



PROJECT FUNDING REQUEST

BOARD DATE: November 6, 2024

Team Manager: David Firgens

ACTION REQUESTED

Consider approving by resolution a request from the Victoria County Water Control and Improvement District No. 2 (Victoria County) for \$2,285,000 in financial assistance consisting of \$885,000 in financing and \$1,400,000 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of a water system project.

STAFF RECOMMENDATION

☒ Approve No Action

BACKGROUND

The Victoria County Water Control and Improvement District No. 2 (District) provides water service outside of the City of Victoria, approximately 100 miles northwest of Corpus Christi. The District provides water and wastewater service to a population of approximately 486 residents and 250 connections.

PROJECT NEED AND DESCRIPTION

The District has approximately 24,000 linear feet of cast iron water distribution lines. These lines are costly to maintain because cast iron is relatively inflexible and not well-suited for the clay soils in the service area, it is difficult to find replacement parts due to PVC piping being the norm, and sediment has accumulated in the lines. The District is also at 85 percent of the regulatory required capacity for groundwater storage, which does not allow for growth in the number of service connections.

The District proposes replacing its cast iron water lines with 2 to 8 inch PVC piping. The District will also construct a new 30,000 gallon ground storage tank and develop an asset management plan.

PROJECT SCHEDULE

Task	Schedule Date
Closing	January 15, 2025
Engineering Feasibility Report Completion (End of Planning Phase)	August 1, 2025
Design Phase Completion	October 1, 2025
Start of Construction	January 1, 2026
Construction Completion	July 1, 2027

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE MAY 31, 2025

KEY ISSUES

The District qualifies for \$1,400,000 in principal forgiveness as a disadvantaged, small/rural community and as a very small system. The project is eligible for \$15,000 in financing at zero percent interest for preparation of an asset management plan.

The District is over its threshold for real water loss. This project includes replacing approximately 24,000 linear feet cast iron water distribution lines to address costly water breaks and repairs. These replacements will assist the District in mitigating its real water loss.

The District has submitted a separate request for funding under the Clean Water State Revolving Fund Program.

LEGAL/SPECIAL CONDITIONS

- Conveyance and conversion
- Executed principal forgiveness agreement
- Return of surplus principal forgiveness funds

Attachments:

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

Financial Review

Victoria Co WCID No. 2

Risk Score: 2B

Audit Reviewed: FY 2023

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 0.51%	State: 1.49%
Top 10 Taxpayers % of Total Revenue	25%	10-15%
Median Household Income as % of State	32%	100%
Days of Cash on Hand (3-year Average)	38 days	30-149 days
Debt Per Capita	\$1,821	\$2,065-\$4,541
Debt Service Coverage Ratio	1.0x	1.0x
Net Direct Debt/TAV	3.18%	2.00-4.99x
Unemployment Rate (August 2024)	County: 4.50%	State: 4.40%
Working Capital Ratio	1.11x	> 1.0

Key Risk Score Strengths

- The District's days of cash on hand are within the benchmark, indicating sufficient reserves for operating expenses.
- A high working capital ratio provides the District with ample resources to cover short-term liabilities and shows a strong liquidity position.
- The assessed valuation of the District has been increasing at approximately nine percent a year over the past five years, which indicates that they have been demonstrating growth.

Key Risk Score Concerns

- The population growth of the District is below the benchmark over the past 10 years; however, the TWDB Population Projections anticipate a 5.3 percent long-term increase in the County's population outside of urban areas.
- The unemployment rate for the County is slightly higher than the State. However, the District has shown population and assessed valuation increases over the past five years.
- The top 10 taxpayers are above the benchmark; this is due to the Union Pacific Railroad Company accounting for approximately 8 percent of total revenue.

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

	2023 Tax Year Rate	Max Projected Tax Rate (Year 2026)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.2514	\$0.2514	\$1.50	92%	\$27,816,533
Interest & Sinking	\$0.0000	\$0.2374			
Total Tax Rate	\$0.2514	\$0.4888			

Cost Savings

Based on a 20-year maturity schedule and current interest rates, the District could save approximately \$125,795 over the life of the financing. The District is also saving \$1,400,000 in principal forgiveness.

