



PROJECT FUNDING REQUEST

BOARD DATE: July 23, 2024

Team Manager: David Firgens

ACTION REQUESTED

Consider approving by resolution a request from the City of Austin (Travis County) for \$22,160,000 in financial assistance consisting of \$12,160,000 in financing and \$10,000,000 in principal forgiveness from the Clean Water State Revolving Fund for planning, acquisition, design, and construction of wastewater system improvements.

STAFF RECOMMENDATION

☒ Approve ☐ No Action

BACKGROUND

The City of Austin (City) is the state capital and county seat. Founded in 1835, Austin is one of the oldest incorporated areas in Texas. The City is one of the fastest growing cities in the country and is home to The University of Texas and several major corporations. The City provides water services to a population of 1.1 million.

PROJECT NEED AND DESCRIPTION

The City of Austin's (City) Buttermilk Creek has experienced sanitary sewer overflows, resulting in over 5 million gallons of sewage discharge into the creek since 1998. Intense upstream development, inadequate stormwater controls and detention infrastructure (leading to sudden peak flows and flooding), have resulted in erosion, channel instability, deteriorating and exposed water and wastewater infrastructure (including water mains and laterals), and high loading of nutrients and toxic sediment.

In the section of the creek identified as Upper Buttermilk Creek, the City proposes to construct a 15,000 square foot biofiltration pond with stacked extended detention for stormwater control to remove pollutants. To establish vegetated side slopes the City will also construct dry-stacked limestone block walls to permanently stabilize steeper sections of both banks and bank toes. These improvements will restore stream stability and enhance riparian habitat. The City will remove an inadequate concrete detention pond and aging wastewater infrastructure

In the Middle Buttermilk Creek section, the City proposes to construct a 15,000 square foot extended detention outlet structure permanent pool for riparian habitat, three 5,010 square foot rain gardens, one 1,908 square foot bioswale, and replace approximately 3,130 linear feet of deteriorating wastewater pipelines. The City also proposes to replace approximately

COMMITMENT PERIOD: TWELVE (12) MONTHS TO EXPIRE JULY 31, 2025
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17,000 square feet of concrete channel lining with natural, erosion resistant materials to establish vegetation and restore aquatic habitat and remove approximately 31,565 square feet of invasive grasses and trees. The City will also construct rain gardens, rain meadows, bioswale, structural cores with drilled soldier piles, and aesthetic habitat features for biofiltration and stream restoration.

In the Lower Buttermilk Creek section, the City proposes to replace approximately 3,600 of wastewater lines and stabilize banks and mitigate erosion at six locations with a drilled shaft wall, a short stacked mechanically stabilized earth block wall, and vegetated rip rap.

Task	Schedule Date
Closing	October 17, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	March 27, 2026
Design Phase	January 15, 2027
Start of Construction	January 21, 2028
Construction Completion	January 25, 2030

KEY ISSUES

The City qualifies for \$10,000,000 in principal forgiveness as a disadvantaged community for the project area with a median household income of \$39,727 that will benefit from a non-point source pollution project.

The City has submitted a separate request for State Water Implementation Revenue Fund for Texas funding for additional costs to replace the City's water meters with advanced meters. This proposed financing is included in the credit review.

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 Austin

Risk Score: 2A

Audit Reviewed: FY 2023

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: 1.98%	State: 1.49%
Total Assessed Valuation, per capita	\$199,907	\$30,000-64,999
Median Household Income as % of State	116% (City); 59% (project area)	100%
Days of Cash on Hand (3-year Average)	268 days	30-149 days
Net Fixed Assets/ Annual Depreciation	24 years	12-24 years
Debt Service Coverage Ratio	1.22x	1.10x
Debt-to-Operating Revenues	3.32	4.00-5.99x
Unemployment Rate (April 2024)	City: 2.90%	State: 3.50%
Working Capital Ratio	2.20	> 1.00

Key Risk Score Strengths

- The City's current interest and sinking fund taxes and utility system charges provide sufficient revenues to pay both the existing and proposed debt service.
- The high assessed valuation per capita, high tax collection rates, and population growth are all favorable indicators supporting the double-barreled pledge.
- The City's taxable assessed valuation has increased from approximately \$152 billion to \$234 billion in the past five years. This allows the City to generate additional revenues to service debt without increasing the taxes levied.

Key Risk Score Concerns

- None.

PLEDGE

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

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates	Current Household Cost Factor	Projected Household Cost Factor
Water	6,010	\$52.08	\$52.08	1.49	1.49
Wastewater	3,710	\$37.08	\$37.08		

TAXES

	2023 Tax Year Rate	Max Projected Tax Rate (Year 2023)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.3577	\$0.3577	\$2.50	99%	\$234,256,551,594
Interest & Sinking	\$0.0881	\$0.0881			
Total Tax Rate	\$0.4458	\$0.4458			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$2,469,609 over the life of the financing. The City is also saving \$10,000,000 in principal forgiveness funding.

