



PROJECT FUNDING REQUEST

BOARD DATE: August 15, 2024

Team Manager: Bill Blaik

ACTION REQUESTED

Consider approving by resolution a request from the Westwood Shores MUD (Trinity County) for \$1,581,632 in financial assistance consisting of \$775,000 in financing and \$806,632 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, acquisition, and construction of a lead service line replacement project.

STAFF RECOMMENDATION

☒ Approve ☐ No Action

BACKGROUND

The Infrastructure Investment and Jobs Act, 2021, Pub. L. 117-58 (IIJA) appropriated capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines. Projects being presented for consideration have been scored and ranked using prioritization criteria in the Drinking Water State Revolving Fund Lead Service Line Replacement State Fiscal Year 2023 Intended Use Plan. The prioritized list of projects was approved by the Texas Water Development Board in August 2023. All financial assistance will be made at the ratio of 51 percent principal forgiveness and 49 percent financing.

Westwood Shores MUD (District) is located in Trinity County approximately 85 miles north of Houston. The City provides water and wastewater services to a population of approximately 1,239 residents and 792 connections.

PROJECT NEED AND DESCRIPTION

The District has concluded that the majority of service lines were constructed before 1968, prior to the implementation of the Environmental Protection Agency's Lead and Copper Rule. The District needs to survey service lines and replace them if identified as lead or galvanized.

The District is proposing a survey of service lines using magnetic scratch testing. Lines that are categorized as unknown will then be electro scanned to identify the composition of the service line. Lines that are identified as lead or galvanized will then be replaced.

Series	Use	Expiration Date
Series 2024B and Principal Forgiveness	Inventory	August 31, 2025
Series 2024A and Principal Forgiveness	Line Replacement	August 31, 2026

PROJECT SCHEDULE

Task	Schedule Date
Closing	December 10, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	June 10, 2025
Design Phase Completion	October 10, 2025
Start of Construction	February 10, 2026
Construction Completion	February 10, 2027

KEY ISSUES

The District qualifies for principal forgiveness for the Drinking Water State Revolving Fund Lead Service Line Replacement Program.

The proposed project is eligible for \$333,061 in principal forgiveness and \$320,000 in financing at zero percent interest with a term of up to 15 years to complete the required lead service line inventory, which is due to the Texas Commission on Environmental Quality by October 16, 2024. In addition, the project is eligible for \$473,571 in principal forgiveness and \$455,000 in financing with a subsidized interest rate and a term of up to 30 years for the planning, design, acquisition, and construction of lead and galvanized service line replacements.

LEGAL/SPECIAL CONDITIONS

- Conveyance
- Principal forgiveness agreement

Attachments:

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

Financial Review

Westwood Shores MUD

Risk Score: 2B

Audit Reviewed: FY 2023

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: -0.70%	State: 1.49%
Top 10 Taxpayers % of Total Revenue	6%	10-15%
Median Household Income as % of State	58%	100%
Days of Cash on Hand (3-year Average)	45 days	30-149 days
Fund Balance as % of Revenue	22.95%	2.5%
Debt Service Coverage Ratio	1.0x	1.0x
Net Direct Debt/TAV	3.23%	2-4.99%
Unemployment Rate (May, 2024)	County: 4.5%	State: 3.8%
Cash Balance Ratio	11%	0-9.99%

Key Risk Score Strengths

- To meet the debt service coverage requirements, the District will require a \$0.0055 increase to their interest and sinking fund tax rate by 2030.
- The District's top taxpayers generate only six percent of the District's tax revenue and as such the District has a diversified tax base and are not reliant on this group of taxpayers to generate revenue for payments on the proposed obligation.
- The District's fund balance as a percent of revenue is at 22.95 percent, indicating the District has sufficient liquidity to handle fiscal emergencies.

