



## PROJECT FUNDING REQUEST

**BOARD DATE:** July 23, 2024

**Team Manager:** Joe Koen

### ACTION REQUESTED

Consider approving by resolution a request from the City of Denton (Denton County) for a) \$195,845,000 in multi-year financing from the State Water Implementation Revenue Fund for Texas for planning, acquisition, design, and construction of a water supply project; and b) a waiver from the requirement to include funds to mitigate water loss as a part of this project.

### STAFF RECOMMENDATION

☒ Approve ☐ No Action

### BACKGROUND

The City of Denton (City) is located in Denton County approximately 35 miles north of Fort Worth. The City provides water and wastewater services to a population of approximately 186,773 residents and 45,208 water and 41,367 waste water connections.

### PROJECT NEED AND DESCRIPTION

The City experienced population growth of 23 percent in the years 2010 to 2020. Additionally, growth of 29 percent is projected in the 2022 State Water Plan for the decade of 2020 to 2030. Currently, the City is served by two water treatment plants (WTPs), Lake Lewisville and Lake Ray Roberts, having a combined capacity of 48.9 million gallons per day (MGD). Current demand is 42 MGD and projected demand in 2030 is 72 MGD. The City needs to expand its water treatment capacity to meet projected demands.

The City is proposing a 6 MGD rating upgrade and a 20 MGD expansion of the Lake Ray Roberts WTP (RRWTP). First an uprating study will be conducted at the plant increasing capacity to 26 MGD. The proposed 20 MGD expansion improvements include adding a low-pressure membrane system to the treatment train along with targeted improvements throughout the plant, bringing total plant capacity to 46 MGD and a total system capacity of 74.9 MGD. These improvements will meet 2030 projected demands.

### PROJECT SCHEDULE

Task	Schedule Date
Closing	December 1, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	April 17, 2025
Design Phase Completion	October 28, 2027
Start of Construction	January 29, 2027
Construction Completion	November 28, 2029

Multi-Year Commitment:	Expiration Date
\$10,135,000 Proposed Series 2024	December 31, 2024
\$11,235,000 Proposed Series 2025	December 31, 2025
\$57,240,000 Proposed Series 2026	December 31, 2026
\$87,690,000 Proposed Series 2027	December 31, 2027
\$29,545,000 Proposed Series 2028	December 31, 2028

## **KEY ISSUES**

The City is over its threshold for real water loss and has requested a waiver from including funds as part of this project to mitigate the loss. The City's request is based on its 2019 Bond Program that includes the replacement of 108,712 linear feet of waterlines. This project began in 2022 and is anticipated to be completed in 2027. The City anticipates that this project will reduce its real loss. The City has also set aside \$15,000,000 in the Capital Improvement Plan funds to implement advanced metering infrastructure (AMI) technology. The project is scheduled to begin in January 2025 with an anticipated completion date of January 2027 and will allow the City to better measure water use and calculate water loss. These projects will help the City mitigate its real water loss, which justifies the water loss waiver.

### **Attachments:**

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

# Financial Review City of Denton

Attachment 1

Risk Score: 2A

Audit Reviewed: FY 2023

## Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: 2.12%	State: 1.49%
Top 10 Customers % of Total Revenue	10%	10-15%
Median Household Income as % of State	97%	100%
Days of Cash on Hand (3-year Average)	189 days	30-149 days
Net Fixed Assets/ Annual Depreciation	23 years	12-24 years
Debt Service Coverage Ratio	1.41x	1.0x
Debt-to-Operating Revenues	1.32x	4.00-5.99x
Unemployment Rate (April, 2024)	City: 3.10%	State: 3.50%
Working Capital Ratio	3.89	> 1.0
Net Direct Debt/ Total Assessed Valuation	5.46%	2.00-4.99%
Total Assessed Valuation, per capita	\$102,905	\$30,000-\$64,999

## Key Risk Score Strengths

- Pledged system revenues are high enough to cover both the existing and proposed debt over the life of the proposed financing. Additionally, water system connections have increased by 4,843 from 2020 to 2024, indicating that sources of revenue will continue to grow.
- A high Working Capital Ratio provides the City with ample resources to cover short-term liabilities and shows a strong liquidity position.
- Total assessed valuation per capita is above the benchmark, indicating strong overall economic health of the community. Additionally, the City's assessed valuation has increased by \$7,902,908,664 over the past five years, reflecting the increasing tax base.

## Key Risk Score Concerns

- Net Direct Debt / Total Assessed Valuation percentage is higher than benchmark due to a higher percentage of tax-supported debt. The figure is not expected to increase as a result of the proposed debt.

