations must include a provision requiring the City to use any financial assistance proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project explicitly approved by the Executive Administrator, or, if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds.
9. The Obligations must include a provision requiring the City to use any financial assistance proceeds from the Obligations determined to be surplus funds in a manner approved by the Executive Administrator. Surplus funds are funds remaining after completion of the project and completion of a final accounting.
10. The Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect.
11. Proceeds of this commitment are public funds. Therefore, the Obligations must include a provision requiring that these proceeds 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. Proceeds of this commitment must not be used by the City when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations must include a provision that states the City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments or contaminated media that may be generated by the City, its contractors, consultants, agents, officials, and employees as a result of activities relating to the Project to the extent permitted by law.
13. Before closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements.

14. 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.
15. 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.
16. The Executive Administrator may require the City to execute a separate financing agreement in form and substance acceptable to the Executive Administrator.
17. The TWDB retains the option to purchase the Obligations in separate lots or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator.
18. The Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
19. The Obligations must provide that the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued including the standard emergency discovery conditions for threatened and endangered species and cultural resources.
20. The Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
21. The City must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition).
22. The Obligations must provide that the City will submit annually, an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.

Tax-Exempt Conditions:

23. The City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal

income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion.

24. The City's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion.
25. The Obligations must include a provision prohibiting the City from using the proceeds of this financial assistance in a manner that would cause the Obligations to become "private activity bonds" within the meaning of section 141 of the Internal Subordinate Lien Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated under section 141 (Regulations).
26. The Obligations must provide that no portion of the proceeds of this commitment will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of section 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for this commitment (Source Series Bonds), other than Nonpurpose Investments acquired with:
 - a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until the proceeds are needed for the facilities to be financed;
 - b. amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Regulations; and
 - c. amounts deposited in any reasonably required reserve or replacement fund to the extent the amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations.
27. The Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government to satisfy the requirements of section 148 of the Code. The Obligations must provide that the City must:
 - a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures, and investments) on its books of account separately and apart from all other funds (and receipts,

expenditures and investments) and retain all records of the accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its financing with other money of the City, provided that the City separately accounts for each receipt and expenditure of the Gross Proceeds and the obligations acquired with them;

- b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its financing, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings under these sections. The City 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;
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 Subordinate Lien Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of section 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply.
33. The Obligations must provide that neither the City nor a related party will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the City by the TWDB.
34. The City's federal tax certificate shall provide that the weighted average maturity of the Obligations purchased by the TWDB does not exceed 120% of the weighted average reasonably expected economic life of the Project.

State Revolving Fund Conditions:

35. The 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 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.
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 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.

39. The Obligations and Principal Forgiveness Agreement must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines.
40. The Obligations and Principal Forgiveness Agreement must contain a covenant that the City shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216.
41. 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.

Drinking Water State Revolving Fund Conditions:

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

45. The Obligations must contain a provision that provides as follows:
 - a. if system Subordinate Lien 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 Subordinate Lien Revenues then on deposit in the Interest and Sinking Fund.

Special Conditions:

46. Before the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the City has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that a finding will be made before the release of funds for construction.
47. Before the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the City has the right to use the water that the project financed by the TWDB will provide.
48. Before closing, the City must submit a FY2023 financial audit, the form and substance of which is satisfactory to the Executive Administrator.
49. Before closing, the City must execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator.
50. The Principal Forgiveness Agreement must include a provision stating that the City shall return any principal forgiveness funds that are determined to be surplus funds.
51. At least thirty (30) days before closing, the City must submit documentation acceptable to the Executive Administrator that the City has reserved thirty (30) days of cash, based on the daily average of total expenses, excluding depreciation and amortization, reflected in the City's FY2022 financial audit. While the TWDB is the holder of the Obligations, this cash reserve requirement shall be maintained based on the City's most recent Audit. The restricted cash shall be kept in a bank account separate and apart from the City's other cash. Upon the disbursement of any restricted cash, the City shall notify the Executive Administrator. The restricted cash account shall be replenished within ninety (90) days.
52. At least sixty (60) days before closing, the City must submit documentation evidencing the adoption and implementation of sufficient system rates and charges for the repayment of all debt service requirements.