Key Risk Score Concerns

- The population growth of the County has slightly declined over the past 8 years, however connections within the District have increased from 702 to 792 between 2018 and 2022.
- The County's median household income is low relative to the State, however the District's tax base is valued at \$162,270,486 and increasing annually. Additionally, the District collects 91 percent of the property taxes levied.

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 (2030)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.2849	\$0.2849	\$1.50	91%	\$162,270,486
Interest & Sinking	\$0.3551	\$0.3606			
Total Tax Rate	\$0.6400	\$0.6455			

Cost Savings

Based on a 20-year maturity schedule and current interest rates, the District could save approximately \$249,673 over the life of the financing. The District is also saving \$806,632 in principal forgiveness.

Project Data Summary

Responsible Authority	Westwood Shores MUD
Program	DWSRF
Commitment Number	L1001877, L1001879, LF1001878, LF1001880
Project Number	62991
List Year	2023
Type of Pledge	Tax Pledge
Pledge Level (if applicable)	N/A
Legal Description	\$320,000 Westwood Shores Municipal Utility District Unlimited Tax Bonds Proposed Series 2024A, \$455,000 Westwood Shores Municipal Utility District Unlimited Tax Bonds Proposed Series 2024B, \$333,061 Principal Forgiveness Agreement, \$473,571 Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	Yes
Phases Funded	Planning, Design, Acquisition, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	2B

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Bill Blaik	Rand Zeolla	Mazin AlAsadi	Gayla Duaine	Michael Perez

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Westwood Shores MUD

\$320,000 Westwood Shores Municipal Utility District, Unlimited Tax Bonds Proposed Series 2024A

Dated Date:	3/15/2025	Source:	DWSRF-EQUIVALENCY
Delivery Date:	3/15/2025	Rate:	0.00%
First Interest:	9/15/2025	IUP Year:	2023
First Principal:	3/15/2025	Case:	Tax
Last Principal:	3/15/2044	Admin.Fee:	\$6,275
Fiscal Year End:	9/30	Admin. Fee Payment Date:	3/15/2025
Required Coverage:	1.0	Total Assessed Valuation:	\$162,270,486

\$455,000 Westwood Shores Municipal Utility District, Unlimited Tax Bonds Proposed Series 2024B

Dated Date:	3/15/2025	Source:	DWSRF-EQUIVALENCY
Delivery Date:	3/15/2025	Rate:	2.82%
First Interest:	9/15/2025	IUP Year:	2023
First Principal:	3/15/2025	Case:	Tax
Last Principal:	9/15/2044	Admin.Fee:	\$8,922
Fiscal Year End:	9/30	Admin. Fee Payment Date:	3/15/2025
Required Coverage:	1.0		

