

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: February 2, 2023

Team Manager: Joe Koen

ACTION REQUESTED

Approve by resolution a request from the City of Leonard (Fannin County) for \$5,696,000 in financial assistance consisting of \$2,850,000 in financing and \$2,846,000 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction of wastewater system improvements project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The City of Leonard (City) is located in southwest Fannin County along Route 69 approximately 60 miles northeast of Dallas, Texas. The City provides wastewater service to approximately 2,481 residents and 807 connections.

PROJECT NEED AND DESCRIPTION

The City needs to replace the collection system consisting of clay pipe that is beyond its useful life and to reduce leaks. Continued use of the clay pipe may overload the collection system capacity, and potentially violate Texas Commission on Environmental Quality ground water quality standards. In addition, the City needs to determine future lift station and piping capacities to meet future demands due to population growth.

The City proposes to install two new lift stations or rehabilitate the existing lift stations and replace approximately 6 miles of clay pipe ranging in size from 6 inches to 12 inches. The clay pipe will be abandoned in place and replaced with new PVC pipe.

PROJECT SCHEDULE

Task	Schedule Date
Closing	May 15, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	July 16, 2023
Design Phase Completion	July 14, 2024
Start of Construction	August 23, 2024
Construction Completion	August 21, 2026

KEY ISSUES

The City qualifies for \$2,846,000 in principal forgiveness as a disadvantaged community and \$2,035,000 in zero percent financing as a small or rural disadvantaged community.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE AUGUST 31, 2023

LEGAL/SPECIAL CONDITIONS

- Water conservation plan
- Executed principal forgiveness agreement
- Return of surplus principal forgiveness funds

Attachments

1. Financial Review
2. Project Budget
3. Resolution (23-)
4. Water Conservation Review
5. Location Map

Financial Review City of Leonard

Risk Score: 2A

Audit Reviewed: FY 2021

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: -0.02%	State: 1.49%
Top 10 Customers % of Total Revenue	11%	10-15%
Median Household Income as % of State	70%	100%
Days of Cash on Hand (3-year Average)	61 days	30-149 days
Net Fixed Assets/ Annual Depreciation	10 years	12-24 years
Debt Service Coverage Ratio	1.85x	1.0x
Debt-to-Operating Revenues	3.84	4.00-5.99x
Unemployment Rate (November, 2022)	{Fannin County}: 3.70%	State: 3.70%
Working Capital Ratio	0.88	> 1.0

Key Risk Score Strengths

- A debt service coverage ratio of 1.85x indicates that the City has sufficient revenues to repay the proposed obligation.
- Debt-to-operating revenues of 3.84 times is below the state benchmark due to the City only having non-bonded debt aside from the proposed obligation.

Key Risk Score Concerns

- The population growth of the City has slightly declined over the past ten years. However, water and wastewater system connections have increased by two percent over the previous five years and state water plan population projections anticipate a 13.6 percent increase from 2020 to 2040.

PLEDGE

Legal Pledge Name	Ad Valorem Tax and Surplus 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 type="checkbox"/> Second <input checked="" type="checkbox"/> Third <input type="checkbox"/> N/A

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (2023)	Current Household Cost Factor	Projected Household Cost Factor
WATER	4,693	\$36.47	\$36.47	1.91	1.91
WASTEWATER	4,693	\$31.12	\$31.12		

TAXES

	2021 Tax Year Rate	Max Projected Tax Rate (2023)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.48	\$0.48	\$1.50	98%	\$112,708,739
Interest & Sinking	\$0.12	\$0.12			
Total Tax Rate	\$0.60	\$0.60			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$1,614,052 over the life of the financing. The City is also saving \$2,846,000 in principal forgiveness due to its eligibility for disadvantaged community and emergency preparedness funding.