Project Data Summary

Responsible Authority	Victoria Co WCID # 2
Program	DWSRF
Commitment Number	L1001825, L1001826, LF1001827
Project Number	63020
List Year	2024
Type of Pledge	Tax Pledge
Pledge Level (if applicable)	N/A
Legal Description	\$870,000 Victoria County Water Control & Improvement District No. 2 Unlimited Tax Bonds, Proposed Series 2025, \$15,000 Victoria County Water Control & Improvement District No. 2 Unlimited Tax Bonds, Proposed Series 2025, \$1,400,000 Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	Yes
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	Yes
Water Conservation Plan	Adopted
Overall Risk Score	2B

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
David Firgens	Arnoldo Rubio	Shubham Aggarwal	Stephannie Resendez	Marshall Walters

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Victoria Co WCID #2

\$870,000 Victoria County Water Control and Improvement District No. 2 Unlimited Tax Bonds,
Proposed Series 2025A

\$15,000 Victoria County Water Control and Improvement District No. 2 Unlimited Tax Bonds,
Proposed Series 2025B

Dated Date: 1/15/2025 Source: DWSRF-EQUIVALENCY
Delivery Date: 1/15/2025 Rate: 2.64%
First Interest: 8/15/2025 IUP Year: 2024
First Principal: 8/15/2025 Case: Tax
Last Principal: 8/15/2044 Admin.Fee: \$17,059
Fiscal Year End: 9/30 Admin. Fee Payment Date: 1/15/2025
Required Coverage: 1.0 Total Assessed Valuation: \$27,816,533

Dated Date: 1/15/2025 Source: DWSRF-EQUIVALENCY
Delivery Date: 1/15/2025 Rate: 0.00%
First Interest: 8/15/2025 IUP Year: 2024
First Principal: 8/15/2025 Case: Tax
Last Principal: 8/15/2027 Admin.Fee: \$294
Fiscal Year End: 9/30 Admin. Fee Payment Date: 1/15/2025
Required Coverage: 1.0

FISCAL YEAR	REQUIRED		PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$870,000 ISSUE				\$15,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
	TAX RATE	TAX REVENUES WITH COLL. @ 92%			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2025	\$0.2051	\$52,647	\$52,647	-	\$35,000	2.15%	\$12,647	\$47,647	5,000	-	-	\$5,000	\$52,647	1.00
2026	0.2374	60,928	60,928	-	35,000	2.14%	20,928	55,928	5,000	-	-	5,000	60,928	1.00
2027	0.2345	60,179	60,179	-	35,000	2.09%	20,179	55,179	5,000	-	-	5,000	60,179	1.00
2028	0.2121	54,448	54,448	-	35,000	2.11%	19,448	54,448	-	-	-	-	54,448	1.00
2029	0.2287	58,709	58,709	-	40,000	2.13%	18,709	58,709	-	-	-	-	58,709	1.00
2030	0.2254	57,857	57,857	-	40,000	2.16%	17,857	57,857	-	-	-	-	57,857	1.00
2031	0.2221	56,993	56,993	-	40,000	2.24%	16,993	56,993	-	-	-	-	56,993	1.00
2032	0.2186	56,097	56,097	-	40,000	2.26%	16,097	56,097	-	-	-	-	56,097	1.00
2033	0.2150	55,193	55,193	-	40,000	2.30%	15,193	55,193	-	-	-	-	55,193	1.00
2034	0.2115	54,273	54,273	-	40,000	2.33%	14,273	54,273	-	-	-	-	54,273	1.00
2035	0.2273	58,341	58,341	-	45,000	2.42%	13,341	58,341	-	-	-	-	58,341	1.00
2036	0.2231	57,252	57,252	-	45,000	2.50%	12,252	57,252	-	-	-	-	57,252	1.00
2037	0.2187	56,127	56,127	-	45,000	2.57%	11,127	56,127	-	-	-	-	56,127	1.00
2038	0.2142	54,971	54,971	-	45,000	2.63%	9,971	54,971	-	-	-	-	54,971	1.00
2039	0.2290	58,787	58,787	-	50,000	2.70%	8,787	58,787	-	-	-	-	58,787	1.00
2040	0.2238	57,437	57,437	-	50,000	2.76%	7,437	57,437	-	-	-	-	57,437	1.00
2041	0.2184	56,057	56,057	-	50,000	2.82%	6,057	56,057	-	-	-	-	56,057	1.00
2042	0.2129	54,647	54,647	-	50,000	2.87%	4,647	54,647	-	-	-	-	54,647	1.00
2043	0.2268	58,212	58,212	-	55,000	2.90%	3,212	58,212	-	-	-	-	58,212	1.00
2044	0.2206	56,617	56,617	-	55,000	2.94%	1,617	56,617	-	-	-	-	56,617	1.00
				-	\$870,000		\$250,771	\$1,120,771	\$15,000		-	\$15,000	\$1,135,771	