FISCAL YEAR	REQUIRED TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 91%	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	\$320,000 ISSUE			\$455,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
						INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2025	\$0.3551	\$524,362	\$524,362	\$470,152	\$0	-	-	\$0	-	-	\$6,148	\$6,148	\$476,300	1.10
2026	\$0.3555	524,953	524,953	472,783	15,000	-	-	15,000	20,000	2.45%	12,051	32,051	519,834	1.01
2027	\$0.3565	526,430	526,430	474,863	15,000	-	-	15,000	20,000	2.37%	11,569	31,569	521,432	1.01
2028	\$0.3604	532,189	532,189	481,350	15,000	-	-	15,000	20,000	2.37%	11,095	31,095	527,445	1.01
2029	\$0.3604	532,189	532,189	477,371	15,000	-	-	15,000	20,000	2.41%	10,617	30,617	522,988	1.02
2030	\$0.3604	532,189	532,189	482,995	15,000	-	-	15,000	20,000	2.42%	10,134	30,134	528,129	1.01
2031	\$0.3606	532,484	532,484	173,100	15,000	-	-	15,000	20,000	2.49%	9,643	29,643	217,743	2.45
2032	\$0.3606	532,484	532,484	171,385	15,000	-	-	15,000	20,000	2.50%	9,144	29,144	215,529	2.47
2033	\$0.3606	532,484	532,484	169,475	15,000	-	-	15,000	20,000	2.52%	8,642	28,642	213,117	2.50
2034	\$0.3606	532,484	532,484	167,400	15,000	-	-	15,000	25,000	2.54%	8,073	33,073	215,473	2.47
2035	\$0.3606	532,484	532,484	170,220	15,000	-	-	15,000	25,000	2.60%	7,430	32,430	217,650	2.45
2036	\$0.3606	532,484	532,484	167,889	15,000	-	-	15,000	25,000	2.66%	6,773	31,773	214,661	2.48
2037	\$0.3606	532,484	532,484	165,495	15,000	-	-	15,000	25,000	2.74%	6,098	31,098	211,593	2.52
2038	\$0.3606	532,484	532,484	168,055	15,000	-	-	15,000	25,000	2.80%	5,405	30,405	213,460	2.49
2039	\$0.3606	532,484	532,484	165,474	15,000	-	-	15,000	25,000	2.85%	4,699	29,699	210,172	2.53
2040	\$0.3606	532,484	532,484	167,812	15,000	-	-	15,000	25,000	2.91%	3,979	28,979	211,791	2.51
2041	\$0.3606	532,484	532,484	-	15,000	-	-	15,000	30,000	2.96%	3,171	33,171	48,171	11.05
2042	\$0.3606	532,484	532,484	-	20,000	-	-	20,000	30,000	3.00%	2,277	32,277	52,277	10.19
2043	\$0.3606	532,484	532,484	-	30,000	-	-	30,000	30,000	3.03%	1,373	31,373	61,373	8.68
2044	\$0.3606	532,484	532,484	-	30,000	-	-	30,000	30,000	3.06%	459	30,459	60,459	8.81
			\$10,627,089	\$4,545,817	\$320,000			\$0	\$320,000	\$455,000	\$138,778	\$593,778	\$5,459,595	

\$320,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	10.91 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$161,658
AVERAGE ANNUAL REQUIREMENT	\$16,000

\$455,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	10.81 YEARS
NET INTEREST RATE	2.821%
COST SAVINGS	\$88,015
AVERAGE ANNUAL REQUIREMENT	\$29,689

TOTAL AVERAGE ANNUAL REQUIREMENTS	
\$272,980	

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

Westwood Shores MUD

62991 - Westwood Shores MUD Lead & Copper Service
Line Replacement

Budget Items	TWDB Funds	Total
Construction		
Construction	\$521,770	\$521,770
Subtotal for Construction	\$521,770	\$521,770
Basic Engineering Services		
Construction Engineering	\$34,060	\$34,060
Design	\$34,060	\$34,060
Planning	\$55,259	\$55,259
Subtotal for Basic Engineering Services	\$123,379	\$123,379
Special Services		
Application	\$40,000	\$40,000
Environmental	\$40,000	\$40,000
Inspection	\$30,000	\$30,000
Permits	\$5,000	\$5,000
Project Management (by engineer)	\$27,000	\$27,000
Surveying	\$10,000	\$10,000
Testing	\$5,000	\$5,000
Water Conservation Plan	\$2,500	\$2,500
Subtotal for Special Services	\$159,500	\$159,500
Fiscal Services		
Bond Counsel	\$19,478	\$19,478
Financial Advisor	\$7,792	\$7,792
Fiscal/Legal	\$12,790	\$12,790
Issuance Costs	\$40,000	\$40,000
Loan Origination Fee	\$15,500	\$15,500
Subtotal for Fiscal Services	\$95,560	\$95,560
Other		
Administration	\$40,000	\$40,000
Land/Easements Acquisition	\$75,000	\$75,000
Other (Service Line Inventory)	\$435,287	\$435,287
Subtotal for Other	\$550,287	\$550,287
Contingency		
Contingency	\$131,136	\$131,136
Subtotal for Contingency	\$131,136	\$131,136
Total	\$1,581,632	\$1,581,632