Responsible Authority	Austin
Program	CWSRF
Commitment Number	L1001807, LF1001808
Project Number	73953
List Year	2024
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$12,160,000 City of Austin, Texas Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2024, \$10,000,000 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	N/A
Phases Funded	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	2A

PROJECT TEAM				
Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
David Firgens	Caaren Skrobarczyk	Shubham Aggarwal	Chris Caran	Marshall Walters

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Austin

\$25,000,000 City of Austin, Texas Water & Wastewater System Revenue Bonds, Proposed Series 2024A

Dated Date:	11/12/2024	Source:	SWIFT-LOW-20YR
Delivery Date:	11/12/2024	Rate:	3.21%
First Interest:	5/15/2025	IUP Year:	2024
First Principal:	11/15/2025	Case:	Revenue
Last Principal:	11/15/2045	Admin.Fee:	\$0
Fiscal Year End:	9/30	Admin. Fee Payment Date:	11/12/2024
Required Coverage:	1.0	Total Assessed Valuation:	\$234,256,551,594

\$12,160,000 City of Austin, Texas Tax & Surplus Revenue Certificates of Obligation, Proposed Series 2024

Dated Date:	10/17/2024	Source:	CWSRF-EQUIVALENCY
Delivery Date:	10/17/2024	Rate:	2.35%
First Interest:	5/15/2025	IUP Year:	2024
First Principal:	11/15/2025	Case:	Tax & Revenue
Last Principal:	11/15/2045	Admin.Fee:	\$209,140
Fiscal Year End:	9/30	Admin. Fee Payment Date:	10/17/2024
Required Coverage:	1.1		

FISCAL YEAR	REQUIRED					\$25,000,000 ISSUE				\$12,160,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 99%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2025	\$0.0881	\$204,316,222	\$249,853,000	\$454,169,222	\$346,864,580	\$0	-	\$390,623	\$390,623	-	-	\$155,616	\$155,616	\$347,410,819	1.31
2026	\$0.0881	204,316,222	249,853,000	454,169,222	369,639,108	940,000	2.83%	755,137	1,695,137	470,000	2.00%	264,636	734,636	372,068,881	1.22
2027	\$0.0881	204,316,222	249,853,000	454,169,222	380,328,524	965,000	2.75%	728,567	1,693,567	480,000	1.93%	255,304	735,304	382,757,395	1.19
2028	\$0.0881	204,316,222	249,853,000	454,169,222	372,671,838	995,000	2.74%	701,667	1,696,667	490,000	1.91%	245,992	735,992	375,104,497	1.21
2029	\$0.0881	204,316,222	249,853,000	454,169,222	344,635,834	1,020,000	2.74%	674,062	1,694,062	500,000	1.90%	236,563	736,563	347,066,458	1.31
2030	\$0.0881	204,316,222	249,853,000	454,169,222	327,312,505	1,050,000	2.74%	645,703	1,695,703	505,000	1.89%	227,040	732,040	329,740,248	1.38
2031	\$0.0881	204,316,222	249,853,000	454,169,222	292,397,990	1,080,000	2.75%	616,468	1,696,468	515,000	1.90%	217,376	732,376	294,826,833	1.54
2032	\$0.0881	204,316,222	249,853,000	454,169,222	278,246,085	1,110,000	2.76%	586,300	1,696,300	525,000	1.90%	207,496	732,496	280,674,880	1.62
2033	\$0.0881	204,316,222	249,853,000	454,169,222	268,777,093	1,140,000	2.78%	555,136	1,695,136	535,000	1.90%	197,426	732,426	271,204,654	1.67
2034	\$0.0881	204,316,222	249,853,000	454,169,222	256,732,844	1,170,000	2.79%	522,968	1,692,968	545,000	1.91%	187,138	732,138	259,157,950	1.75
2035	\$0.0881	204,316,222	249,853,000	454,169,222	236,718,010	1,205,000	2.87%	489,355	1,694,355	560,000	2.00%	176,334	736,334	239,148,698	1.90
2036	\$0.0881	204,316,222	249,853,000	454,169,222	218,851,207	1,240,000	2.95%	453,773	1,693,773	570,000	2.08%	164,806	734,806	221,279,786	2.05
2037	\$0.0881	204,316,222	249,853,000	454,169,222	209,232,388	1,275,000	3.05%	416,039	1,691,039	580,000	2.19%	152,527	732,527	211,655,953	2.15
2038	\$0.0881	204,316,222	249,853,000	454,169,222	190,064,173	1,315,000	3.17%	375,753	1,690,753	595,000	2.26%	139,452	734,452	192,489,377	2.36
2039	\$0.0881	204,316,222	249,853,000	454,169,222	176,832,063	1,355,000	3.22%	333,095	1,688,095	605,000	2.33%	125,680	730,680	179,250,838	2.53
2040	\$0.0881	204,316,222	249,853,000	454,169,222	168,139,042	1,400,000	3.26%	288,459	1,688,459	620,000	2.40%	111,192	731,192	170,558,693	2.66
2041	\$0.0881	204,316,222	249,853,000	454,169,222	145,635,496	1,445,000	3.33%	241,580	1,686,580	635,000	2.47%	95,910	730,910	148,052,986	3.07
2042	\$0.0881	204,316,222	249,853,000	454,169,222	119,457,767	1,495,000	3.37%	192,330	1,687,330	650,000	2.50%	79,943	729,943	121,875,040	3.73
2043	\$0.0881	204,316,222	249,853,000	454,169,222	94,949,241	1,545,000	3.41%	140,797	1,685,797	670,000	2.54%	63,309	733,309	97,368,346	4.66
2044	\$0.0881	204,316,222	249,853,000	454,169,222	70,248,347	1,600,000	3.44%	86,935	1,686,935	685,000	2.57%	45,997	730,997	72,666,279	6.25
2045	\$0.0881	204,316,222	249,853,000	454,169,222	45,595,965	1,655,000	3.59%	29,707	1,684,707	700,000	2.60%	28,095	728,095	48,008,767	9.46
2046	\$0.0881	204,316,222	249,853,000	454,169,222	45,578,554	-	-	-	-	725,000	2.62%	9,498	734,498	46,313,052	9.81
					\$9,991,722,878	\$4,958,908,655	\$25,000,000		\$9,224,450	\$34,224,450	\$12,160,000	\$3,387,325	\$15,547,325	\$5,008,680,429	

