

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: July 25, 2023

Team Manager: Nancy Richards

ACTION REQUESTED

Consider approving by resolution a request from the Northgate Crossing Municipal Utility District No. 2 (Harris County) for \$3,599,996 in financial assistance consisting of \$3,270,000 in financing and \$329,996 in principal forgiveness from the Clean Water State Revolving Fund for planning, acquisition, design, and construction of a reclaimed water project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The Northgate Crossing Municipal Utility District No. 2 (District) is located in Harris County about 25 miles north of downtown Houston. The District provides water and wastewater services to a population of approximately 3,700 through 1,240 water and wastewater connections.

PROJECT NEED AND DESCRIPTION

The District is subject to groundwater reduction requirements imposed by the Harris-Galveston Subsidence District and the North Harris County Regional Water Authority's Groundwater Reduction Plans. The only water source currently available to the District is groundwater. To align the District's goals with those of the regulating entities, the District proposes to construct a regional wastewater treatment plant (WWTP) reclaimed water system to minimize the amount of groundwater used for irrigation of many of the public spaces in the community.

The District proposes to add tertiary treatment at its WWTP enabling treated effluent to be used for irrigation where potable water is currently used. Tertiary treatment consists of disk filters, a ground storage tank, pump station and hydropneumatic tanks, which provide consistent supply to the reuse (purple pipe distribution) system. Purple pipe distribution is also included in the project.

PROJECT SCHEDULE

Task	Schedule Date
Closing	December 1, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	February 1, 2024
Design Phase Completion	May 1, 2024
Start of Construction	July 1, 2024
Construction Completion	April 1, 2025

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE JANUARY 31, 2024

KEY ISSUES

The District qualified for principal forgiveness for green funding in the amount of \$329,996. Recycling and water reuse projects that replace potable sources with non-potable sources are considered green through the water efficiency section of the Green Project Reserve.

LEGAL/SPECIAL CONDITIONS

- Adopt water conservation plan
- Conversion and conveyance
- 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

Northgate Crossing MUD No. 2

Risk Score: 2A

Audit Reviewed: FY 2022

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 0.41%	State: 1.49%
Top 10 Taxpayers % of Total Revenue	12.66%	10-15%
Median Household Income as % of State	128%	100%
Total Assessed Valuation, per capita	\$41,409	\$30,000-\$64,999
Days of Cash on Hand (3-year Average)	705 days	30-149 days
Net Direct Debt/ Total Assessed Valuation	5.94%	2-4.99%
Debt Service Coverage Ratio	1.0x	1.0x
Net Direct Debt-to-Operating Revenues	4.73	4.00-5.99x
Unemployment Rate (April ,2023)	City: 4.30%	State: 3.70%
Working Capital Ratio	20.6	> 1.0

Key Risk Score Strengths

- The District’s median household income is above the benchmark indicating the District has a healthy socioeconomic base.
- A high working capital ratio of 20.6 and a 3-year average of 705 days of cash on hand provide the District with substantial resources to cover short-term liabilities and show a strong liquidity position.

Key Risk Score Concerns

- The District supports all of its outstanding debt with ad valorem tax. Based on the current tax rate and assessed valuation, the District is projected to need a \$0.11 increase in 2033 to meet the debt service coverage requirement for the proposed obligation.
- The unemployment rate, taken from the City of Houston, is slightly higher than the state’s average for the month of April; however, the District has a 3-year average of 96 percent collection rate of assessed valuation. The District’s ad valorem tax pledge is not negatively impacted by the unemployment rate.

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

	2022 Tax Year Rate	Max Projected Tax Rate (Year 2033)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.35	\$0.35	\$1.50	96%	\$365,473,945
Interest & Sinking	\$0.43	\$0.54			
Total Tax Rate	\$0.78	\$0.89			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the District could save approximately \$1,013,178 over the life of the financing. The District is also saving \$329,996 in principal forgiveness.