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$1,581,632 TO THE WESTWOOD SHORES MUNICIPAL UTILITY DISTRICT
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE,
IN ONE OR MORE SERIES OF
\$320,000 WESTWOOD SHORES MUNICIPAL UTILITY DISTRICT UNLIMITED TAX
BONDS, PROPOSED SERIES 2024A, FOR INVENTORY
AND
\$455,000 WESTWOOD SHORES MUNICIPAL UTILITY DISTRICT UNLIMITED TAX
BONDS, PROPOSED SERIES 2024B, FOR NON-INVENTORY
AND
\$806,632 IN PRINCIPAL FORGIVENESS

(24 -)

Recitals:

The Westwood Shores Municipal Utility District (District), located in Trinity County, has filed an application for financial assistance in the amount of \$1,581,632 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design and construction of certain water system improvements identified as Project No. 62991.

The District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase, in one or more series of \$320,000 Westwood Shores Municipal Utility District Unlimited Tax Bonds, Proposed Series 2024A, and \$455,000 Westwood Shores Municipal Utility District Unlimited Tax Bonds, Proposed Series 2024B (together with all authorizing documents (Obligations)), and the execution of one or more Principal Forgiveness Agreements in an amount of \$806,632, all as is more specifically set forth in the application and in recommendations of the TWDB's staff.

The District has offered a pledge of unlimited tax as sufficient security for the repayment of the Obligations.

The commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 371.13.

Findings:

1. The revenue or taxes pledged by the District will be sufficient to meet all the Obligations assumed by the District, in accordance with Texas Water Code § 15.607.
2. The application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* and Pub. L. 117-58, 135 Stat. 1400-1401, as well as state law, in accordance with Texas Water Code § 15.607.
3. The term of the Obligations does not exceed the expected useful life of the project proposed by the District.

4. The District 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 District has completed a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 and filed it with the TWDB in accordance with Texas Water Code § 16.053(j).
6. The District is eligible for principal forgiveness through the DWSRF in a total amount not to exceed \$806,632 and financial assistance in the amount of \$320,000 with a reduced interest rate of zero percent.

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

A commitment is made by the TWDB to the Westwood Shores Municipal Utility District for financial assistance in the amount of \$1,581,632 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase, in one or more series, of:

- a) \$320,000 Westwood Shores Municipal Utility District Unlimited Tax Bonds, Proposed Series 2024A, to expire on August 31, 2025;
- b) \$455,000 Westwood Shores Municipal Utility District Unlimited Tax Bonds, Proposed Series 2024B, to expire on August 31, 2026;

And the execution of one or more Principal Forgiveness Agreements in the amounts of:

- a) \$333,061 to expire on August 31, 2025; and
- b) \$473,571 to expire on August 31, 2026.

The commitment is conditioned as follows:

Standard Conditions:

1. This commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand as determined by the TWDB. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution.
2. This commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all the requirements of the laws under which the Obligations were issued have been complied with; that the

Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that the Obligations are valid and binding obligations of the District.

3. This commitment is contingent upon the District's compliance with all applicable requirements contained in 31 TAC Chapter 371.
4. The Obligations must provide that the District agrees to comply with all the conditions set forth in the TWDB Resolution.
5. The low-interest 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.
6. The zero interest Obligations must provide that the Obligations can be called for early redemption on any date beginning on or after ten years from the dated date of the Obligations at a redemption price of par.
7. 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 the rule, this 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 those bonds under SEC Rule 15c2-12.
8. The Obligations must contain a provision requiring the District 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.
9. The Obligations must include a provision requiring the District to use any financial assistance proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project explicitly approved by the Executive Administrator, or, if no enhancements are authorized by the Executive Administrator, requiring the District to submit a final accounting and disposition of any unused funds.
10. The Obligations must include a provision requiring the District to use any financial assistance proceeds from the Obligations determined to be surplus funds in a manner approved by the Executive Administrator. Surplus funds are funds remaining after completion of the project and completion of a final accounting.

