



## PROJECT FUNDING REQUEST

**BOARD DATE:** August 15, 2024

**Team Manager:** William Alfaro

### ACTION REQUESTED

Consider approving by resolution a request from the Rio Grande City (Starr County) for \$11,310,000 in financial assistance consisting of \$5,655,000 in financing and \$5,655,000 in grant from the Economically Distressed Areas Program for planning, acquisition, design, and construction of a water system improvements project.

### STAFF RECOMMENDATION

☒ Approve      ☐ No Action

### BACKGROUND

The City of Rio Grande City (City) is located in Starr County approximately 40 miles northwest of McAllen. The City provides water and wastewater services to a population of approximately 17,800 residents and 6,600 connections. The City owns two water treatment plants (WTPs): one on the east side of town and another on the west. Since 2018, WTP No. 1, located on the east side, has been non-operational due to multisystem failure. Consequently, the water distribution system relies solely on WTP No. 2, positioned on the west side of town. Although WTP No. 2 has been meeting supply demands, the east side of town continues to experience persistent low-pressure issues. Additionally, the system is experiencing significant water loss, further exacerbating the pressure problems. Furthermore, the City lacks sufficient water rights to operate the existing WTPs and must purchase raw water to meet demand.

### PROJECT NEED AND DESCRIPTION

The City needs to conduct a comprehensive engineering assessment and develop a rehabilitation plan for WTP No. 1; address water pressure deficiencies and water loss; and acquire sufficient water rights to ensure reliable and adequate water supply for current and future needs.

The project consists of the construction of a booster pump station at the WTP No. 1 to address water pressure deficiencies, a water loss study for an accurate accounting of water use and losses, and the acquisition of approximately 2,000 acre-feet of water rights. The operating WTP has a capacity of 6 million gallons per day (MGD) and operates at an average production rate of 2.85 MGD, with a peak day of 4.5 MGD. The City currently owns 2,270.75 acre-feet, equivalent to 1.74 MGD. The proposed water rights acquisition will provide an additional 1.72 MGD, bringing the City closer to the water rights necessary to operate the plant at full capacity. Furthermore, the project includes a complete structural and electrical assessment of the non-operating WTP and the development of a rehabilitation plan.

<b>COMMITMENT PERIOD:</b> SIX (6) MONTHS TO EXPIRE FEBRUARY 28, 2025
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## PROJECT SCHEDULE

Task	Schedule Date
Closing	October 31, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	June 25, 2025
Design Phase Completion	March 30, 2026
Start of Construction	August 29, 2026
Construction Completion	March 30, 2027

## KEY ISSUES

The City did not request a nuisance determination for the proposed project area. Under Texas Water Code § 17.933(b), and consistent with the Intended Use Plan for the 2022-2023 EDAP funding cycle, the Executive Administrator recommends setting the grant amount at 50 percent of eligible costs for projects that have not received a nuisance determination.

The City submitted a Drinking Water State Revolving Fund application and is currently evaluating the scope of work that would complement this project. The City is considering rehabilitating the non-operating plant and including a 12-inch waterline to extend service to non-residential customers on the east side of town. Since EDAP funding is strictly for residential areas, this waterline was deemed ineligible for funding.

## LEGAL/SPECIAL CONDITIONS

- Execute grant agreement
- Water rights certification
- Return of surplus funds

### Attachments:

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

# Financial Review

## City of Rio Grande City

Risk Score: 2B

Audit Reviewed: FY 2022

### Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 1.02%	State: 1.49%
Top 10 Customers % of Total Revenue	61%	10-15%
Median Household Income as % of State	53%	100%
Days of Cash on Hand (3-year Average)	357 days	30-149 days
Net Fixed Assets/ Annual Depreciation	31 years	12-24 years
Debt Service Coverage Ratio	0.98x	1.0x
Debt-to-Operating Revenues	3.75x	4.00-5.99x
Unemployment Rate (May, 2024)	County: 8.60%	State: 3.80%
Working Capital Ratio	19.09	> 1.0
Cash Balance Ratio	34.37%	0-9.99%
Net Direct Debt/Total Assessed Valuation	2.31%	2%-4.99%

### Key Risk Score Strengths

- The City's days of cash on hand exceed the benchmark, indicating sufficient reserves for operating expenses.
- The City's debt-to-operating revenue is below the benchmark and the direct debt to total assessed valuation meets the benchmark, indicating the City is not overburdened with debt.
- The City's cash balance has grown from \$736,192 in 2017 to \$3,399,525 in 2022. With a cash balance ratio of 34.37%, the City demonstrates solid financial health and resilience.

