



## PROJECT FUNDING REQUEST

**BOARD DATE:** July 23, 2024

**Team Manager:** William Alfaro

### ACTION REQUESTED

Consider approving by resolution a request from the Laguna Madre Water District (Cameron County) to authorize a) \$10,000,000 in financing from the State Water Implementation Revenue Fund for Texas for planning, acquisition, and design of a seawater desalination plant project; and b) a waiver from the requirement to include funds to mitigate water loss as part of this project.

### STAFF RECOMMENDATION

☒ Approve ☐ No Action

### BACKGROUND

The Laguna Madre Water District (District) is located in Cameron County. The District provides water and wastewater services to a population of approximately 46,000 in Port Isabel, South Padre Island, Laguna Heights, Long Island Village, and Laguna Vista.

### PROJECT NEED AND DESCRIPTION

The District's sole water source is 7,513 acre-feet per year of water rights from the Rio Grande. Under normal weather conditions, water demands are projected to start exceeding supply in 2025 with a shortfall of 7,322 acre-feet per year in 2070. However, during drought conditions, the District could have a water supply deficit of 8,888 acre-feet per year in 2070. The District's water supply reliance on the Rio Grande presents critical challenges, constantly experiencing curtailments during low reservoir levels at the lower basin (below Falcon and Amistad Reservoirs). The District needs to diversify its water sources and augment its water supplies to meet current and future water needs.

The proposed project consists of planning, acquisition, and design of a new 5.0 million gallons per day (MGD) Seawater Reverse Osmosis plant, a seawater intake pump station structure, and connection to the existing wastewater treatment plant outfall. The plant will be located adjacent to Port Isabel water treatment plant, and the intake structure will be located at the Port Isabel-San Benito Navigation District. The raw seawater will be transported for pretreatment consisting of pre-screening and clarification, reverse osmosis treatment, and chemical post-treatment. The desalinated potable water will connect to an existing ground storage tank and to the high service pump station for distribution. In 2019, the Port Isabel wastewater treatment plant outfall structure was extended and upgraded to accommodate future effluent and concentrate flows from the proposed plant. It is anticipated that the concentrate disposal will require an industrial wastewater permit.

The current funding request includes completion of the permitting, land acquisition, additional piloting, environmental assessment, and design.

<b>COMMITMENT PERIOD:</b> FIVE (5) MONTHS TO EXPIRE DECEMBER 31, 2024
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## PROJECT SCHEDULE

Task	Schedule Date
Closing	November 13, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	June 1, 2026
Design Phase Completion	August 2, 2027
Start of Construction	November 1, 2027
Construction Completion	November 1, 2029

## KEY ISSUES

The District is requesting a waiver from the requirement to include funds to mitigate water loss as part of this project. As detailed in the attached Water Conservation Review, the District exceeds its water loss thresholds for real loss and has already taken actions to mitigate its water loss. In 2023, the District completed replacing a major distribution line to South Padre Island that had been identified as having a high number of leaks. This and other improvements to their water distribution system have reduced their real water loss from 78 gallons per connection per day to 39 gallons per connection per day. These projects have helped the City mitigate its real water loss, which justifies the water loss waiver.

The proposed project requires issuance of an Individual Permit by the United States Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act/Section 10 of the Rivers and Harbors Act of 1899.

## LEGAL/SPECIAL CONDITIONS

- Water rights determination
- Notification to the Executive Administrator before taking any actions to alter legal status
- Conversion or conveyance
- Quarterly status reports

### Attachments:

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

# Financial Review

## Laguna Madre Water District

Risk Score: 2B

Audit Reviewed: FY 2023

### Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 0.36%	State: 1.49%
Top 10 Taxpayers % of Revenue	4%	10-15%
Total Assessed Valuation, per Capita	\$115,960	\$30,000 – 64,999
Days of Cash on Hand (3-year Average)	125 days	30-149 days
Fund Balance as % of Revenue	41.08%	5-10%
Debt Service Coverage Ratio	1.0x	1.0x
Net Direct Debt to TAV	1.24%	2.00-4.99%
Unemployment Rate (April 2024)	County: 4.80%	State: 3.50%
Working Capital Ratio	6.67	> 1.0

### Key Risk Score Strengths

- The District's days of cash on hand meet the benchmark and indicate the District has sufficient reserves in case of a fiscal emergency. Days of cash on hand have decreased over the past three years due to emergency repairs and purchases. However, the District currently has 86 days of cash on hand in its general fund and is well within the state benchmark of 30-149 days.
- A high working capital ratio provides the District with ample resources to cover short-term liabilities and shows a strong liquidity position.
- The District is projected to require an increase in the debt service tax rate of \$0.01 per \$100 in 2025 to repay the proposed obligation. The District currently levies an interest and sinking fund tax of \$0.0564 per \$100 assessed value and has a debt service fund balance of \$3,077,424. The District's net direct debt to total assessed valuation is at 1.24 percent which is under the state benchmark and indicates the District has plenty of taxing capacity at its disposal to leverage for additional debt repayment.
- The District has maintained an operating income ratio over 1.1 for the past five years, indicating that the District's operations are exceeding operational costs.