## PLEDGE

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

## RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates	Current Household Cost Factor	Projected Household Cost Factor
WATER	8,365	\$55.44	\$55.44	1.69	1.69
WASTEWATER	4,820	\$29.10	\$29.10		

**TAXES**

	2023 Tax Year Rate	Max Projected Tax Rate	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.354	\$0.354	\$2.50	99%	\$19,219,843,947
Interest & Sinking	\$0.205	\$0.205			
Total Tax Rate	\$0.569	\$0.569			

**Cost Savings**

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$1,203,615 over the life of the financing.

## Project Data Summary

<b>Responsible Authority</b>	Denton
<b>Program</b>	SWIFT
<b>Commitment Number</b>	LM2401829, LM2501829, LM2601829, LM2701829, LM2801829
<b>Project Number</b>	51083
<b>List Year</b>	2024
<b>Type of Pledge</b>	Revenue Pledge
<b>Pledge Level (if applicable)</b>	First Lien
<b>Legal Description</b>	\$10,135,000 City of Denton, Texas Utility System Revenue Bond Series 2024, \$11,235,000 City of Denton, Texas Utility System Revenue Bond Series 2025, \$57,240,000 City of Denton, Texas Utility System Revenue Bond Series 2026, \$87,690,000 City of Denton, Texas Utility System Revenue Bond Series 2027, \$29,545,000 City of Denton, Texas Utility System Revenue Bond Series 2028
<b>Tax-exempt or Taxable</b>	Tax-Exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	No
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay <> Escrow Release
<b>Qualifies as Disadvantaged</b>	No
<b>SWIFT Financing Type</b>	Low-Interest
<b>Financial Managerial &amp; Technical Complete</b>	N/A
<b>Phases Funded</b>	Planning, Acquisition, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with State Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2A

### PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Joe Koen	Kyle DuQuesnay	Jason Asbury	Kylie Beard	Marshall Walters

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Denton

**\$10,135,000 City of Denton, Texas Utility System Revenue Bond Series 2024**

Dated Date:	12/1/2024	Source:	SWIFT-LOW-30YR
Delivery Date:	12/1/2024	Rate:	3.99%
First Interest:	6/1/2025	IUP Year:	2024
First Principal:	12/1/2025	Case:	Senior Lien Revenues
Last Principal:	12/1/2054	Admin.Fee:	\$0
Fiscal Year End:	09/30	Admin. Fee Payment Date:	N/A
Required Coverage:	1.0		