Project Data Summary

Responsible Authority	Northgate Crossing MUD No. 2
Program	CWSRF
Commitment Number	L1001687, LF1001677
Project Number	73945
List Year	2022
Type of Pledge	Tax Pledge
Pledge Level (if applicable)	N/A
Legal Description	\$3,270,000 Northgate Crossing MUD No. 2, Unlimited Tax Bonds, Proposed Series 2023, \$329,996 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	No
State Revolving Fund Type	Non-Equivalency
Financial Managerial & Technical Complete	N/A
Phases Funded	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	Yes
Water Conservation Plan	Approvable
Overall Risk Score	2A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Nancy Richards	Chelsea Duran	Matthew Young	Britt Paredes	Annette Mass

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Northgate Crossing MUD No. 2

\$3,270,000 Northgate Crossing MUD No. 2 Unlimited Tax Bonds, Proposed Series 2023A

Dated Date: 12/1/2023	Source: CWSRF-NON-EQUIVALENCY
Delivery Date: 12/1/2023	Rate: 2.76%
First Interest: 6/1/2024	IUP Year: 2022
First Principal: 12/1/2025	Case: Tax
Last Principal: 12/1/2053	Admin.Fee: \$56,241
Fiscal Year End: 09/30	Admin. Fee Payment Date: 12/1/2023
Required Coverage: 1.0	Total Assessed Valuation: \$365,473,945

FISCAL YEAR	PROPOSED TAX RATE	TAX REVENUES WITH COLL. @ 96%	CURRENT DEBT SERVICE	\$3,270,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE	
				PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			
2024	0.4308	\$1,511,470	\$1,469,124	-	-	\$42,346	\$42,346	\$1,511,470	1.00
2025	0.4805	1,685,767	1,601,075	-	-	84,692	84,692	1,685,767	1.00
2026	0.5000	1,754,417	1,595,475	\$75,000	2.00%	83,942	158,942	1,754,417	1.00
2027	0.5021	1,761,589	1,604,125	75,000	1.94%	82,464	157,464	1,761,589	1.00
2028	0.3499	1,227,552	1,066,575	80,000	1.90%	80,977	160,977	1,227,552	1.00
2029	0.5073	1,780,028	1,620,575	80,000	1.91%	79,453	159,453	1,780,028	1.00
2030	0.5017	1,760,360	1,597,475	85,000	1.89%	77,885	162,885	1,760,360	1.00
2031	0.5018	1,760,658	1,599,375	85,000	1.88%	76,283	161,283	1,760,658	1.00
2032	0.5416	1,900,404	1,735,775	90,000	1.90%	74,629	164,629	1,900,404	1.00
2033	0.5430	1,905,135	1,742,225	90,000	1.92%	72,910	162,910	1,905,135	1.00
2034	0.3515	1,233,103	1,067,050	95,000	2.09%	71,053	166,053	1,233,103	1.00
2035	0.3502	1,228,756	1,064,750	95,000	2.22%	69,006	164,006	1,228,756	1.00
2036	0.3520	1,234,917	1,068,150	100,000	2.37%	66,767	166,767	1,234,917	1.00
2037	0.3504	1,229,482	1,065,150	100,000	2.50%	64,332	164,332	1,229,482	1.00
2038	0.3513	1,232,672	1,065,950	105,000	2.59%	61,722	166,722	1,232,672	1.00
2039	0.3504	1,229,331	1,065,350	105,000	2.63%	58,981	163,981	1,229,331	1.00
2040	0.1381	484,477	318,350	110,000	2.68%	56,127	166,127	484,477	1.00
2041	0.1390	487,844	319,750	115,000	2.71%	53,094	168,094	487,844	1.00
2042	0.1370	480,705	315,750	115,000	2.75%	49,955	164,955	480,705	1.00
2043	0.1363	478,256	311,550	120,000	2.78%	46,706	166,706	478,256	1.00
2044	0.1355	475,502	312,150	120,000	2.81%	43,352	163,352	475,502	1.00
2045	0.1344	471,634	306,738	125,000	2.83%	39,897	164,897	471,634	1.00
2046	0.1346	472,375	306,113	130,000	2.87%	36,263	166,263	472,375	1.00
2047	0.1332	467,509	300,063	135,000	2.89%	32,446	167,446	467,509	1.00
2048	0.1318	462,331	298,800	135,000	2.91%	28,531	163,531	462,331	1.00
2049	0.1316	461,643	297,113	140,000	2.91%	24,530	164,530	461,643	1.00
2050	0.0471	165,369	-	145,000	2.93%	20,369	165,369	165,369	1.00
2051	0.0473	166,047	-	150,000	2.93%	16,047	166,047	166,047	1.00
2052	0.0475	166,571	-	155,000	2.94%	11,571	166,571	166,571	1.00
2053	0.0462	162,006	-	155,000	2.95%	7,006	162,006	162,006	1.00
2054	0.0463	162,360	-	160,000	2.95%	2,360	162,360	162,360	1.00
		\$25,114,574	\$3,270,000	\$3,270,000		\$1,615,692	\$4,885,692	\$30,000,265	