### Key Risk Score Concerns

- The top 10 customers of the City account for 61 percent of the revenues generated by the utility system. The two largest customers are El Tanque and El Sauz, two WSCs which combined account for 58 percent of the City's water and sewer revenue. A stress test was conducted by removing 60% of the revenues of the utility system. In that case, the City would require an increase of \$19.58 by 2028.
- The City has a debt service coverage ratio of 0.98 times and will need to raise rates by \$1.03 in 2026 and an additional \$0.35 by 2031 to meet coverage requirements. The impact on households will be minimal and with the projected increase the household cost factor will remain within the benchmark.
- The City's 3-year average property tax collection rate is 87%. In the 2022 tax year current collections were 88%. However, 94% were collected in total. Additionally, it is the intent of the City to primarily make repayments through the utility system.

### PLEDGE

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

**RATES AND CHARGES**

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (Year 2029)	Current Household Cost Factor	Projected Household Cost Factor
Water	4,500	\$17.25	\$18.34	1.20	1.25
Wastewater	4,500	\$15.79	\$16.88		

**TAXES**

	2023 Tax Year Rate	Max Projected Tax Rate	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.3657	\$0.3805	\$1.50	88%	\$758,037,302
Interest & Sinking	\$0.1621	\$0.1621			
Total Tax Rate	\$0.5613	\$0.5613			

**Cost Savings**

Based on a 20-year maturity schedule and current interest rates, the City could save approximately \$1,748,670 in financing and \$5,655,000 in grant funding.

## Project Data Summary

<b>Responsible Authority</b>	Rio Grande City
<b>Program</b>	EDAP
<b>Commitment Number</b>	L1001875, LF1001876
<b>Project Number</b>	10465
<b>List Year</b>	2022
<b>Type of Pledge</b>	Combo Tax and Revenue
<b>Pledge Level (if applicable)</b>	Second Lien
<b>Legal Description</b>	\$5,655,000 Rio Grande City, Texas, Combination Tax and Revenue Bonds Series 2024, \$5,655,000 Grant Agreement
<b>Tax-exempt or Taxable</b>	Tax-exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay <> Escrow Release
<b>Qualifies as Disadvantaged</b>	Yes
<b>Financial Managerial &amp; Technical Complete</b>	No
<b>Phases Funded</b>	Planning, Design, Acquisition, 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>	2B

PROJECT TEAM				
Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
William Alfaro	Rand Zeolla	Zenaida Guerrero	Lauren Dill	Michael Perez

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Rio Grande City

**\$5,655,000 City of Rio Grande City, Texas Combination Tax and Revenue Certificates of Obligation, Series 2024**

<b>Dated Date:</b>	<b>12/1/2024</b>	<b>Source:</b>	<b>EDAP</b>
<b>Delivery Date:</b>	<b>12/1/2024</b>	<b>Rate:</b>	<b>3.68%</b>
<b>First Interest:</b>	<b>9/1/2025</b>	<b>IUP Year:</b>	<b>2023</b>
<b>First Principal:</b>	<b>3/1/2026</b>	<b>Case:</b>	<b>Tax and Revenue</b>
<b>Last Principal:</b>	<b>3/1/2045</b>	<b>Admin.Fee:</b>	<b>\$0</b>
<b>Fiscal Year End:</b>	<b>09/30</b>	<b>Admin. Fee Payment Date:</b>	<b>N/A</b>
<b>Required Coverage:</b>	<b>1.0</b>	<b>Total Assessed Valuation:</b>	<b>\$758,037,302</b>