Project Data Summary

Responsible Authority	Leonard
Program	CWSRF
Commitment Number	L1001579, L1001580, LF1001581
Project Number	73925
List Year	2022
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$815,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation Series 2023A, \$2,035,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation Series 2023B, \$2,846,000 Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	N/A
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Approvable
Overall Risk Score	2A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Joe Koen	Thomas Quick	David Dera	Kylie Beard	Breann Hunter

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Leonard

\$815,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation Series 2023A

Dated Date: 5/15/2023
Delivery Date: 5/15/2023
First Interest: 12/15/2023
First Principal: 12/15/2023
Last Principal: 12/15/2052
Fiscal Year End: 09/30
Required Coverage: 1.1

Source: CWSRF-EQUIVALENCY
Rate: 2.68%
IUP Year: 2022
Case: Tax and Revenue
Admin.Fee: \$ 14,017
Admin. Fee Payment Date: 5/15/2023
Total Assessed Valuation: \$ 112,708,739

\$2,035,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation Series 2023B

Dated Date: 5/15/2023
Delivery Date: 5/15/2023
First Interest: 12/15/2023
First Principal: 12/15/2023
Last Principal: 12/15/2052
Fiscal Year End: 9/30
Required Coverage: 1.1

Source: CWSRF-EQUIVALENCY
Rate: 0.00%
IUP Year: 2022
Case: Tax and Revenue
Admin.Fee: \$ 35,000
Admin. Fee Payment Date: 5/15/2023

FISCAL YEAR	REQUIRED TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 98%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$815,000 ISSUE			\$2,035,000 ISSUE			DEBT SERVICE	ACTUAL COVERAGE		
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE			INTEREST PAYMENT	TOTAL PAYMENT
2024	\$0.122	\$134,631	\$125,002	\$259,633	\$33,578	\$20,000	1.73%	\$21,835	\$41,835	\$65,000	-	\$0	\$65,000	\$140,413	1.85
2025	0.122	134,631	125,002	259,633	33,556	20,000	1.76%	19,793	39,793	65,000	-	-	65,000	138,349	1.88
2026	0.122	134,631	125,002	259,633	33,556	20,000	1.79%	19,438	39,438	65,000	-	-	65,000	137,994	1.88
2027	0.122	134,631	125,002	259,633	33,558	20,000	1.83%	19,076	39,076	65,000	-	-	65,000	137,634	1.89
2028	0.122	134,631	125,002	259,633	50,663	20,000	1.87%	18,706	38,706	65,000	-	-	65,000	154,369	1.68
2029	0.122	134,631	125,002	259,633	50,664	20,000	1.92%	18,327	38,327	65,000	-	-	65,000	153,991	1.69
2030	0.122	134,631	125,002	259,633	-	20,000	2.00%	17,935	37,935	65,000	-	-	65,000	102,935	2.52
2031	0.122	134,631	125,002	259,633	-	20,000	2.03%	17,532	37,532	65,000	-	-	65,000	102,532	2.53
2032	0.122	134,631	125,002	259,633	-	25,000	2.07%	17,070	42,070	65,000	-	-	65,000	107,070	2.42
2033	0.122	134,631	125,002	259,633	-	25,000	2.11%	16,548	41,548	65,000	-	-	65,000	106,548	2.44
2034	0.122	134,631	125,002	259,633	-	25,000	2.20%	16,009	41,009	65,000	-	-	65,000	106,009	2.45
2035	0.122	134,631	125,002	259,633	-	25,000	2.32%	15,444	40,444	65,000	-	-	65,000	105,444	2.46
2036	0.122	134,631	125,002	259,633	-	25,000	2.41%	14,853	39,853	65,000	-	-	65,000	104,853	2.48
2037	0.122	134,631	125,002	259,633	-	25,000	2.50%	14,239	39,239	70,000	-	-	70,000	109,239	2.38
2038	0.122	134,631	125,002	259,633	-	25,000	2.56%	13,607	38,607	70,000	-	-	70,000	108,607	2.39
2039	0.122	134,631	125,002	259,633	-	25,000	2.60%	12,962	37,962	70,000	-	-	70,000	107,962	2.40
2040	0.122	134,631	125,002	259,633	-	25,000	2.63%	12,308	37,308	70,000	-	-	70,000	107,308	2.42
2041	0.122	134,631	125,002	259,633	-	30,000	2.66%	11,580	41,580	70,000	-	-	70,000	111,580	2.33
2042	0.122	134,631	125,002	259,633	-	30,000	2.70%	10,776	40,776	70,000	-	-	70,000	110,776	2.34
2043	0.122	134,631	125,002	259,633	-	30,000	2.72%	9,963	39,963	70,000	-	-	70,000	109,963	2.36
2044	0.122	134,631	125,002	259,633	-	30,000	2.75%	9,143	39,143	70,000	-	-	70,000	109,143	2.38
2045	0.122	134,631	125,002	259,633	-	30,000	2.77%	8,315	38,315	70,000	-	-	70,000	108,315	2.40
2046	0.122	134,631	125,002	259,633	-	30,000	2.78%	7,482	37,482	70,000	-	-	70,000	107,482	2.42
2047	0.122	134,631	125,002	259,633	-	35,000	2.80%	6,575	41,575	70,000	-	-	70,000	111,575	2.33
2048	0.122	134,631	125,002	259,633	-	35,000	2.81%	5,593	40,593	70,000	-	-	70,000	110,593	2.35
2049	0.122	134,631	125,002	259,633	-	35,000	2.82%	4,608	39,608	70,000	-	-	70,000	109,608	2.37
2050	0.122	134,631	125,002	259,633	-	35,000	2.83%	3,619	38,619	70,000	-	-	70,000	108,619	2.39
2051	0.122	134,631	125,002	259,633	-	35,000	2.84%	2,627	37,627	70,000	-	-	70,000	107,627	2.41
2052	0.122	134,631	125,002	259,633	-	40,000	2.84%	1,562	41,562	70,000	-	-	70,000	111,562	2.33
2053	0.122	134,631	125,002	259,633	-	35,000	2.84%	497	35,497	70,000	-	-	70,000	105,497	2.46
					\$235,575	\$815,000		\$368,020	\$1,183,020	\$2,035,000		\$0	\$2,035,000	\$3,453,595	