### Key Risk Concerns

- The median household income of Cameron County is 56 percent of the state's. However, the tax base is diversified and the District does not rely on any one taxpayer to make repayments for its obligations. Additionally, the debt per capita is low at \$1,999, indicating a tax base that is not overly leveraged.
- The District's cash balance ratio is below the state benchmark at negative 14 percent. The decrease in cash is the result of budget amendments which funded the 2022 tax bond project and a water rights purchase, emergency river pump purchase, and repairs to the Isla Blanca treatment plant.

**PLEDGE**

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

**TAXES**

	2024 Tax Year Rate	Max Projected Tax Rate (Year 2027)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.000	\$0.000	\$1.50	97%	\$5,344,470,010
Interest & Sinking	\$0.0564	\$0.0654			
Total Tax Rate	\$0.0564	\$0.0654			

**Cost Savings**

Based on a 30-year maturity schedule and current interest rates, the District could save approximately \$792,866 over the life of the financing.

## Project Data Summary

<b>Responsible Authority</b>	Laguna Madre Water District
<b>Program</b>	SWIFT
<b>Commitment Number</b>	L1001838
<b>Project Number</b>	51089
<b>List Year</b>	2024
<b>Type of Pledge</b>	Tax Pledge
<b>Pledge Level (if applicable)</b>	N/A
<b>Legal Description</b>	\$10,000,000 Laguna Madre Water District Unlimited Tax Bonds Proposed Series 2024
<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, and Design
<b>Pre-Design</b>	No
<b>Project Consistent with State Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2B

### PROJECT TEAM

<b>Team Manager</b>	<b>Financial Analyst</b>	<b>Engineering Reviewer</b>	<b>Environmental Reviewer</b>	<b>Attorney</b>
William Alfaro	Rand Zeolla	Zenaida Guerrero	Lauren Dill	Marshall Walters

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Laguna Madre Water District

**\$10,000,000 Laguna Madre Water District Unlimited Tax Bonds Series 2024**

**Dated Date:** 11/13/2024  
**Delivery Date:** 11/13/2024  
**First Interest:** 3/1/2025  
**First Principal:** 3/1/2025  
**Last Principal:** 3/1/2054  
**Fiscal Year End:** 09/30  
**Required Coverage:** 1.0

**Source:** SWIFT-LOW-30YR  
**Rate:** 4.00%  
**IUP Year:** 2024  
**Case:** Tax  
**Admin.Fee:** \$0  
**Admin. Fee Payment Date:** N/A  
**Total Assessed Valuation:** \$5,344,470,010