AVERAGE (MATURITY) LIFE	17.9 YEARS
NET INTEREST RATE	2.761%
COST SAVINGS	\$ 1,013,178
AVERAGE ANNUAL REQUIRE	\$157,603

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.



Current Budget Summary

Northgate Crossing MUD # 2

73945 - Northgate Crossing Regional WWTP Reclaimed
Water Storage, Supply and Distribution System

Budget Items	TWDB Funds	Other Funds	Total
Construction			
Construction	\$2,569,050	\$690,540	\$3,259,590
Subtotal for Construction	\$2,569,050	\$690,540	\$3,259,590
Basic Engineering Services			
Construction Engineering	\$25,190	\$6,910	\$32,100
Design	\$188,930	\$51,790	\$240,720
Planning	\$68,014	\$18,644	\$86,658
Subtotal for Basic Engineering	\$282,134	\$77,344	\$359,478
Special Services			
Application	\$15,000	\$0	\$15,000
Environmental	\$40,000	\$0	\$40,000
Geotechnical	\$20,160	\$5,530	\$25,690
Inspection	\$10,000	\$0	\$10,000
Permits	\$60,000	\$0	\$60,000
Pilot Testing	\$10,000	\$0	\$10,000
Project Management (by engineer)	\$25,190	\$6,910	\$32,100
Surveying	\$12,600	\$3,460	\$16,060
Testing	\$5,000	\$0	\$5,000
Water Conservation Plan	\$2,500	\$0	\$2,500
Subtotal for Special Services	\$200,450	\$15,900	\$216,350
Fiscal Services			
Bond Counsel	\$72,000	\$0	\$72,000
Bond Insurance/Surety	\$19,500	\$0	\$19,500
Financial Advisor	\$72,000	\$0	\$72,000
Issuance Costs	\$20,000	\$0	\$20,000
Loan Origination Fee	\$43,500	\$0	\$43,500
Subtotal for Fiscal Services	\$227,000	\$0	\$227,000
Other			
Administration	\$12,000	\$0	\$12,000
Land/Easements Acquisition	\$150,000	\$0	\$150,000
Project Legal Expenses	\$25,000	\$0	\$25,000
Subtotal for Other	\$187,000	\$0	\$187,000
Contingency			
Contingency	\$134,362	\$16,216	\$150,578
Subtotal for Contingency	\$134,362	\$16,216	\$150,578
Total	\$3,599,996	\$800,000	\$4,399,996

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$3,599,996 TO THE NORTHGATE CROSSING MUNICIPAL UTILITY DISTRICT NO. 2
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$3,270,000 NORTHGATE CROSSING MUNICIPAL UTILITY DISTRICT NO. 2 UNLIMITED TAX
BONDS,
PROPOSED SERIES 2023
AND
\$329,996 IN PRINCIPAL FORGIVENESS

(23 -)