11. 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.
12. Proceeds of this commitment are public funds. Therefore, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.
13. Proceeds of this commitment must not be used by the District when sampling, testing, removing, or disposing of contaminated soils or media at the project site, except for an LSLR project or associated activity directly connected to the identification, planning, design, and replacement of lead service lines. The Obligations must include an environmental indemnification provision wherein the District agrees, and agrees to cause its construction contractors, to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action, or damages arising from activities performed by the District or its construction contractors, including their officials and employees, in connection with the project, to the extent permitted by law.
14. Before closing, the District shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements.
15. Before closing, and if not previously provided with the application, the District shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator.
16. Before closing, when any portion of the financial assistance is to be held in escrow or in trust, the District shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB.
17. The Executive Administrator may require the District to execute a separate financing agreement in form and substance acceptable to the Executive Administrator.
18. The TWDB retains the option to purchase the Obligations in separate lots or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator.

19. The Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
20. 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.
21. The Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
22. The District 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).
23. 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.

Tax-Exempt Conditions:

24. 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.
25. The District'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 District when rendering this opinion.
26. 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 of 1986, as amended (Code) and the Treasury Regulations promulgated under section 141 (Regulations).
27. The Obligations must provide that no portion of the proceeds of this commitment will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of section 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for this commitment (Source Series Bonds), other than Nonpurpose Investments acquired with:
 - a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until the proceeds are needed for the facilities to be financed;

- b. amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Regulations; and
 - c. amounts deposited in any reasonably required reserve or replacement fund to the extent the amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations.
28. The Obligations must include a provision requiring the District 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 District must:
- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures, and investments) on its books of account separately and apart from all other funds (and receipts, expenditures and investments) and retain all records of the accounting for at least six years after the final Computation Date. The District may, however, to the extent permitted by law, commingle Gross Proceeds of its financing 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 them;
 - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its financing, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings under these sections. The District shall maintain a copy of the calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the making of this commitment, and to induce the making of the commitment by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date; and
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if an error is made, to discover and promptly to correct the error within a reasonable amount of time including payment to the United States of any interest and any penalty required by the Regulations;

29. 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.
30. 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.
31. 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.
32. The Obligations must contain a provision that the District 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).
33. 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.
34. The Obligations must provide that neither the District 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 District by the TWDB.
35. The District’s federal tax certificate shall provide that the weighted average maturity of the Obligations purchased by the TWDB does not exceed 120% of the weighted average reasonably expected economic life of the Project.

State Revolving Fund Conditions;

36. The District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.
37. The Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor’s implementing regulations. The District, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with the financial assistance made available shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB.

38. The Obligations must include a provision stating that the District 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 District 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.
39. The Obligations shall provide that all financial assistance proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and shall provide that the District will adhere to the approved project schedule.
40. The Obligations and Principal Forgiveness Agreement must contain a covenant that the District will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines.
41. The Obligations and Principal Forgiveness Agreement must contain a covenant that the District shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216.
42. The Obligations and Principal Forgiveness Agreement must contain a covenant that the District will abide by all applicable requirements related to the Build America, Buy America Act, Public Law 117-58 and 2 CFR part 184.

Drinking Water State Revolving Fund Conditions;

43. For each proposed bond series as described in the commitment of this Resolution, the District shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371.
44. Before closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the District has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations.
45. Before the release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the District must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program.

Pledge Conditions:

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

Special Conditions:

47. The District must notify the Executive Administrator in writing, thirty (30) days before taking any actions to alter its legal status in any manner.
48. The Obligations must include a provision requiring that the District notify the Executive Administrator in writing before any action by it 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.
49. Before closing, the District shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator.
50. The Principal Forgiveness Agreement must include a provision stating that the District shall return any principal forgiveness funds that are determined to be surplus funds.

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**

	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.



Westwood Shores MUD Trinity County