FISCAL YEAR	PROJECTED TAX RATE	TAX REVENUES WITH COLL. @ 97%	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	\$10,000,000 ISSUE		TOTAL PAYMENT	TOTAL DEBT SERVICE	COVERAGE
						INTEREST RATE	INTEREST PAYMENT			
2025	\$0.0636	\$3,295,144	\$3,295,144	\$2,794,213	\$200,000	3.27%	\$300,931	\$500,931	\$3,295,144	1.00
2026	\$0.0650	3,370,552	3,370,552	2,800,080	200,000	3.24%	370,472	570,472	3,370,552	1.00
2027	\$0.0650	3,371,596	3,371,596	2,802,583	205,000	3.14%	364,013	569,013	3,371,596	1.00
2028	\$0.0650	3,369,230	3,369,230	2,801,722	210,000	3.13%	357,508	567,508	3,369,230	1.00
2029	\$0.0650	3,368,274	3,368,274	2,797,496	220,000	3.13%	350,779	570,779	3,368,274	1.00
2030	\$0.0650	3,368,469	3,368,469	2,799,655	225,000	3.13%	343,814	568,814	3,368,469	1.00
2031	\$0.0649	3,364,382	3,364,382	2,797,700	230,000	3.14%	336,682	566,682	3,364,382	1.00
2032	\$0.0648	3,360,354	3,360,354	2,791,075	240,000	3.16%	329,279	569,279	3,360,354	1.00
2033	\$0.0409	2,118,292	2,118,292	1,551,700	245,000	3.18%	321,592	566,592	2,118,292	1.00
2034	\$0.0410	2,124,329	2,124,329	1,555,700	255,000	3.19%	313,629	568,629	2,124,329	1.00
2035	\$0.0409	2,122,016	2,122,016	1,551,800	265,000	3.28%	305,216	570,216	2,122,016	1.00
2036	\$0.0410	2,126,522	2,126,522	1,555,300	275,000	3.38%	296,222	571,222	2,126,522	1.00
2037	\$0.0409	2,119,189	2,119,189	1,552,500	280,000	3.49%	286,689	566,689	2,119,189	1.00
2038	\$0.0410	2,124,863	2,124,863	1,553,400	295,000	3.62%	276,463	571,463	2,124,863	1.00
2039	\$0.0410	2,123,396	2,123,396	1,552,900	305,000	3.69%	265,496	570,496	2,123,396	1.00
2040	\$0.0409	2,119,994	2,119,994	1,551,000	315,000	3.73%	253,994	568,994	2,119,994	1.00
2041	\$0.0409	2,119,528	2,119,528	1,552,600	325,000	3.81%	241,928	566,928	2,119,528	1.00
2042	\$0.0409	2,121,775	2,121,775	1,552,600	340,000	3.86%	229,175	569,175	2,121,775	1.00
2043	\$0.0409	2,121,691	2,121,691	1,551,000	355,000	3.90%	215,691	570,691	2,121,691	1.00
2044	\$0.0410	2,124,179	2,124,179	1,552,700	370,000	3.94%	201,479	571,479	2,124,179	1.00
2045	\$0.0410	2,123,859	2,123,859	1,552,600	385,000	4.12%	186,259	571,259	2,123,859	1.00
2046	\$0.0410	2,125,688	2,125,688	1,555,600	400,000	4.12%	170,088	570,088	2,125,688	1.00
2047	\$0.0409	2,119,999	2,119,999	1,551,700	415,000	4.12%	153,299	568,299	2,119,999	1.00
2048	\$0.0410	2,126,589	2,126,589	1,555,800	435,000	4.12%	135,789	570,789	2,126,589	1.00
2049	\$0.0409	2,120,358	2,120,358	1,552,800	450,000	4.12%	117,558	567,558	2,120,358	1.00
2050	\$0.0409	2,121,048	2,121,048	1,552,700	470,000	4.23%	98,348	568,348	2,121,048	1.00
2051	\$0.0410	2,123,344	2,123,344	1,555,300	490,000	4.23%	78,044	568,044	2,123,344	1.00
2052	\$0.0409	2,122,394	2,122,394	1,555,500	510,000	4.23%	56,894	566,894	2,122,394	1.00
2053	\$0.0398	2,064,477	2,064,477	1,494,685	535,000	4.23%	34,792	569,792	2,064,477	1.00
2054	\$0.0109	566,738	566,738	-	555,000	4.23%	11,738	566,738	566,738	1.00
				\$54,944,408	\$10,000,000			\$7,003,857	\$17,003,857	\$71,948,265

AVERAGE (MATURITY) LIFE	17.52 YEARS
NET INTEREST RATE	3.998%
COST SAVINGS	\$ 792,866
AVERAGE ANNUAL REQUIREMENT	\$566,795

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**  
**Laguna Madre Water District**  
**51089 - Seawater Desalination Plant**

Budget Items	This Commitment	Local and Other Funds	Total
<b>Basic Engineering Services</b>			
Design	\$5,447,550.00	\$0.00	\$5,447,550.00
Planning	\$425,000.00	\$511,750.00	\$936,750.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$5,872,550.00</b>	<b>\$511,750.00</b>	<b>\$6,384,300.00</b>
<b>Special Services</b>			
Environmental	\$450,000.00	\$0.00	\$450,000.00
Permits	\$25,000.00	\$25,000.00	\$50,000.00
Pilot Testing	\$2,586,150.00	\$0.00	\$2,586,150.00
<b>Subtotal for Special Services</b>	<b>\$3,061,150.00</b>	<b>\$25,000.00</b>	<b>\$3,086,150.00</b>
<b>Fiscal Services</b>			
Bond Counsel	\$105,000.00	\$0.00	\$105,000.00
Financial Advisor	\$167,500.00	\$0.00	\$167,500.00
Fiscal/Legal	\$2,500.00	\$0.00	\$2,500.00
<b>Subtotal for Fiscal Services</b>	<b>\$275,000.00</b>	<b>\$0.00</b>	<b>\$275,000.00</b>
<b>Other</b>			
Land/Easements Acquisition	\$300,000.00	\$0.00	\$300,000.00
<b>Subtotal for Other</b>	<b>\$300,000.00</b>	<b>\$0.00</b>	<b>\$300,000.00</b>
<b>Contingency</b>			
Contingency	\$491,300.00	\$0.00	\$491,300.00
<b>Subtotal for Contingency</b>	<b>\$491,300.00</b>	<b>\$0.00</b>	<b>\$491,300.00</b>
<b>Total</b>	<b>\$10,000,000.00</b>	<b>\$536,750.00</b>	<b>\$10,536,750.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$10,000,000 TO LAGUNA MADRE WATER DISTRICT  
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS  
THROUGH THE PROPOSED PURCHASE OF  
\$10,000,000 LAGUNA MADRE WATER DISTRICT UNLIMITED TAX BONDS,  
PROPOSED SERIES 2024