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	\$10,135,000 ISSUE				MULTI YEAR ISSUES SERIES 2025-2028	TOTAL DEBT SERVICE	COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT			
2025	\$45,935,300	\$25,300,313	\$0	-	\$192,697	\$192,697	\$0	\$25,493,009	1.80
2026	45,935,300	31,769,518	195,000	3.27%	382,205	577,205	308,642.59	\$32,655,365	1.41
2027	45,935,300	29,892,157	200,000	3.24%	375,777	575,777	2,298,432.79	\$32,766,367	1.40
2028	45,935,300	29,571,425	210,000	3.14%	369,240	579,240	6,804,624.58	\$36,955,289	1.24
2029	45,935,300	28,396,530	215,000	3.13%	362,578	577,578	10,803,670.37	\$39,777,778	1.15
2030	45,935,300	27,230,124	220,000	3.13%	355,770	575,770	11,867,477.75	\$39,673,372	1.16
2031	45,935,300	27,231,739	230,000	3.13%	348,728	578,728	11,859,710.50	\$39,670,177	1.16
2032	45,935,300	25,298,194	235,000	3.14%	341,439	576,439	11,861,656.50	\$37,736,289	1.22
2033	45,935,300	25,299,853	245,000	3.16%	333,878	578,878	11,857,833.00	\$37,736,564	1.22
2034	45,935,300	25,295,276	250,000	3.18%	326,032	576,032	11,852,751.50	\$37,724,059	1.22
2035	45,935,300	25,301,145	260,000	3.19%	317,910	577,910	11,850,876.00	\$37,729,931	1.22
2036	45,935,300	25,296,215	270,000	3.28%	309,335	579,335	11,847,049.50	\$37,722,600	1.22
2037	45,935,300	25,299,258	275,000	3.38%	300,260	575,260	11,844,407.00	\$37,718,925	1.22
2038	45,935,300	25,297,732	285,000	3.49%	290,639	575,639	11,835,750.75	\$37,709,121	1.22
2039	45,935,300	7,223,309	295,000	3.62%	280,326	575,326	11,829,874.00	\$19,628,509	2.34
2040	45,935,300	7,224,204	310,000	3.69%	269,267	579,267	11,824,555.50	\$19,628,026	2.34
2041	45,935,300	7,225,700	320,000	3.73%	257,580	577,580	11,814,783.75	\$19,618,064	2.34
2042	45,935,300	7,222,724	330,000	3.81%	245,325	575,325	11,812,006.00	\$19,610,055	2.34
2043	45,935,300	7,225,125	345,000	3.86%	232,380	577,380	11,800,086.00	\$19,602,591	2.34
2044	45,935,300	7,223,201	360,000	3.90%	218,702	578,702	11,797,790.00	\$19,599,693	2.34
2045	45,935,300	7,221,587	375,000	3.94%	204,294	579,294	11,785,259.00	\$19,586,140	2.35
2046	45,935,300	7,224,314	390,000	4.12%	188,873	578,873	11,776,958.00	\$19,580,144	2.35
2047	45,935,300	7,221,224	405,000	4.12%	172,496	577,496	11,767,012.50	\$19,565,732	2.35
2048	45,935,300	7,222,160	420,000	4.12%	155,501	575,501	11,760,260.00	\$19,557,921	2.35
2049	45,935,300	7,221,888	440,000	4.12%	137,785	577,785	11,751,451.00	\$19,551,123	2.35
2050	45,935,300	7,225,170	460,000	4.12%	119,245	579,245	11,734,963.00	\$19,539,377	2.35
2051	45,935,300	7,221,849	475,000	4.23%	99,722	574,722	11,729,800.00	\$19,526,371	2.35
2052	45,935,300	7,221,769	495,000	4.23%	79,207	574,207	11,715,147.25	\$19,511,123	2.35
2053	45,935,300	-	520,000	4.23%	57,740	577,740	11,699,772.25	\$12,277,512	3.74
2054	45,935,300	-	540,000	4.23%	35,321	575,321	11,696,619.50	\$12,271,940	3.74
2055	45,935,300	-	565,000	4.23%	11,950	576,950	11,679,543.75	\$12,256,494	3.75
		\$477,603,703	\$10,135,000		\$7,372,194	\$17,507,194		\$821,979,661	

AVERAGE (MATURITY) LIFE	18.23 YEARS
NET INTEREST RATE	3.990%
COST SAVINGS	\$1,203,611
AVERAGE ANNUAL REQUIREMENT	\$564,741

*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**  
**Denton**  
**51083 - 30 MGD WTP Expansion – Ray Roberts-1**

Budget Items	This Commitment	Local and Other Funds	Total
<b>Construction</b>			
Construction	\$151,411,000.00	\$0.00	\$151,411,000.00
<b>Subtotal for Construction</b>	<b>\$151,411,000.00</b>	<b>\$0.00</b>	<b>\$151,411,000.00</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$5,602,900.00	\$0.00	\$5,602,900.00
Design	\$13,990,800.00	\$0.00	\$13,990,800.00
Planning	\$2,827,800.00	\$0.00	\$2,827,800.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$22,421,500.00</b>	<b>\$0.00</b>	<b>\$22,421,500.00</b>
<b>Special Services</b>			
Application	\$138,300.00	\$0.00	\$138,300.00
Environmental	\$65,200.00	\$0.00	\$65,200.00
Geotechnical	\$238,300.00	\$0.00	\$238,300.00
Inspection	\$4,607,400.00	\$0.00	\$4,607,400.00
O&M Manual	\$485,500.00	\$0.00	\$485,500.00
Permits	\$219,000.00	\$0.00	\$219,000.00
Pilot Testing	\$718,500.00	\$0.00	\$718,500.00
Project Management (by engineer)	\$1,618,400.00	\$0.00	\$1,618,400.00
Surveying	\$98,900.00	\$0.00	\$98,900.00
Testing	\$1,098,000.00	\$0.00	\$1,098,000.00
<b>Subtotal for Special Services</b>	<b>\$9,287,500.00</b>	<b>\$0.00</b>	<b>\$9,287,500.00</b>
<b>Fiscal Services</b>			
Bond Counsel	\$270,275.00	\$0.00	\$270,275.00
Financial Advisor	\$295,725.00	\$0.00	\$295,725.00
<b>Subtotal for Fiscal Services</b>	<b>\$566,000.00</b>	<b>\$0.00</b>	<b>\$566,000.00</b>
<b>Other</b>			
Land/Easements Acquisition	\$50,000.00	\$0.00	\$50,000.00
<b>Subtotal for Other</b>	<b>\$50,000.00</b>	<b>\$0.00</b>	<b>\$50,000.00</b>
<b>Contingency</b>			
Contingency	\$12,109,000.00	\$0.00	\$12,109,000.00
<b>Subtotal for Contingency</b>	<b>\$12,109,000.00</b>	<b>\$0.00</b>	<b>\$12,109,000.00</b>
<b>Total</b>	<b>\$195,845,000.00</b>	<b>\$0.00</b>	<b>\$195,845,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO  
THE CITY OF DENTON  
IN THE FORM OF A MULTI-YEAR COMMITMENT  
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS  
THROUGH THE PROPOSED PURCHASE OF  
\$195,845,000 CITY OF DENTON, TEXAS UTILITY SYSTEM REVENUE BONDS,  
PROPOSED SERIES 2024 THROUGH PROPOSED SERIES 2028