\$815,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	16.88 YEARS
NET INTEREST RATE	2.675%
COST SAVINGS	\$ 259,144
AVERAGE ANNUAL REQUIREMENT	\$39,434

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.

\$2,035,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	15.35 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$ 1,354,908
AVERAGE ANNUAL REQUIREMENT	\$67,833

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TOTAL AVERAGE ANNUAL REQUIREMENTS
\$115,120

Budget Items	This Commitment	TWDB Funds	Total
Construction			
Construction	\$3,796,823.00	\$3,796,823.00	\$3,796,823.00
Subtotal for Construction	\$3,796,823.00	\$3,796,823.00	\$3,796,823.00
Basic Engineering Services			
Construction Engineering	\$231,000.00	\$231,000.00	\$231,000.00
Design	\$542,000.00	\$542,000.00	\$542,000.00
Planning	\$75,000.00	\$75,000.00	\$75,000.00
Subtotal for Basic Engineering Services	\$848,000.00	\$848,000.00	\$848,000.00
Special Services			
Application	\$15,000.00	\$15,000.00	\$15,000.00
Environmental	\$35,000.00	\$35,000.00	\$35,000.00
Geotechnical	\$30,000.00	\$30,000.00	\$30,000.00
Project Management (by engineer)	\$75,000.00	\$75,000.00	\$75,000.00
Special Service Other (Emergency Preparedness Plan)	\$75,000.00	\$75,000.00	\$75,000.00
Surveying	\$126,000.00	\$126,000.00	\$126,000.00
Subtotal for Special Services	\$356,000.00	\$356,000.00	\$356,000.00
Fiscal Services			
Bond Counsel	\$38,500.00	\$38,500.00	\$38,500.00
Financial Advisor	\$79,000.00	\$79,000.00	\$79,000.00
Fiscal/Legal	\$2,000.00	\$2,000.00	\$2,000.00
Issuance Costs	\$6,000.00	\$6,000.00	\$6,000.00
Loan Origination Fee	\$49,017.00	\$49,017.00	\$49,017.00
Subtotal for Fiscal Services	\$174,517.00	\$174,517.00	\$174,517.00
Contingency			
Contingency	\$520,660.00	\$520,660.00	\$520,660.00
Subtotal for Contingency	\$520,660.00	\$520,660.00	\$520,660.00
Total	\$5,696,000.00	\$5,696,000.00	\$5,696,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$5,696,000 TO THE CITY OF LEONARD
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$815,000 CITY OF LEONARD, TEXAS COMBINATION TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2023A,
\$2,035,000 CITY OF LEONARD, TEXAS COMBINATION TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2023B
AND \$2,846,000 IN PRINCIPAL FORGIVENESS