\$25,000,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.49 YEARS
NET INTEREST RATE	3.212%
COST SAVINGS	\$2,685,151
AVERAGE ANNUAL REQUIREMENT	\$1,629,734

\$12,160,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	11.86 YEARS
NET INTEREST RATE	2.350%
COST SAVINGS	\$2,469,605
AVERAGE ANNUAL REQUIREMENT	\$740,341

TOTAL
AVERAGE
ANNUAL
REQUIREMENTS
\$227,667,292

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

Austin

73953 - Austin Buttermilk Creek Water Quality Improvements
Project

Budget Items	TWDB Funds	Local and Other Funds	Total
Construction			
Construction	\$16,080,000.00	\$5,000,000.00	\$21,080,000.00
Subtotal for Construction	\$16,080,000.00	\$5,000,000.00	\$21,080,000.00
Basic Engineering Services			
Construction Engineering	\$400,000.00	\$400,000.00	\$800,000.00
Design	\$2,400,000.00	\$1,000,000.00	\$3,400,000.00
Planning	\$500,000.00	\$1,000,000.00	\$1,500,000.00
Subtotal for Basic Engineering Services	\$3,300,000.00	\$2,400,000.00	\$5,700,000.00
Special Services			
Application	\$0.00	\$42,000.00	\$42,000.00
Environmental	\$95,000.00	\$100,000.00	\$195,000.00
Geotechnical	\$170,000.00	\$0.00	\$170,000.00
Inspection	\$175,000.00	\$0.00	\$175,000.00
Permits	\$120,000.00	\$0.00	\$120,000.00
Project Management (by engineer)	\$400,000.00	\$0.00	\$400,000.00
Surveying	\$230,000.00	\$0.00	\$230,000.00
Testing	\$170,000.00	\$0.00	\$170,000.00
Subtotal for Special Services	\$1,360,000.00	\$142,000.00	\$1,502,000.00
Fiscal Services			
Bond Counsel	\$0.00	\$45,000.00	\$45,000.00
Financial Advisor	\$0.00	\$60,000.00	\$60,000.00
Fiscal/Legal	\$0.00	\$22,000.00	\$22,000.00
Loan Origination Fee	\$209,140.00	\$0.00	\$209,140.00
Subtotal for Fiscal Services	\$209,140.00	\$127,000.00	\$336,140.00
Other			
Land/Easements Acquisition	\$420,000.00	\$0.00	\$420,000.00
Project Legal Expenses	\$0.00	\$100,000.00	\$100,000.00
Subtotal for Other	\$420,000.00	\$100,000.00	\$520,000.00
Contingency			
Contingency	\$790,860.00	\$0.00	\$790,860.00
Subtotal for Contingency	\$790,860.00	\$0.00	\$790,860.00
Total	\$22,160,000.00	\$7,769,000.00	\$29,929,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$22,160,000 TO THE CITY OF AUSTIN
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$12,160,000 CITY OF AUSTIN, TEXAS
TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION,
PROPOSED SERIES 2024
AND
\$10,000,000 IN PRINCIPAL FORGIVENESS

(24 -)

Recitals:

The City of Austin (City), located in Travis County has filed an application for financial assistance in the amount of \$22,160,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, acquisition, design, and construction of water quality improvements identified as Project No. 73953.