(24- )

Recitals:

The City of Denton (City), located in Denton County, has filed an application for financial assistance in the amount of \$195,845,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, design, and construction of a water supply project identified as Project No. 51083 (Project).

The City seeks financial assistance from the Texas Water Development Board (TWDB) in the form of a multi-year commitment through the TWDB's proposed purchase of \$195,845,000 City of Denton, Texas Utility System Revenue Bonds, Proposed Series 2024 through Proposed Series 2028, (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff.

The City has offered a pledge of 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 § 363.1307.

Subject to the City's use of an approved debt service structure, interest rate subsidies are available to the City for State Fiscal Year 2024 at up to the following levels: 25% for financial assistance for a term of 20 years, 18% for financial assistance for a term of 21 to 25 years, and 14% for financial assistance for a term of 26 to 30 years. The interest rate subsidy applicable to each subsequent proposed series may be different than the interest rate subsidy available for State Fiscal Year 2024 and will be set through each financing agreement executed between the TWDB and the City.

The interest rate subsidies provided above are based on assumptions necessary to generate an optimum debt service structure for the anticipated TWDB SWIRFT bond issuance and are subject to modification as necessary to preserve and maintain the integrity of the SWIRFT Program.

The City requests a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss because of a current project of the City that is addressing water loss.



Findings:

1. The application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M.
2. The Project is a recommended water management strategy project in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a).
3. The City has submitted and implemented a water conservation plan in accordance with Texas Water Code § 16.4021 and 31 TAC § 363.1309(b)(1).
4. The City has completed its current water audit and filed it with the TWDB in accordance with Texas Water Code § 16.0121 and 31 TAC § 358.6.
5. Based on the conditions described above, the City is satisfactorily addressing the City's system water loss, supporting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the City's system water loss in accordance with Texas Water Code § 16.0121(g).
6. The City acknowledges its legal obligation to comply with any applicable requirements of federal law related to contracting with disadvantaged business enterprises and any applicable state law related to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

NOW THEREFORE, based on these findings, the TWDB commits to the following:

1. For the reasons stated above, the TWDB waives the requirements of Texas Water Code § 16.0121(g).
2. The TWDB will provide financial assistance to City of Denton in the amount of \$195,845,000 from the State Water Implementation Revenue Fund for Texas to be evidenced by the TWDB's proposed purchase of City of Denton, Texas Utility System Revenue Bonds as follows:
  - a. \$10,135,000 Proposed Series 2024, to expire on December 31, 2024;
  - b. \$11,235,000 Proposed Series 2025, to expire on December 31, 2025;
  - c. \$57,240,000 Proposed Series 2026, to expire on December 31, 2026;
  - d. \$87,690,000 Proposed Series 2027, to expire on December 31, 2027; and
  - e. \$29,545,000 Proposed Series 2028, to expire on December 31, 2028.

The commitment is subject to the following:

Standard Conditions:

1. This commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand.
2. This commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that the City has complied with all of the requirements of the laws under which the Obligations were issued, 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 continued compliance with all applicable laws, rules, policies, and guidance as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement.
4. This commitment is contingent upon the City executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting the executed agreement to the TWDB consistent with the terms and conditions described in it.
5. Interest rate subsidies for non-level debt service structure are subject to adjustment by the Executive Administrator.
6. The City shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2) and shall require the paying agent/registrar to provide a copy of all receipts documenting debt service payments to the TWDB and to the TWDB's designated Trustee.

Required Obligation Conditions:

7. 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 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.
8. The Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
9. 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.