(23 -)

WHEREAS, the City of Leonard (City), located in Fannin County, has filed an application for financial assistance in the amount of \$5,696,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, design, and construction of certain wastewater system improvements identified as Project No. 73925; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$815,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023A, \$2,035,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023B (together with all authorizing documents, (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$2,846,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of ad valorem taxes and surplus water and wastewater system revenues as sufficient security for the repayment of the Obligations; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 375.14; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City has submitted a proposed program of water conservation 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;

4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;
5. that the City meets the definition of a "Disadvantaged Community" in 31 TAC § 375.1(23) and is therefore eligible for principal forgiveness in the amount of \$2,771,000; and the City is receiving \$75,000 in principal forgiveness to conduct an Emergency Preparedness Evaluation as described in the 2022 IUP. The City is therefore eligible for principal forgiveness through the CWSRF in a total amount not to exceed \$2,846,000. Additionally, the City qualifies as a "small" or "rural" system as determined by the applicable IUP, and the project is therefore eligible for funding with an interest rate of zero percent (0%) in an amount not to exceed \$2,035,000.

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

A commitment is made by the TWDB to the City of Leonard for financial assistance in the amount of \$5,696,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$815,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023A, and \$2,035,000 City of Leonard, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2023B, and the execution of a Principal Forgiveness Agreement in the amount of \$2,846,000. This commitment will expire on August 31, 2023.

Such 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 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 said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the City agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;

5. the Obligations must provide that the Obligations can be called for early redemption on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
6. the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations 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 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 such rule, such 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 SEC Rule 15c2-12;
7. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges, as applicable, to produce system funds in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
8. the Obligations must include a provision requiring the City to use any loan 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 that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the City to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting in a manner as approved by the Executive Administrator;
10. 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;
11. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

12. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;
13. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges and/or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements;
14. prior to closing, and if not previously provided with the application, the City 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;
15. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City 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;
16. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
17. the Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
18. the Obligations must provide that the City must comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources;
19. the Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
20. the City must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition);

Conditions Related to Tax-Exempt Status:

21. the City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion;
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 include a provision prohibiting the City from using the proceeds of this loan 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 thereunder (Regulations);
24. the Obligations must provide that no portion of the proceeds of the loan 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 the loan (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 section 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 include a provision requiring the City 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 section 148 of the Code. The Obligations must provide that the City will:

- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such 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 section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder. The City shall 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 thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
 - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
26. the Obligations must include a provision prohibiting 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 provide that the City will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of section 149(b) of the Code;
 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 Obligations must contain a provision that the City will refrain from using the proceeds provided by this TWDB commitment or the proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Obligations in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);

30. 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;
31. the Obligations must provide that neither the City nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the City by the TWDB;

State Revolving Fund Conditions:

32. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
33. 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 City, 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 financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
34. the Obligations must include a provision stating that the City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;
35. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;
36. the Obligations and Principal Forgiveness Agreement must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;

37. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
38. the Obligations and Principal Forgiveness Agreement must contain a covenant that the City shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216;
39. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average projected useful life of the project, as determined by the schedule;

Clean Water State Revolving Fund Conditions:

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

Pledge Conditions for the Loan:

44. the Obligations must contain a provision that provides as follows:
- a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;
 - ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and
 - iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

PROVIDED, however, the commitment is subject to the following special conditions:

Special Conditions:

45. prior to closing, the City shall adopt and implement the water conservation program approved by the TWDB;
46. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
47. the Principal Forgiveness Agreement must include a provision stating that the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 2nd Day of February, 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, 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:

ILI¹:

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.



City of Leonard Fannin County