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 88%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	\$5,655,000 ISSUE		TOTAL PAYMENT	TOTAL DEBT SERVICE	COVERAGE
							INTEREST RATE	INTEREST PAYMENT			
2025	\$0.1621	\$1,081,325	\$3,256,293	\$4,337,618	\$3,921,831	\$0	-	\$145,919	\$145,919	\$4,067,750	1.07
2026	\$0.1621	1,081,325	\$3,333,341	4,414,666	3,998,561	225,000	3.07%	191,105	416,105	4,414,666	1.00
2027	\$0.1621	1,081,325	\$3,333,341	4,414,666	3,990,088	230,000	2.95%	184,259	414,259	4,404,347	1.00
2028	\$0.1621	1,081,325	\$3,342,798	4,424,123	4,006,701	240,000	2.87%	177,422	417,422	4,424,123	1.00
2029	\$0.1621	1,081,325	\$3,353,933	4,435,258	4,014,817	250,000	2.83%	170,441	420,441	4,435,258	1.00
2030	\$0.1621	1,081,325	\$3,353,933	4,435,258	4,005,121	250,000	2.83%	163,366	413,366	4,418,487	1.00
2031	\$0.1621	1,081,325	\$3,359,640	4,440,965	4,014,958	270,000	2.83%	156,008	426,008	4,440,965	1.00
2032	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,442,791	270,000	2.83%	148,367	418,367	3,861,157	1.15
2033	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,437,491	270,000	2.83%	140,726	410,726	3,848,216	1.15
2034	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,414,580	270,000	2.87%	133,031	403,031	3,817,611	1.16
2035	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,280,676	270,000	3.07%	125,012	395,012	3,675,687	1.21
2036	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,286,782	270,000	3.30%	116,412	386,412	3,673,194	1.21
2037	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,270,456	280,000	3.49%	107,071	387,071	3,657,527	1.21
2038	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,269,653	280,000	3.66%	97,061	377,061	3,646,714	1.22
2039	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,269,903	290,000	3.81%	86,413	376,413	3,646,315	1.22
2040	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,060,976	310,000	3.95%	74,766	384,766	3,445,742	1.29
2041	\$0.1621	1,081,325	\$3,359,640	4,440,965	3,057,410	320,000	3.99%	62,259	382,259	3,439,669	1.29
2042	\$0.1621	1,081,325	\$3,359,640	4,440,965	219,371	330,000	4.03%	49,226	379,226	598,596	7.42
2043	\$0.1621	1,081,325	\$3,359,640	4,440,965	221,570	340,000	4.06%	35,674	375,674	597,244	7.44
2044	\$0.1621	1,081,325	\$3,359,640	4,440,965	223,676	345,000	4.09%	21,717	366,717	590,393	7.52
2045	\$0.1621	1,081,325	\$3,359,640	4,440,965	220,726	355,000	4.13%	7,331	362,331	583,057	7.62
					\$61,628,137	\$5,665,000			\$2,393,580	\$8,058,580	\$69,686,717

<b>AVERAGE (MATURITY) LIFE</b>	<b>11.48 YEARS</b>
<b>NET INTEREST RATE</b>	<b>3.679%</b>
<b>COST SAVINGS</b>	<b>\$1,748,670</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$383,742</b>

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**  
**Rio Grande City 10465**  
**Rio Grande City Water Treatment**  
**Plant No. 1 Rehabilitation and**  
**12-inch Waterline Project**

Budget Items	This Commitment	Total Project
<b>Construction</b>		
Construction	\$3,168,000.00	\$3,168,000.00
<b>Subtotal for Construction</b>	<b>\$3,168,000.00</b>	<b>\$3,168,000.00</b>
<b>Basic Engineering Services</b>		
Construction Engineering	\$50,688.00	\$50,688.00
Design	\$253,440.00	\$253,440.00
Planning	\$241,000.00	\$241,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$545,128.00</b>	<b>\$545,128.00</b>
<b>Special Services</b>		
Environmental	\$9,750.00	\$9,750.00
Geotechnical	\$45,000.00	\$45,000.00
Inspection	\$39,600.00	\$39,600.00
O&M Manual	\$31,680.00	\$31,680.00
Special Service Other (water distribution modeling)	\$80,000.00	\$80,000.00
Special Service Other (Water loss Study)	\$65,000.00	\$65,000.00
Surveying	\$50,000.00	\$50,000.00
Testing	\$63,360.00	\$63,360.00
<b>Subtotal for Special Services</b>	<b>\$384,390.00</b>	<b>\$384,390.00</b>
<b>Fiscal Services</b>		
Bond Counsel	\$45,000.00	\$45,000.00
Financial Advisor	\$58,932.00	\$58,932.00
Issuance Costs	\$16,400.00	\$16,400.00
<b>Subtotal for Fiscal Services</b>	<b>\$120,332.00</b>	<b>\$120,332.00</b>
<b>Other</b>		
Water Rights Purchase	\$7,000,000.00	\$7,000,000.00
<b>Subtotal for Other</b>	<b>\$7,000,000.00</b>	<b>\$7,000,000.00</b>
<b>Contingency</b>		
Contingency	\$92,150.00	\$92,150.00
<b>Subtotal for Contingency</b>	<b>\$92,150.00</b>	<b>\$92,150.00</b>
<b>Total</b>	<b>\$11,310,000.00</b>	<b>\$11,310,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$11,310,000 TO  
RIO GRANDE CITY  
FROM THE ECONOMICALLY DISTRESSED AREAS PROGRAM ACCOUNT OF  
THE TEXAS WATER DEVELOPMENT FUND II  
THROUGH THE PROPOSED PURCHASE OF \$5,655,000  
CITY OF RIO GRANDE CITY, TEXAS COMBINATION TAX AND REVENUE  
CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2024  
AND  
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$5,655,000