APPROVED and ordered of record this 11th day of April 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Bryan McMath, Interim Executive Administrator

Water
 Wastewater
 Other _____

WATER CONSERVATION REVIEWEntity: City of Silverton

Other entity: _____

WATER CONSERVATION PLAN DATE:

2023

**Approvable****Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD
Baseline	100	71	22
5-year Goal	95	66	19
10-year Goal	90	61	9

WATER LOSS AUDIT YEAR:

2021

Service connections: 320Length of main lines (miles): 14Water Loss GCD: 30Retail population: 660Connections per mile: 23Water Loss GPCD: 15ILI¹: NA

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

WATER LOSS THRESHOLDSWater Loss Project: Wholesale Adjusted

Threshold Type:

Population ≤ 10K, connections/mile < 32:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day
7.15	533	NA	7.45	1,600	NA

Does the applicant meet Water Loss Threshold Requirements?

Yes No NA **ADDITIONAL INFORMATION**

The city's draft water conservation plan states that their potential water conservation opportunities come in the reduction of peak monthly water consumption, average domestic water consumption, and water loss. To meet these reduction goals, the city plans to replace between 15 to 20 meters per year starting with the oldest first, reduce unbilled unmetered consumption, install meters on all connections, and develop a more accurate records tracking system. To address water loss, the city will visually inspect the system, investigate customer complaints of low pressure, and replace any water mains experiencing multiple leaks within a twelve-month period. The city installed a SCADA system in 2022 to help staff manage and monitor the system. Additionally, the city will provide water conservation information via social media, on water bills, and through other mechanisms to customers to share conservation tips and water usage in the city.

STAFF NOTES AND RECOMMENDATIONS

The city will need to provide proof of adoption of its water conservation plan prior to loan closing.

The city, while below its water loss thresholds, is very close to its threshold for apparent water loss. TWDB staff recommends the city initiate a pro-active meter testing and replacement program.

DEFINITIONS

Adopted refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formally approved and adopted by the applicant's governing body.

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

Approvable refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

Best Management Practices are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

GPCD means gallons per capita per day.

GCD means gallons per connection per day.

Infrastructure Leakage Index (ILI) is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 3,000 connections and a connection density of more than 16 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a 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.

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

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

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

Total water loss is the sum of the apparent and real water losses.

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

Water Loss GPCD is the amount of water loss divided by the retail population divided by 365.

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

Water Loss Thresholds are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

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



June 27, 2023

Mr. Jeff Walker
Executive Administrator
Texas Water Development Board
1700 North Congress Ave.
P.O. Box 13231
Austin, Texas 78711-3231

Re: 2021 Llano Estacado Regional Water Plan Consistency Waiver

Dear Mr. Walker:

The Llano Estacado Regional Water Planning Group (LERWPG) received a request from the City of Silverton (City) for a consistency waiver to the 2021 Llano Estacado (Region O) Water Plan to include a new project entitled Swisher County Well Field Development as a water management strategy. Information about this new groundwater supply project was provided through email correspondence and personal communication with City of Silverton and TWDB staff members. In summary:

- In the 2021 Region O Water Plan, the City's 2020 population was projected to be 741 and its 2070 population was projected to be 742, with corresponding demands of 126 acre-feet per year (acft/yr) in 2020 and 119 acft/yr in 2070.
- The City's current source of water is Lake Mackenzie supplied by the Mackenzie Municipal Water Authority. The lake was created to supply water to four member cities: Floydada, Lockney, Silverton, and Tulia.
- The Swisher County Well Field Development project was not reflected in the 2021 Region O Water Plan because the City has new water needs based on the decreasing water availability from Lake Mackenzie.
- Groundwater supply for this project would likely be transitioned from its current irrigation use to municipal use.
- The City is seeking funding from the Drinking Water State Revolving Fund.

The LERWPG met on May 10, 2023, to consider this consistency waiver request. James Fisher, City of Silverton City Manager, was present at the meeting and explained the groundwater project and the need for the project to increase water supply reliability for the City. The LERWPG approved the consistency waiver to include groundwater as a supply source for the City.

Sincerely,

A handwritten signature in blue ink that reads "Aubrey Spear".

Aubrey Spear, P.E.
Chair, Llano Estacado Regional Water Planning Group
Director of Water Utilities, City of Lubbock

cc: Kevin Smith, TWDB
James Fisher, City of Silverton



City of Silverton Briscoe County