10. The Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
11. The Obligations must include a provision wherein 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 SEC rule 15c2-12, the 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 the bonds under SEC Rule 15c2-12.
12. The Obligations must contain a provision requiring the City to levy a tax or maintain and collect sufficient rates and charges to produce system revenues 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.
13. The Obligations must include a provision requiring the City to use any proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project and completion of a final accounting in a manner approved by the Executive Administrator.
14. 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.
15. Financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.
16. Financial assistance proceeds shall not be used by the City when sampling, testing, removing, or disposing of contaminated soils or media at the Project site. The Obligations shall 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.

17. The Obligations must include a provision stating that the City shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312.
18. The Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB's designated Trustee, and the Obligations shall be registered in the name of Cede & Co. and closed in book-entry-only form in accordance with 31 TAC § 363.42(c)(1).
19. The Obligations must contain a provision stating that the City shall abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter G and Texas Water Code § 17.183.
20. The City must immediately notify TWDB in writing of any suit against it by the Attorney General of Texas under Texas Government Code § 2.103 and Texas Penal Code § 1.10(f), related to federal laws regulating firearms, firearm accessories, and firearm ammunition.
21. 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.
22. The Obligations must include a provision that if the collateral or credit pledged by the City securing the Obligations is rated by a nationally-recognized statistical rating agency, the City, or other obligated person, will not discontinue the rating issued by a nationally-recognized statistical rating agency until the underlying Obligations are retired or no longer held by TWDB.

Tax-Exempt Conditions:

23. 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 as amended (Code) and the Treasury Regulations promulgated under it (Regulations).
24. 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 that were used, directly or indirectly, to acquire Nonpurpose Investments, as defined in the Code

and Regulations, that produce a yield materially higher than the yield on the TWDB's bonds issued to provide 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 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 lesser 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.
25. The Obligations must include a provision that the City must take all necessary steps to comply with the requirement that amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of section 148 of the Code. The Obligations must provide that the City will:
- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures, and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures, and investments thereof) and retain all records of 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 financial assistance 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 the Gross Proceeds;
  - 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 associated rulings. The City shall maintain a copy of the calculations for at least six years after the final Computation Date;
  - c. pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date as additional consideration for providing financial assistance and in order to induce providing 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 of TWDB's Bonds for federal income tax purposes;

- d. exercise reasonable diligence to ensure that no errors are made in the calculations required by paragraph (b) and, if an error is made, to discover and promptly 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.
- 26. 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.
- 27. 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.
- 28. The Obligations must contain a covenant that the City will refrain from using the proceeds of the Obligations to pay debt service on another issue of the borrower’s obligations in contravention of section 149(d) of the Code (related to “advance refundings”).
- 29. The Obligations must provide that neither the City nor a party related to it 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.

Pledge Conditions:

- 30. The Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations.
- 31. If the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after the term of any financial assistance provided by the TWDB pursuant to this commitment, the Obligations must contain a provision providing that the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing the outstanding obligations.
- 32. The Obligations must contain a provision providing that additional revenue obligations may only be incurred if:
  - 1. Net system revenues are equal to the lesser of (A) at least 1.25 times the average annual debt service requirements, or (B) at least 1.10 times the maximum annual debt service requirements, of, in either case, the parity senior lien obligations to be outstanding at the time of issuance of the then proposed additional senior lien obligations, but excluding the additional senior lien obligations than being issue; and

2. An independent accountant or qualified independent engineer provides its opinion that projected net system revenues will be, for each of the five fiscal years subsequent to the date the capital improvement project that is being financed becomes commercially operative equal to the lesser of (A) at least 1.25 times the average annual debt service requirements, or (B) at least 1.10 the maximum annual debt service requirements, of, in either case, senior lien obligations then outstanding and all additional senior lien obligations then estimated to be issued, if any, for all improvements to the utility system and for all additional improvements then in progress or then being initiated during the period from the date the first series of obligations for the improvements is to be delivered through the fifth fiscal year subsequent to the date the improvements are estimated to become commercially operative.

#### Conditions To Close or For Release of Funds:

33. Before closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements.
34. Before closing, if not previously provided with the application, the City shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel for the Project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator.
35. Before closing, when any portion of financial assistance is to be held in escrow or in trust, the City shall execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB.
36. 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.
37. Before closing, 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.
38. Before closing, the City's bond counsel must prepare a written opinion that states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion.

39. 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.
40. The transcript must include evidence that the information reporting requirements of section 149(e) of the Internal Revenue 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.

APPROVED and ordered of record this, the 23rd day of July 2024.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Brooke T. Paup, Chairwoman

DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Bryan McMath, Interim Executive Administrator



Water  
Wastewater  
Other

## WATER CONSERVATION REVIEW

Review Date:

Project ID:

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 Denton Denton County