\$870,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	10.9 YEARS
NET INTEREST RATE	2.645%
COST SAVINGS	\$125,551
AVERAGE ANNUAL REQUIREMENT	\$56,039

\$15,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	1.58 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$244
AVERAGE ANNUAL REQUIREMENT	\$750

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$56,789

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

Victoria Co WCID # 2

63020 - Placedo Water Distribution Rehabilitation

Budget Items	TWDB Funds	Total
Construction		
Construction	\$1,690,000.00	\$1,690,000.00
Subtotal for Construction	\$1,690,000.00	\$1,690,000.00
Basic Engineering Services		
Construction Engineering	\$25,000.00	\$25,000.00
Design	\$125,000.00	\$125,000.00
Planning	\$10,000.00	\$10,000.00
Subtotal for Basic Engineering Services	\$160,000.00	\$160,000.00
Special Services		
Environmental	\$20,000.00	\$20,000.00
Inspection	\$12,500.00	\$12,500.00
Permits	\$2,500.00	\$2,500.00
Project Management (by engineer)	\$25,000.00	\$25,000.00
Special Service (Asset Management Plan)	\$15,000.00	\$15,000.00
Surveying	\$15,000.00	\$15,000.00
Subtotal for Special Services	\$90,000.00	\$90,000.00
Fiscal Services		
Bond Counsel	\$40,000.00	\$40,000.00
Capitalized Interest	\$21,750.00	\$21,750.00
Financial Advisor	\$9,375.00	\$9,375.00
Fiscal/Legal	\$2,620.00	\$2,620.00
Issuance Costs	\$3,855.00	\$3,855.00
Loan Origination Fee	\$17,353.00	\$17,353.00
Subtotal for Fiscal Services	\$94,953.00	\$94,953.00
Contingency		
Contingency	\$250,047.00	\$250,047.00
Subtotal for Contingency	\$250,047.00	\$250,047.00
Total	\$2,285,000.00	\$2,285,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$2,285,000 TO THE VICTORIA COUNTY
WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2
FROM THE DRINKING WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE, IN ONE OR MORE SERIES, OF
\$870,000 VICTORIA COUNTY
WATER CONTROL IMPROVEMENT DISTRICT NO.2
UNLIMITED TAX BONDS,
PROPOSED SERIES 2025A
AND
\$15,000 VICTORIA COUNTY
WATER CONTROL IMPROVEMENT DISTRICT NO.2
UNLIMITED TAX BONDS,
PROPOSED SERIES 2025B
AND
\$1,400,000 IN PRINCIPAL FORGIVENESS

(24 -)

Recitals:

The Victoria County Water Control and Improvement District No. 2 (District), located in Victoria County, has filed an application for financial assistance in the amount of \$2,285,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design and construction of certain water system improvements identified as Project No. 63020.

The District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase, in one or more series, of \$870,000 Victoria County Water Control and Improvement District No.2 Unlimited Tax Bonds, Proposed Series 2025A and \$15,000 Victoria County Water Control and Improvement District No.2 Unlimited Tax Bonds, Proposed Series 2025B (Obligations), (together with all authorizing documents), and the execution of a Principal Forgiveness Agreement in an amount of \$1,400,000, 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 ad valorem tax revenue as sufficient security for the repayment of the Obligations.

The commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 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.*
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 TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j).
6. 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).
7. The District meets the definition of a very small system in accordance with the current Intended Use Plan and is therefore eligible for principal forgiveness in the amount of \$400,000.
8. The District meets the definition of a "small" or "rural" disadvantaged community in the applicable IUP and is therefore eligible for principal forgiveness in the amount of \$1,000,000.
9. The District qualifies for financial assistance with a reduced interest rate of zero percent (0%) in an amount, including the origination fee, not to exceed \$15,000 in order to prepare an Asset Management Plan as described in the applicable Intended Use Plan.

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

A commitment is made by the TWDB to the Victoria County Water Control Improvement District No.2 for financial assistance in the amount of \$870,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase, in one or more series, of \$870,000 Victoria County Water Control Improvement District No.2 Unlimited Tax Bonds, Proposed Series 2025A AND \$15,000 Victoria County Water Control Improvement District No.2 Unlimited Tax Bonds, Proposed Series 2025B and the execution of a Principal Forgiveness Agreement in the amount of \$1,400,000. This commitment will expire on May 31, 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 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 OR for an EC project to address PFAs or any contaminant listed on EPA's Contaminant Candidate Lists. 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 or 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. 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 6th day of November 2024.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Bryan McMath, 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.



Victoria County WCID #2
Victoria County