(24 - \_\_)

Recitals:

The City of Rio Grande City (City) filed an application seeking financial assistance in the amount of \$11,310,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II to finance certain water system improvements, identified as Project No. 10465.

The City seeks financial assistance from the Texas Water Development Board (the TWDB) through the TWDB's proposed purchase of \$5,655,000 City of Rio Grande City, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2024 (together with all authorizing documents (Obligations)) and a grant of \$5,655,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, all as is more specifically set forth in the application and in recommendations of TWDB's staff.

The City has offered a pledge of ad valorem taxes and a subordinate lien on the net revenues of the City's waterworks and sewer system 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 § 363.16 and § 363.43.

The TWDB has carefully considered all matters required by law and in particular the following:

1. the feasibility of creating a conservation and reclamation district to provide and finance the water supply or sewer services, in accordance with Texas Water Code § 16.346;
2. the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring economically distressed areas financing, and the relative costs and benefits of all applications, in accordance with Texas Water Code § 17.929(a)(1);



3. the availability to the political subdivision of revenue from alternative sources for the payment of the cost of the proposed project, in accordance with Texas Water Code § 17.929 (a)(2);
4. financing of the proposed water supply or sewer project, in accordance with Texas Water Code § 17.929(a)(3);
5. the feasibility of achieving cost savings by providing a regional facility for water supply and wastewater service and the feasibility of financing the facilities by using funds from the economically distressed areas account or any other financial assistance, in accordance with Texas Water Code § 17.929(a)(5);
6. the rates, fees, and charges that the average customer to be served by the project will be able to pay, sources of funding available to the City, and any local funds of the City, in accordance with Texas Water Code § 17.933(d)(1);
7. sources of funding available to the City from federal and private funds and from other state funds, in accordance with Texas Water Code § 17.933(d)(2);
8. any local funds of the City to be served by the project if the economically distressed area to be served is within the boundary of the City, in accordance with Texas Water Code § 17.933(d)(3); and
9. the just, fair, and reasonable charges for water and wastewater service as provided in the Texas Water Code, in accordance with Texas Water Code § 17.933(d)(4).

Findings:

1. 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.
2. The area to be served by the proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, in accordance with Texas Water Code § 17.929(b).
3. The County and City have adopted model subdivision rules as promulgated by the TWDB pursuant to Texas Water Code § 16.343 and the manner of enforcement, in accordance with Texas Water Code § 17.929(a)(4).
4. The TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and that the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, in accordance with Texas Water Code § 16.053(j).

5. A current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j).

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

A commitment is made by the TWDB to the City of Rio Grande City for financial assistance in the amount of \$11,310,000 from the Economically Distressed Areas Account of the Texas Water Development Fund II through the TWDB's proposed purchase of \$5,655,000 City of Rio Grande City, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2024, and a grant of \$5,655,000. This commitment will expire on February 28, 2025.

The commitment is conditioned as follows.

Standard Conditions:

1. This commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand.
2. This commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 363.
3. The Obligations and Grant Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity and any provision of the Obligations and Grant Agreement that restricts or limits the TWDB's full exercise of these remedies will be of no force and effect.
4. Financial assistance funds are public funds and, as such, the Grant Agreement and Obligations must include a provision requiring that these proceeds will 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.
5. Financial assistance funds 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.
6. Before closing, if not previously provided with the application, the City must submit executed contracts for engineering, and, if applicable, financial advisor and bond counsel services 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, under the contract, and acceptable to the Executive Administrator.