(24- )

Recitals:

The Laguna Madre Water District (District), located in Cameron County, has filed an application for financial assistance in the amount of \$10,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, and design of (a) water supply project(s) identified as Project No. 51089 (Project).

The District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$10,000,000 Laguna Madre Water District Unlimited Tax Bonds, Proposed Series 2024, (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 District has offered a pledge of unlimited ad valorem taxes as sufficient security for the repayment of the Obligations.

Subject to the District's use of an approved debt service structure, interest rate subsidies are available to the District 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 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 District requests a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the District's system water loss because it has recently completed replacing a major distribution line identified as having a high number of leaks as well as its continued efforts to replace leaking pipes and failing digital meters.



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 District 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 District 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 District is satisfactorily addressing the District'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 District's system water loss in accordance with Texas Water Code § 16.0121(g).
6. The District 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 Laguna Madre Water District in the amount of \$10,000,000 from the State Water Implementation Revenue Fund for Texas to be evidenced by the TWDB's proposed purchase of \$10,000,000 Laguna Madre Water District Unlimited Tax Bonds, Proposed Series 2024. This commitment will expire on December 31, 2024.

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 District 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 District.
3. This commitment is contingent upon the District'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 District 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 District 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 District will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
9. The Obligations must provide that the District 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 District to maintain insurance coverage sufficient to protect the TWDB's interest in the project.

11. The Obligations must include a provision wherein the District, 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 District'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 District's Obligations, if the TWDB sells or otherwise transfers the Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to the bonds under SEC Rule 15c2-12.
12. The Obligations must contain a provision requiring the District 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 District 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 District when sampling, testing, removing, or disposing of contaminated soils or media at the Project site. The Obligations shall include a provision that states the District is solely responsible for liability resulting from acts or omissions of the District, 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 District, 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 District 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 District 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.
20. The Obligations must provide that the District will submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.
21. The Obligations must include a provision that if the collateral or credit pledged by the District securing the Obligations is rated by a nationally-recognized statistical rating agency, the District, 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:

22. The Obligations must include a provision prohibiting the District 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).
23. 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.
24. The Obligations must include a provision that the District 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 District 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 District may, however, to the extent permitted by law, commingle Gross Proceeds of its financial assistance with other money of the District, provided that the District 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 District 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.

25. The Obligations must include a provision prohibiting the District from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes.
26. The Obligations must provide that the District will not cause or permit the Obligations to be treated as “federally guaranteed” obligations within the meaning of section 149(b) of the Code.
27. The Obligations must contain a covenant that the District 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”).
28. The Obligations must provide that neither the District 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 District by the TWDB.

Pledge Conditions:

29. The Obligations must contain a provision that for each year the Bonds are outstanding, the District shall levy a debt service tax rate and collect taxes sufficient for the repayment of annual principal and interest requirements on the Obligations.

Conditions To Close Or For Release Of Funds:

30. Before closing, the District 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.
31. Before closing, if not previously provided with the application, the District 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.
32. Before closing, when any portion of financial assistance is to be held in escrow or in trust, the District 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.
33. Before closing, the District 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.

34. Before closing, the District'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 District when rendering this opinion.
35. Before closing, the District'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 District when rendering this opinion.
36. The transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the District's reasonable expectations regarding the use, expenditure, and investment of the proceeds of the Obligations.
37. 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.

Special Conditions:

38. Before the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, economic investigation, studies, surveys, or designs for that portion of the Project that proposes surface water or groundwater development, the Executive Administrator must have either issued a written finding that the District 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 such a finding will be made before the release of funds for construction.
39. The District must notify the Executive Administrator before taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility.
40. The Obligations must include a provision requiring that, before any action by the District to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB.
41. The Obligations must contain a provision requiring the District to submit quarterly status reports on the progress of the Project that detail information requested by the Executive Administrator. The Executive Administrator may withhold authorization to release funds from escrow or adjust the amount of funds to be

released from escrow based on the receipt of the quarterly status reports and the projected quarterly needs for the Project.

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.



## Laguna Madre Water District Cameron County