WHEREAS, the Northgate Crossing Municipal Utility District No. 2 (District), located in Harris County has filed an application for financial assistance in the amount of \$3,599,996 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, acquisition, design, and construction of certain wastewater system improvements identified as Project No. 73945; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$3,270,000 Northgate Crossing Municipal Utility District No. 2 Unlimited Tax Bonds, Proposed Series 2023 (together with all authorizing documents, "Obligations"), and the execution of a Principal Forgiveness Agreement in an amount of \$329,996, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of unlimited taxes 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 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. 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 term of the Obligations does not exceed the expected useful life of the project proposed by the District;
4. that the District 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;

5. that the District has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;
6. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects, and is eligible for principal forgiveness in the amount of \$329,996.

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

A commitment is made by the TWDB to the Northgate Crossing Municipal Utility District No. 2 for financial assistance in the amount of \$3,599,996 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$3,270,000 Northgate Crossing Municipal Utility District No. 2 Unlimited Tax Bonds, Proposed Series 2023, and the execution of a Principal Forgiveness Agreement in the amount of \$329,996. This commitment will expire on January 31, 2024.

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 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 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 District;
3. this commitment is contingent upon the District's compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the District agrees to comply with all the conditions set forth in the TWDB Resolution;
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 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 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 District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;
7. 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;
8. the Obligations must include a provision requiring the District to use any 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 District to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the District to use any 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 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. Financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

12. Financial assistance proceeds shall not be used by the District when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations shall include an environmental indemnification provision wherein the District 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, or contaminated media that may be generated by the District, its contractors, consultants, agents, officials, and employees as a result of activities relating to the project to the extent permitted by law;
13. prior to 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;
14. prior to 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;
15. prior to 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;
16. the Executive Administrator may require that the District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
17. the Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
18. 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;
19. the Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
20. 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);

21. 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:

Conditions Related to Tax-Exempt Status:

22. 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;
23. 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;
24. the Obligations must include a provision prohibiting the District from using the proceeds of this commitment 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);
25. the Obligations must provide that no portion of the proceeds of the financial assistance will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of section 148(a) of the Code and Regulations, including to acquire or to replace funds 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 the financing (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;
26. 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 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 District may, however, to the extent permitted by law, commingle Gross Proceeds of its financial assistance with other money of the District, provided that the District separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;
 - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its financial assistance, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder. The District shall maintain a copy of such calculations for at least six years after the final Computation Date;
 - c. as additional consideration for the financial assistance, 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 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;
27. 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;
 28. 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;
 29. 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;

30. 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);
31. 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;
32. the Obligations must provide that neither the District 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 District by the TWDB;
33. 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:

34. the District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
35. 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 financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contract clauses as provided by the TWDB;
36. 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;

37. the Obligations shall provide that all 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;
38. 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 § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;
39. 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;
40. 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;

Clean Water State Revolving Fund Conditions:

41. the District shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375;

Pledge Conditions:

42. 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;

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

Special Conditions:

43. prior to closing, the District must adopt and implement the water conservation program approved by the TWDB;
44. the District must notify the Executive Administrator in writing, thirty (30) days prior to taking any actions to alter its legal status in any manner.
45. the Obligations must include a provision requiring that the District notify the Executive Administrator in writing prior to 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;

46. prior to closing, the District shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
47. 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 in a manner determined by the Executive Administrator;

APPROVED and ordered of record this 25th day of July 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Amanda Lavin, Assistant 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.

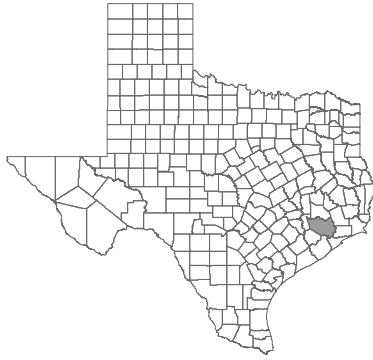
Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

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.



Northgate Crossing Municipal Utility District No. 2 Harris County