7. Before closing, when any portion of the financial assistance is to be held in escrow or in trust, the City must execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and must submit that executed agreement to the TWDB.
8. The Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator.
9. This commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which the Obligations were issued have been complied with; that the Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that the Obligations are valid and binding obligations of the City.
10. The Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and 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.
11. 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, must, 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 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 such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under Rule 15c2-12.
12. The Obligations must require 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 required by the Obligations.
13. The Obligations must require the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project and after completion of a final accounting in a manner approved by the Executive Administrator.
14. Before closing, the City must 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.

15. The City must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition).
16. The Obligations must require the City to comply with all applicable TWDB laws and rules related to the use of the financial assistance.
17. The Obligations must require the City to 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.
18. The Obligations must require the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
19. The Obligations must require the City to submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.
20. The Obligations must require the City to abide by all applicable construction contract requirements related to the use of iron and steel products and manufactured goods produced in the United States, as required by Texas Water Code § 17.183.

Conditions Related To Tax-Exempt Status:

21. The City's bond counsel must prepare a written opinion that states 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.
22. The City's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion.
23. The Obligations must prohibit the City from using the financial assistance funds in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code), and the Treasury Regulations promulgated under § 141 (Regulations).
24. The Obligations must provide that no portion of the financial assistance funds will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 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 such proceeds are needed for the facilities to be financed;
  - b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and
  - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such 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.
25. 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 in order to satisfy the requirements of § 148 of the Code. The Obligations must require the City to:
- a. account for all Gross Proceeds as defined in the Code and Regulations, (including all receipts, expenditures, and investments) on its books of account separately and apart from all other funds (and receipts, expenditures, and investments) and retain all records of the accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its loan with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;
  - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the relevant rulings. The City must maintain a copy of such calculations for at least six years after the final Computation Date;
  - c. as additional consideration for the making of the loan, and in order to induce the making of the loan 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 the Source Series Bonds 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 ensure 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 discovery, including payment to the United States of any interest and any penalty required by the Regulations.

26. 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.
27. The Obligations must prohibit the City from causing or permitting the Obligations to be treated as “federally guaranteed” obligations within the meaning of § 149(b) of the Code.
28. 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.
29. The transcript must include evidence that the information reporting requirements of § 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 § 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.
30. 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.
31. 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.

EDAP Conditions:

32. The Grant Agreement and Obligations must require compliance with Texas Water Code § 16.356 that no revenues received from rates or fees collected from the water supply or wastewater system constructed in whole or in part from this commitment be used for any purposes other than utility purposes and that the annual financial statement prepared by the City under Texas Local Government Code § 103.001 include a specific report on compliance with this condition.
33. Before the release of funds provided for construction, the City must provide the TWDB with evidence satisfactory to the Executive Administrator that the City has received and will maintain a designation as an authorized agent of the Texas Commission on Environmental Quality, in compliance with Texas Health and Safety Code § 366.035.

Special Conditions:

34. Before the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that the City has the right

to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction.

35. Before the release of construction funds for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the City has the right to use the water that the project financed by the TWDB will provide.
36. Before closing, the City and the Executive Administrator must execute a Grant Agreement that sets forth the terms and uses of the financial assistance funds.
37. The Grant Agreement must include a provision stating that the City must return any grant funds that are determined to be Surplus Funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 15th day of August, 2024.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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

Review Date:

Project ID:

Water

Wastewater

Other

**WATER CONSERVATION REVIEW**

Entity:

Other entity:

**WATER CONSERVATION PLAN DATE:****Approvable****Adopted**

	<b>Total GPCD</b>	<b>Residential GPCD</b>	<b>Water Loss GPCD</b>
<b>Baseline</b>			
<b>5-year Goal</b>			
<b>10-year Goal</b>			

**WATER LOSS AUDIT YEAR:**

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:  
ILI<sup>1</sup>:*1 – Infrastructure Leakage Index only applicable if > 16 connections per mile and > 3,000 service connections***WATER LOSS THRESHOLDS**

Water Loss Project:

Wholesale Adjusted:

Threshold Type:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day

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.

**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.

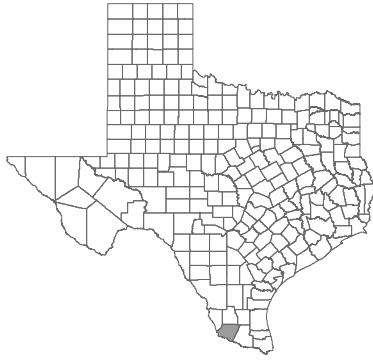
**Water loss** is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

**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 size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

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



## Rio Grande City Starr County