The City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$12,160,000 City of Austin, Texas Tax and Surplus 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 taxes and surplus 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 § 375.14.

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 Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
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 benefitting project area within the City meets the definition of a "Disadvantaged Community" in 31 TAC § 375.1(23) and is therefore eligible for principal forgiveness in the amount of \$10,000,000.

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

A commitment is made by the TWDB to the City of Austin for financial assistance in the amount of \$22,160,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$12,160,000 City of Austin, Texas Tax and Surplus 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 January 31, 2025.

The commitment is conditioned as follows.

Standard Conditions:

1. The commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand as determined by the TWDB. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution.
2. The commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all the requirements of the laws under which the Obligations are 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. The commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375.
4. The Obligations must provide that the City agrees to comply with all the conditions set forth in the TWDB Resolution.
5. The 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, at a minimum and regardless of the amount of the Obligations, must agree 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, 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.

7. The Obligations must require 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 require the City to use any proceeds from the Obligations that are determined to be remaining unused funds for enhancements to the original project that are explicitly approved by the Executive Administrator or, if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds. Remaining unused funds are those funds unspent after the original approved project is completed.
9. The Obligations must require the City to use any proceeds from the Obligations that are 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 provide 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 require 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 provide that the City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments or contaminated media that may be generated by the City, its contractors,

consultants, agents, officials, and employees as a result of activities relating to the Project to the extent permitted by law.

13. Before closing, the City must submit documentation evidencing the adoption and implementation of sufficient system rates and charges or the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements.
14. Before closing, and if not previously provided with the application, the City must 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 must 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 Obligations must provide that the City must comply with all applicable federal laws and TWDB laws and rules related to the use of the financial assistance.
18. 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.
19. The Obligations must require the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
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 must submit annually, an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.

Tax-Exempt Conditions:

22. 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.

23. The City's bond counsel opinion must state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion.
24. The Obligations must prohibit the City from using the 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).
25. The Obligations must provide that no portion of the proceeds of this 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 that are 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 deposited 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.
26. The Obligations must require the City to 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, including 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 this 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 those proceeds;

- b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to this 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 related rulings. The City must 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 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 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 after including payment to the United States of any interest and any penalty required by the Regulations.
27. The Obligations must prohibit 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.
28. 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.
29. 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.
30. The Obligations must provide 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.

31. 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.
32. 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.
33. Before closing, the City must provide certification that the average weighted maturity of the Obligations purchased by the TWDB does not exceed 120% of the average reasonably expected economic life of the Project.

State Revolving Fund Conditions:

34. The City must submit outlay reports on a quarterly or monthly basis with sufficient documentation on costs in accordance with TWDB outlay report guidelines.
35. The Obligations must provide that all laborers and mechanics employed by contractors and subcontractors for projects 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 must ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided must insert in full in any contract in excess of \$2,000 the contract clauses as provided by the TWDB.
36. The Obligations must provide 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.
37. The Obligations must provide that all proceeds of this financial assistance will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and must provide that the City will adhere to the approved project schedule.
38. The Obligations and Principal Forgiveness Agreement must provide that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines.

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

Clean Water State Revolving Fund Conditions:

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

Pledge Conditions:

45. the Obligations must provide as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:

- i. the Obligations must require that the City transfer and deposit into the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until 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 require that for each year the Obligations are outstanding, and before the time taxes are to be levied for that year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues or tax revenues or both, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination of these, into the Interest and Sinking Fund for the repayment of the Obligations; and
- iii. the Obligations must require that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of the Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

Special Conditions:

- 46. Before closing, the City must execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator.
- 47. The Principal Forgiveness Agreement must state that the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 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.

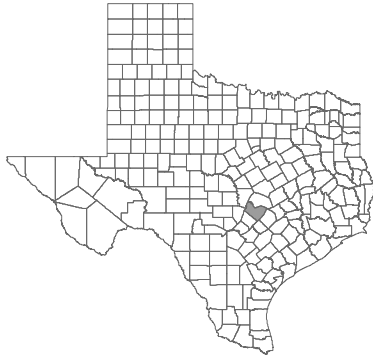
Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

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 Austin Travis County

